

**IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO**

EDWARD BRENT WILLIAMS)	
6 Howard Court)	<u>CASE NO.:</u>
Akron, Ohio 44303)	
)	
and)	
)	
THERESA M. WILLIAMS)	
6 Howard Court)	
Akron, Ohio 44303)	
)	
Plaintiffs,)	COMPLAINT FOR COMPENSATORY AND PUNITIVE DAMAGES
)	
vs.)	(JURY DEMAND)
)	
DONALD SCHISMENOS,)	
Badge No. 950)	
Individually and in his official)	
capacity)	
234 Hawk Avenue)	
Akron, Ohio 44312)	
)	
and)	
)	
JESSIE LEESER, Badge No. 1030)	
Individually and in his official)	
capacity)	
Akron Police Department)	
217 S. High Street)	
Akron, Ohio 44308)	
)	
and)	
)	
CITY OF AKRON)	
c/o Patricia Ambrose, Law Director)	
161 S. High Street)	
Suite 202)	
Akron, Ohio 44308)	
)	
Defendants)	

INTRODUCTION

1. This case arose from the serious misconduct of Defendants Schismenos and Leeser (collectively, the "Defendant Officers"), and of the Defendant City of Akron, which employed inadequate policies, failed to adequately hire, train, discipline, and supervise the Defendant Officers. Plaintiff Edward Williams was singled out and wantonly, recklessly, and maliciously assaulted, arrested, and charged by the Defendant Officers. Further, he was convicted of assaulting a police officer and resisting arrest when Defendant Officers were aware that such crimes were not committed and were in possession of a video recording that exonerated Williams and failed to disclose the existence of that video recording to Mr. Williams or his attorney. Williams was injured by the Defendants' conduct and omissions and seeks compensatory and punitive damages under state and federal law claims against the Defendants. Williams also seeks declaratory and injunctive relief, attorney's fees, costs and other relief.

PARTIES

2. Plaintiff Williams is a citizen of the United States and is (and was at all relevant times) a resident of Akron, Ohio.
3. On October 2, 1996, the date of the incident which gave rise to this Complaint, Plaintiff Theresa Williams ("T. Williams") is a citizen of Ohio, is (and was at all relevant times) a resident of Akron, Ohio and is the wife of Williams.
4. Defendant Schismenos was at all times relevant herein a police officer of the Akron Police Department, and acting under the color of law. He is being sued in his individual as well as his official capacity.
5. Defendant Leeser was at all times relevant herein a police officer of the Akron Police

Department, and acting under the color of law. He is being sued in his individual as well as his official capacity.

6. Defendant City of Akron is a municipal corporation, a political subdivision under Chapter 2744, Ohio Revised Code, and was at all times relevant the employer of Defendants Schismenos and Leeser.

JURISDICTION AND VENUE

7. Plaintiff incorporates by reference each and every allegation of Paragraphs 1 through 6, as if those allegations were fully rewritten herein.
8. This Court has concurrent jurisdiction to hear claims brought pursuant to the laws of the State of Ohio, the Ohio Constitution and 42 U.S.C. Section 1983, as well as the Fourth and Fourteenth Amendments to the Constitution of the United States.
9. Venue is appropriate as this cause of action arose in the County of Summit.

FACTS

10. Plaintiff incorporates by reference each and every allegation of Paragraphs 1 through 9, as if those allegations were fully rewritten herein.
11. On October 2, 1996, Williams was the father of two children (he now has three) and a husband to T. Williams, to whom he is still married.
12. On October 2, 1996, Williams was 27 years old and had been employed at Hobart Food Equipment for a year.
13. Williams and T. Williams were driving their nine-month old son to the hospital due to a respiratory issue related to his asthma. Their other child was in the car with them.
14. Williams and T. Williams were stopped by Defendants Schismenos and Leeser near the corner of West Market Street and South Walnut St. in Akron, Ohio for allegedly having a

- an expired license registration and no license plate light.
15. Defendants Schismenos and Leeser ordered Williams out of his car.
 16. Defendants Schismenos and Leeser immediately became aggressive with Williams.
 17. In the process of arresting Williams for the fourth degree misdemeanor of having an expired registration (now a minor misdemeanor), Defendants Schismenos and Leeser tackled Williams to the ground, hit and kicked him, and used excessive force to unreasonably arrest him, including the use of a chokehold and Billie clubs.
 18. Williams never struck either Defendant Schismenos and Leeser and only attempted to protect himself in the fray. Williams suffered injury and continued pain and suffering as a result of the actions of the defendants.
 19. Williams was arrested and charged with assaulting a police officer and resisting arrest.
 20. Williams was held in the Summit County Jail for two days.
 21. As a result of his arrest and incarceration, Williams lost his job at Hobart Food Equipment.
 22. On May 6, 1997, Williams was convicted of assaulting a police officer and resisting arrest.
 23. On May 27, 1997, Williams was sentenced to two years of community control with the following conditions: (1) that he serve ninety days at the Oriana Residential Institution; (2) that he complete an anger management program; and (3) that he pay costs and probation fees.
 24. Williams spent approximately ninety days at Oriana House.
 25. After his conviction, Williams continued to suffer loss of income through because he was denied employment as a result of his conviction, prohibited from obtaining licenses to

operate businesses and denied continued employment with various employers.

26. Subsequently, Williams learned that Defendant Schismenos had been recording encounters with citizens with whom Defendant Schismenos came into contact.
27. Defendant Schismenos recorded an enormous number of hours of interactions with individuals.
28. None of these recordings were shared with the individuals who were recorded or their attorneys if those individuals were charged with a crime.
29. Williams learned that his encounter with Defendants Schismenos and Leeser on October 2, 1996 was recorded. That information was not produced during the discovery phases of the trial nor was it provided to Williams pursuant to the State's obligation to produce exculpatory information because Defendants Schismenos and Leeser did not disclose the existence of the video recording.
30. At no point prior to his trial, or during it, was Williams provided with a copy of the recording or notified that it existed.
31. Based upon this newly discovered evidence, Williams filed for leave to file a Motion for a New Trial.
32. That request was granted and Williams filed a Motion for a New Trial.
33. On the date scheduled for the hearing on the Motion, the State of Ohio dismissed the charges against Williams.

FIRST CLAIM FOR RELIEF
(Excessive Force and Unlawful Seizure)

34. Plaintiff incorporates by reference each and every allegation of Paragraphs 1 through 33 as if those allegations were fully rewritten herein.

35. The actions of Defendants Schismenos and Leeser as described in this Complaint constitute unjustified and excessive seizure and use of force, which deprived Williams of his civil rights as secured by the Fourth and Fourteenth Amendments to the United States Constitution, the Ohio Constitution and by 42 U.S.C. § 1983.
36. As a direct and proximate cause of Defendants' misconduct, Williams sustained damages and suffered injuries and intense pain in his head, neck, shoulders, and back.

SECOND CLAIM FOR RELIEF
(False Imprisonment)

37. Plaintiff incorporates by reference each and every allegation of Paragraphs 1 through 36 as if those allegations were fully rewritten herein.
38. Defendants Schismenos and Leeser arrested, detained, and imprisoned Williams maliciously and in bad faith.
39. Defendants Schismenos and Leeser engaged in actions and conduct that constituted false imprisonment in violation of the Fourth Amendment to the United States Constitution, the Ohio Constitution and 42 U.S.C. § 1983, and Ohio law.
40. Further, the conduct of Defendants Schismenos and Leeser in withholding and concealing material exculpatory evidence constituted acts or omissions with malicious purpose, in bad faith, or committed in a wanton or reckless manner and deprived Williams of a fair trial.
41. Said restraint was unlawful, without reasonable grounds or probable cause and was against the will of the Williams.
42. Said acts or omissions were a proximate cause of his wrongful imprisonment.
43. As a direct and proximate result of this false imprisonment, Williams suffered damages

and injuries including loss of liberty, loss of income, humiliation and embarrassment as described above.

THIRD CLAIM FOR RELIEF
(Malicious Prosecution)

44. Plaintiff incorporates by reference each and every allegation of Paragraphs 1 through 43 as if those allegations were fully rewritten herein.
45. Defendants Schismenos and Leeser, through their actions were responsible for creating misleading allegations resulting in Williams being charged with assault on a police officer and resisting arrest.
46. Despite having within their possession exculpatory evidence indicating that Williams was innocent of those crimes, Defendants caused the prosecution of Williams.
47. Had the concealed exculpatory evidence been properly considered and evaluated, there would have been no probable cause to proceed against Williams on the charges.
48. In prosecuting Williams, Defendants acted against Williams with malice.
49. Defendants' actions constitute malicious prosecution of Williams under the U.S. Constitution and 42 U.S.C. § 1983.

FOURTH CLAIM FOR RELIEF
(Willful, Wanton, and Reckless Conduct)

50. Plaintiff incorporates by reference each and every allegation of Paragraphs 1 through 49, as if those allegations were fully rewritten herein.
51. Defendants Schismenos and Leeser failed to exercise due care and acted in a willful, wanton, and reckless manner while engaged in police functions and activities in violation of the Fourteenth Amendment to the United States Constitution and Article I, Section 16 of the Ohio Constitution.

52. Such reckless, wanton, and willful conduct proximately caused the Plaintiff's injuries as described above.

FIFTH CLAIM FOR RELIEF
(Willful, Wanton, and Reckless Conduct)

53. Plaintiffs incorporate by this reference each and every allegation of Paragraphs 1 through 52 as if those allegations were fully rewritten herein.
54. Williams' detention and arrest was unlawful, without reasonable grounds or probable cause, and was against the will of the Williams.
55. Defendants illegally arrested, detained, imprisoned and instituted legal proceedings against Williams.
56. Defendants' actions and conduct constitute false arrest, false imprisonment, and invasion of privacy in violation of Ohio law.
57. As a direct and proximate result of this false imprisonment, Plaintiff suffered damages and injuries including loss of liberty, loss of income, humiliation and embarrassment as described above.

SIXTH CLAIM FOR RELIEF
(Intentional Infliction of Emotional Distress)

58. Plaintiffs incorporate by this reference each and every allegation of Paragraphs 1 through 57 above, as if those allegations were set forth herein.
59. Defendants intended to and/or should have known that their actions would result in serious infliction of emotional distress upon Williams.
60. Defendants' conduct, individually and/or collectively, was so extreme, utterly intolerable, and /or outrageous as to go beyond all possible bounds of decency.
61. As a direct and proximate result of said Defendants' conduct, either individually or collectively, Williams has suffered, and will continue to suffer, serious mental,

emotional, and psychological damages, including but not limited to, fear, humiliation, embarrassment, frustration, and apprehension of police conduct.

SEVENTH CLAIM FOR RELIEF
(Withholding Exculpatory Evidence)

62. Plaintiff incorporates by reference each and every allegation of Paragraphs 1 through 61, as if those allegations were fully rewritten herein.
63. Defendants Schismenos and Leeser failed to disclose exculpatory evidence in the form of the video to Williams prior to or during his trial. The concealed exculpatory evidence was material, and the failure to turn over the evidence gave rise to constitutional violations of Williams' rights under *Brady v. Maryland*, 42 U.S.C. § 1983 and the United States and Ohio Constitutions.
64. As a direct and proximate result of said Defendants' conduct, either individually or collectively, Williams has suffered, and will continue to suffer, serious mental, emotional, and psychological damages, including but not limited to, fear, humiliation, embarrassment, frustration, and apprehension of police conduct.

EIGHTH CLAIM FOR RELIEF
(Municipal Liability- City of Akron)

65. Plaintiff incorporates by reference each and every allegation of Paragraphs 1 through 64, as if those allegations were fully rewritten herein.
66. The actions of Defendants Schismenos and Leeser resulted from and were taken pursuant to the unlawful and unconstitutional policy of the City of Akron, through its Police Department, which failed to adequately hire, train, supervise, and discipline its police officers in regard to the use of excessive force, false arrest, false imprisonment and due process in violation of the United State and Ohio Constitutions and under circumstances where said officers lack probable cause to believe that the suspect posed a threat to the

safety of police officers or to the community, and without any compelling interest.

67. Therefore, the City of Akron, at all times relevant herein, approved, authorized, and acquiesced in the unlawful and unconstitutional conduct of their respective employees and/or agents and consequently are directly liable for the acts of those agents, pursuant to 42 U.S.C. § 1983.
68. Furthermore, Defendants Schismenos and Leeser, were policy makers, on behalf of themselves and the City of Akron. The decisions they made in connection with the aforementioned Brady violations were final, and not reviewable by any other higher authority within the police department. They reported to no one and, as far as the investigative decisions made in this case, as well as others, their decision was final as to what was disclosed or not disclosed to the defense.
69. As a direct and proximate result of Defendant City of Akron's actions and omissions, Williams suffered the injuries and damages set forth in this Complaint.

NINTH CLAIM FOR RELIEF
(Loss of Consortium)

70. Plaintiff incorporates by reference each and every allegation of Paragraphs 1 through 69, as if those allegations were fully rewritten herein.
71. As a direct and proximate result of the Defendants' actions, inactions, conduct and behavior, Plaintiff T. Williams has suffered a loss of the consortium of her husband Williams.

DAMAGES

- A. As a direct and proximate result of the acts set forth in Paragraphs 1 through 71 above, Williams sustained pain in his head and upper body.
- B. As a direct and proximate result of the Defendants' conduct, Plaintiff has suffered and

continues to suffer physical pain, mental anguish and emotional distress, as well as injury to reputation and humiliation, some or all of which may be permanent.

- C. As a further direct and proximate result of the Defendants' conduct, Plaintiff has incurred substantial costs and expenses, including, but not limited to, legal fees, loss of work and other costs.
- D. Plaintiff's physical, mental, and emotional injuries are serious, and are of such a nature that no reasonable person could be expected to endure.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against the Defendants, jointly and severally, for:

- A. Compensatory and consequential damages for all the injuries identified in an amount to be determined by the Court in excess of the Court's jurisdictional amount;
- B. Punitive damages in an amount to be determined at trial for the willful and malicious conduct of Defendants Schismenos and Leeser;
- C. Equitable relief, including, without limitation, that Defendant, City of Akron, be made to adopt an appropriate policy to prevent future instances of this type of misconduct described herein;
- D. Attorney's fees and the costs of this action and other costs that may be associated with this action; and
- E. Any and all other relief that this Court deems equitable, necessary, and just.

Respectfully submitted,
WILLIAM T. WHITAKER CO., L.P.A.

/s/ William T. Whitaker
WILLIAM T. WHITAKER (# 0007322)
ANDREA L. WHITAKER (# 0074461)
54 East Mill Street, Suite 301
Akron, Ohio 44308
(330) 762-0287
Facsimile: 330-762-2669
Whitaker@whitakerlawlpa.com
Attorney for Plaintiffs

JURY DEMAND

Plaintiff hereby demands a jury trial as provided by law in this matter.

/s/ William T. Whitaker