

STATE OF SOUTH CAROLINA

COUNTY OF KERSHAW

Tony Sims,

Plaintiff,

v.

Kershaw County Sheriff's Office, Sheriff Lee
Boan, and Johnathan Goldsmith

Defendants.

IN THE COURT OF COMMON PLEAS

OF THE FIFTH JUDICIAL CIRCUIT

Case No.:

SUMMONS

TO: DEFENDANTS ABOVE-NAMED

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this matter, a copy of which is herewith served upon you, and to serve a copy of your Answer to the said Complaint on the subscribers at their office, 507 Walnut Street, Camden, South Carolina 29020, within thirty (30) days after the service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.

Respectfully Submitted,

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Camden, South Carolina
January 15, 2021

STATE OF SOUTH CAROLINA

COUNTY OF KERSHAW

Tony Sims,

Plaintiff,

v.

Kershaw County Sheriff's Office, Sheriff Lee
Boan and Johnathan Goldsmith,

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COMPLAINT

Plaintiff, complaining of the Defendants above-named, states the following:

PREFACE

This action is brought pursuant to 42 U.S.C. § 1983 for violations of Plaintiff's constitutional right be free from unreasonable searches and seizures under the Fourth, Fifth, and Fourteenth Amendments of the United States Constitution. Plaintiff alleges law enforcement officers Sherriff Lee Boan and Deputy Johnathan Goldsmith, with the Kershaw County Sheriff's Office, as part of a plan, scheme, and practice, harassed citizens by fabricating fraudulent grounds to arrest innocent citizens who are without substantial financial means to assert their legal and constitutional rights. Plaintiff alleges Deputy Johnathan Goldsmith, with the Kershaw County Sheriff's Office, without provocation, assaulted and physically abused Plaintiff. Deputy Johnathan Goldsmith, then created false charges and arrested Plaintiff. Sheriff Lee Boan, had knowledge of prior incidents of Deputy Johnathan Goldsmiths use of excessive force, knew or should have known that Deputy Johnathan Goldsmith was a threat to the community, yet acted in disregard of this knowledge and without slight care of the same. Sheriff Lee Boan and Deputy Johnathan Goldsmith are being sued in their individual capacity.

Plaintiff brings state law claims for negligence/gross negligence, false imprisonment, negligent hiring, negligent training, negligent supervision, negligent retention, negligence (general), gross negligence, assault, and battery, against Deputy Johnathan Goldsmith and the Kershaw County Sheriff's Office who violated Plaintiff's civil rights.

JURISDICTION AND PARTIES

1. Plaintiff, Tony Sims, is a citizen and resident of the County of Kershaw, State of South Carolina.

2. Kershaw County Sherriff Office is a political subdivision of the State of South Carolina and is being sued under the South Carolina Tort Claims Act [SCTCA].

3. Upon information and belief, Deputy Sheriff Lee Boan is a citizen and resident of Kershaw County, State of South Carolina. At all times alleged in the Complaint Sheriff Lee Boan was the elected sheriff of Kershaw County and at all relevant times was acting in the course and scope of his official duties and under color of State law. Sheriff Lee Boan is being sued in his individual capacity for compensatory and punitive damages under Federal law pursuant to 42 U.S.C. § 1983.

4. Upon information and belief, Johnathan Goldsmith is a citizen and resident of Richland County, State of South Carolina. At all times alleged in the Complaint Johnathan Goldsmith was an agent or employee of the Kershaw County Sheriff Office and at all relevant times was acting in the course and scope of his official duties and under color of State law. Johnathan Goldsmith is being sued in his individual capacity for compensatory and punitive damages under Federal law pursuant to 42 U.S.C. § 1983.

5. This suit is brought in Kershaw County, South Carolina where Plaintiff resides and where the tortuous acts committed by Defendants occurred. Additionally, upon information and

belief, almost all the parties to this action and witnesses are residents of Kershaw County, South Carolina, pursuant to 28 U.S.C. §1391 and Local Rule 3.01.

6. The things and matters alleged herein are within the jurisdiction of this Court.

7. Venue is proper as the Defendants are located here in Kershaw County.

FACTUAL ALLEGATIONS

8. On October 15, 2020 Plaintiff was located in the parking lot of Abney Baptist Church at 5180 Bethune Road in Kershaw County, South Carolina. He had met with a friend in the Church parking lot to commiserate over the recent passing of his sister, had consumed a couple of beers while there and was calling a friend to pick him up and take him home, when Deputy Johnathan Goldsmith drove into the parking lot, made contact with and began questioning Plaintiff. The following interactions between Plaintiff and Deputy Johnathan Goldsmith were recorded on the Deputy's body camera.

9. Plaintiff was not driving his car, his car ignition was not turned on, and Plaintiff was sitting alone inside of his vehicle when Deputy Johnathan Goldsmith approached him.

10. As Deputy Johnathan Goldsmith approached Plaintiff's car, Plaintiff exited his vehicle to speak with Deputy Johnathan Goldsmith.

11. Deputy Johnathan Goldsmith introduced himself and asked Plaintiff what happened to his car.

12. Plaintiff responded that he had a flat tire and that his car had been damaged when he struck a fence on his property.

13. Deputy Johnathan Goldsmith asked Plaintiff if he had been drinking.

14. Plaintiff responded "no" and then stated that he had consumed a couple of beers.

15. At all times during this exchange Plaintiff was respectful and cooperative.

16. Plaintiff additionally informed Deputy Johnathan Goldsmith that he was attempting to contact someone to come get him. Plaintiff was actually in the process of placing a call.

17. Deputy Johnathan Goldsmith then patted Plaintiff down and, upon information and belief, found nothing illegal on his person or any weapons.

18. Without probable cause to arrest Plaintiff, Deputy Johnathan Goldsmith told Plaintiff to place his hands behind his back and stated to Plaintiff that he was not under arrest.

19. Plaintiff responded, “no, please, sir, don’t do that”.

20. Deputy Johnathan Goldsmith continued to inform Plaintiff that he was not under arrest but was just being detained.

21. Deputy Johnathan Goldsmith placed handcuffs on Plaintiff’s left wrist and reached for Plaintiff’s right wrist. Plaintiff halfway turned, around said “no, what did I do wrong?”.

22. Deputy Johnathan Goldsmith did not give him an answer but instead, he knocked Plaintiff to the ground and beat him until he was unconscious.

23. Deputy Johnathan Goldsmith then placed Plaintiff’s right hand in handcuffs.

24. Deputy Johnathan Goldsmith then called in to dispatch, falsely claimed that Plaintiff had tried to fight him and bragged about knocking Plaintiff out. Deputy Johnathan Goldsmith said, “he’s taking a little nap, now.”

25. Once Plaintiff regained consciousness, Deputy Johnathan Goldsmith forced Plaintiff to stand and placed him in the patrol car.

26. Plaintiff continued to ask Deputy Johnathan Goldsmith what he did wrong, to which Deputy Johnathan Goldsmith falsely responded that he was driving drunk and fighting him.

27. Once Plaintiff was in the patrol car, he still had his legs out of the patrol car and continued to ask Deputy Johnathan Goldsmith what he did wrong.

28. When Plaintiff did not comply with Deputy Johnathan Goldsmith's demands to place his legs and feet inside the patrol car Deputy Johnathan Goldsmith cursed at Plaintiff and discharged his TASER on Drive Stun upon Plaintiff's neck and shoulder area.

29. As Plaintiff screamed in agony and fell out of the patrol car to the ground, Deputy Johnathan Goldsmith continued to activate his TASER on Plaintiff.

30. With Plaintiff still screaming in agony, Deputy Johnathan Goldsmith again tried to force Plaintiff into the car and falsely made claims that Plaintiff was fighting him.

31. Plaintiff continued to ask Deputy Johnathan Goldsmith what he did wrong to which Deputy Johnathan Goldsmith did not reply.

32. Deputy Johnathan Goldsmith then placed his hands over Plaintiff's mouth and nose, so as to deprive him of oxygen and suffocate the Plaintiff.

33. After asking the Plaintiff repeatedly, "are you done", Goldsmith finally removed his hands from over the Plaintiff's mouth and nose area and Plaintiff continued to ask Deputy Goldsmith what he did wrong.

34. Rather than respond to Plaintiff's perfectly reasonable questions regarding the legal basis for his arrest, Deputy Goldsmith continued his efforts to force Plaintiff into the back of his patrol vehicle by repeatedly and forcefully slamming the vehicle door on Plaintiff's sock covered feet causing Plaintiff such great pain that he screamed in agony.

35. Rather than respond to Plaintiff's questions regarding the legal basis for his arrests and his complaints of this torturous conduct, Deputy Goldsmith furthered his assault on Plaintiff by spraying him with pepper spray, and continued to close the patrol car door on Plaintiff's leg and/or foot as he screamed in agony.

36. Prior to, and during, this attack Plaintiff presented no threat of harm to Deputy Johnathan Goldsmith, did not strike out at Deputy Johnathan Goldsmith Plaintiff, and was respectful at all times.

37. During the attack Plaintiff begged Deputy Johnathan Goldsmith to please stop attacking him, asked to know why he was being attacked, and stated he did nothing wrong.

38. At all times Plaintiff was acting in a lawful manner.

39. When another officer arrived on the scene, Deputy Johnathan Goldsmith made the false claim that he did not know if there was another person in Plaintiff's car even though he had already looked into the car and observed that there were no other passengers.

40. Deputy Johnathan Goldsmith also made a claim to the other officer who arrived on the scene that there was an unsecure firearm on Plaintiff's front passenger seat even though Deputy Johnathan Goldsmith had already observed that there was only a holster and Plaintiff had already informed Deputy Johnathan Goldsmith that the gun was in the trunk.

41. Deputy Johnathan Goldsmith attacked Plaintiff, injured Plaintiff, arrested Plaintiff, and incarcerated Plaintiff even though Plaintiff had presented no illegal activity for which Deputy Johnathan Goldsmith could legally arrest Plaintiff.

42. Upon information and belief Deputy Johnathan Goldsmith signed warrants on Plaintiff for charges to include Resisting Arrest, Public Disorderly Conduct, and Unlawful Possession of an Open Container or Beer or Wine in a Motor Vehicle.

43. Upon information and belief Deputy Johnathan Goldsmith placed these false charges upon Plaintiff in an effort to justify his own illegal, aggressive, cruel and abusive actions.

44. Deputy Johnathan Goldsmith knew or should have known that he had no probable cause for which to arrest Plaintiff.

45. These claims of Plaintiff's illegal activity by Deputy Johnathan Goldsmith only served as a pretext to attack and torture Plaintiff in a sadistic manner.

46. Before being elected Kershaw County Sheriff, Sheriff Lee Boan was Captain at the Camden Police Department, where Goldsmith worked as a patrol officer.

47. Upon information and belief, while Sheriff Lee Boan was serving as Captain and essentially second in command at the Camden Police Department, Goldsmith engaged in numerous serious incidents of excessive and inappropriate uses of force, such that the Camden Police Department required Goldsmith to undertake additional remedial training, to address these problematic and illegal behaviors. But rather than attend the training to address his excessive use of force, Goldsmith chose to quit the police department and seek employment with another law enforcement agency.

48. When Sheriff Lee Boan was elected Sheriff for Kershaw County, Deputy Johnathan Goldsmith was employed by the Kershaw County Sheriff's Office. After taking office, despite the fact that he had actual knowledge of Goldsmith's history of excessive use of force, Sheriff Lee Boan retained Goldsmith and allowed him to continue working with the public for the Kershaw County Sheriff's Office, without doing anything to address his known proclivity to use excessive force. Furthermore, Sheriff Lee Boan, fully aware of Goldsmith's penchant for the use of excessive force, did nothing to insure that Goldsmith would not present a threat of harm to

the people of Kershaw County while working as a Deputy for the Kershaw County Sheriff's Office.

49. Deputy Johnathan Goldsmith acted in violation of generally accepted law enforcement practices and standards.

50. Sheriff Lee Boan acted in violation of generally accepted law enforcement practices and standards.

51. Deputy Johnathan Goldsmith's conduct was plainly incompetent, cruel, and vicious and he knowingly violated clearly established laws by arresting and/or detention without articulable suspicion, arrest without probable cause, unreasonable search and seizure, and attacking Plaintiff.

52. Because of Deputy Johnathan Goldsmith's actions, Plaintiff was confined against his will overnight, suffered physical injury, suffered mental injury, incurred medical expenses, and will incur additional medical expenses in the future.

53. Plaintiff did no more than exercise his constitutional rights in a lawful manner when he questioned the actions of Deputy Johnathan Goldsmith.

54. Deputy Johnathan Goldsmith violated Plaintiff's constitutional rights for no other reason than his supercilious, officious, and intrusive attitude, wanting to throw his weight and apparent authority around as an excuse to brutally assault Plaintiff without any legal authority to do so.

**FOR A FIRST CAUSE OF ACTION
42 USC 1983, 4th, 5th, and 14th Amendment violations**

55. Plaintiff incorporates by reference all previous paragraphs above as if repeated herein.

56. The acts and omissions of Defendants by physically harming and beating, torturing, detaining and arresting Plaintiff, or allowing the same, without articulable suspicion, probable cause, legal authority to do so and without legal justification, no reasonable basis or probable cause to believe a crime had been committed violated the Plaintiff's Fourth and Fourteenth Amendment Rights.

57. Further, Sherriff Lee Boan is liable for the actions of Deputy Johnathan Goldsmith, as he was aware that Deputy Johnathan Goldsmith had a history of physically attacking, threatening, and falsely arresting other citizens in the community in Camden and in Kershaw County. Sherriff Lee Boan had the opportunity to prevent further unconstitutional acts of Deputy Johnathan Goldsmith, yet he chose not to do so, endangering the public and Plaintiff.

58. By the actions and omissions described above, Sherriff Lee Boan and Deputy Johnathan Goldsmith, in their individual capacity and acting under the color of law, deprived Plaintiff of the clearly established and well settled constitutional rights protected by the Fourth, Fifth, and Fourteenth Amendments to the United States Constitution:

- a. The right to be free from unreasonable searches and seizures as secured by the Fourth and Fourteenth Amendments;
- b. The right to be free from excessive and/or unreasonable force in the course of a seizure as secured by the Fourth and Fourteenth Amendments;
- c. The right to be free from the use of unlawful force as secured by the Fourth and Fourteenth Amendments;
- d. The right to be free from reckless, deliberately indifferent, and conscience shocking searches and seizures and/or excessive force as secured by the Fourteenth Amendment;

- e. The right to be free from injury, detention or arrest without substantive and procedural due process and from state created/enhanced danger as secured by the Fifth and Fourteenth Amendment.
- f. And other such particulars as may be learned through discovery.

59. As a direct and proximate result of the above-described actions of Defendants Sheriff Lee Boan and Deputy Johnathan Goldsmith, while acting at all times under the color of law, Plaintiff suffered physical harm, emotional harm, alteration of his lifestyle, humiliation, apprehension, anxiety, stress, depression, embarrassment, shame, fear, and a loss of enjoyment of life. Plaintiff has suffered expenses and will continue to have expenses in the future. Defendants are sued in their individual capacities.

60. Plaintiff asks the Court to award damages, punitive damages, and attorney's fees and costs.

**FOR A SECOND CAUSE OF ACTION
Negligence and Gross Negligence State Tort Claims Act**

61. Plaintiff incorporates by reference all previous paragraphs above as if repeated herein.

62. Defendant Kershaw County Sheriff's Office, its employees, agents, and contractors departed from the duties of care required by law enforcement officers and the agencies that hire train and employ these officers and were thereby negligent careless, grossly negligent, and reckless and acted in violation of the duties owed to Plaintiff in that they committed one or more of the following acts or omissions, any and all of which were a departure from the prevailing duties of care:

- a. Failing to ensure the safety, security, freedom, and well-being of Plaintiff;

- b. Failing to appreciate the conditions that existed on the day in question through their employees and/or agents;
- c. Failing to adhere to proper law enforcement procedure through their employees and/or agents including, but not limited to, failing to ensure there was sufficient cause to detain and/or arrest citizens, namely Plaintiff;
- d. Failing to intervene and prevent other officers, employees, and/or agents from unlawfully detaining, assaulting, and/or arresting Plaintiff unlawfully;
- e. Failing to properly hire, train, and supervise their officers and/or agents;
- f. Failing to release from employment officers that would place the public at risk;
- g. Failing to have in place proper and adequate policies, procedures, and protocols for law enforcement to perform investigations, searches, and seizures pursuant to the law and proper police procedure, training of officers, or if such policies procedures, and protocols were in place, in failing to use due care or even slight care to enforce them;
- h. Failing to ensure the accuracy and validity of any charge which Defendants and/or it's employees, agents, and contractors decide to arrest and take away the liberties of a citizen, namely, Plaintiff;
- i. Falsely and wrongfully imprisoning citizens who have not committed criminal acts.

63. As a direct and proximate result of the negligence, gross negligence, reckless disregard for the truth, and departure from the standards of care owed by Defendant Kershaw

Sheriff Office, its employees, agents, and contractors, Plaintiff suffered physical harm, emotional harm, alteration of his lifestyle, humiliation, apprehension, anxiety, stress, depression, embarrassment, shame, fear, and a loss of enjoyment of life. for which Plaintiff is entitled to recover in an amount to be determined by a jury at the trial in this action.

64. Plaintiff asks the Court to award damages and costs.

**FOR A THIRD CAUSE OF ACTION
MALICIOUS AND INTENTIONAL TORTS**

65. Plaintiff incorporates by reference all previous paragraphs above as if repeated herein.

66. Defendant Deputy Johnathan Goldsmith assaulted and battered Plaintiff.

- a. Defendant Deputy Johnathan Goldsmith's conduct placed Plaintiff in reasonable fear of bodily harm.
- b. Defendant Deputy Johnathan Goldsmith unlawfully touched and struck Plaintiff.

67. Defendant Deputy Johnathan Goldsmith abused process in covering up his use of excessive force against Plaintiff.

- a. Defendant Deputy Johnathan Goldsmith initiated criminal process for the ulterior purpose of covering up his use of excessive force against Plaintiff and such process was not proper in the regular conduct of the proceeding.

68. Defendant Deputy Johnathan Goldsmith falsely imprisoned Plaintiff.

- a. Defendant Deputy Johnathan Goldsmith restrained Plaintiff, the restraint was intentional, and the restraint was unlawful.

69. Defendants Deputy Johnathan Goldsmith and Sheriff Lee Boan maliciously maintained criminal charges against the Plaintiff in order to limit their liability to Plaintiff.

70. As a direct and proximate result of the intentional and malicious acts by Defendants Deputy Johnathan Goldsmith and Sheriff Lee Boan, Plaintiff suffered physical harm, emotional harm, alteration of his lifestyle, humiliation, apprehension, anxiety, stress, depression, embarrassment, shame, fear, and a loss of enjoyment of life. for which Plaintiff is entitled to recover in an amount to be determined by a jury at the trial in this action and punitive damages.

71. Plaintiff seeks damages and punitive damages.

WHEREFORE, Plaintiff respectfully prays for the following relief:

- A. For judgment against Defendants for actual, compensatory and punitive damages, and future damages to be determined by the Court and a jury;
- B. For attorney's fees and costs where applicable;
- C. For the costs and disbursements in the pursuit of this action; and
- D. For such other and further relief as this Court may deem just and proper.

Respectfully Submitted,

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