

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

**PAUL TIMOTHY RHODES,
RAYCHEL PAULETTE CROWDER RHODES**

Plaintiffs

v.

No. _____

Jury Demand

**LAUDERDALE COUNTY, TENNESSEE;
STEVE SANDERS in his official capacity as
Sheriff of Lauderdale County, Tennessee**

Defendants.

**COMPLAINT FOR DAMAGES AND CLASS ACTION COMPLAINT FOR
INJUNCTIVE RELIEF**

Paul Timothy Rhodes and Raychel Paulette Crowder Rhodes, for cause of action, would show unto the Court as follows:

PRELIMINARY STATEMENT

The Lauderdale County Sheriff has implemented a policy authorizing citizens to be detained in the Lauderdale County Jail for up to 48 hours for “investigation” without being charged with a criminal offense, and without having probable cause that the detainees have committed an offense. This policy violates the Fourth Amendment. Plaintiffs were unconstitutionally detained in the Lauderdale County Jail for investigation for over thirty six hours then released without being charged. Plaintiffs seek damages, class certification and injunctive relief to stop this unconstitutional practice.

PARTIES

1. Plaintiff, Paul Timothy Rhodes (“Mr. Rhodes”), is an adult resident citizen of Ripley, Lauderdale County, Tennessee, with a resident home address of 84 Carmack Road.
2. Plaintiff, Raychel Paulette Crowder Rhodes (“Mrs. Rhodes”) is an adult resident citizen of Ripley, Lauderdale County, Tennessee, with a resident home address of 84 Carmack Road.
3. Defendant Lauderdale County, Tennessee is a governmental entity located in the Western District of Tennessee. Lauderdale County’s agent for service of process is Rod Schuh, the duly elected Mayor of Lauderdale County.
4. Defendant Steve Sanders is the duly elected Sheriff of Lauderdale County. As Sheriff, Sanders is responsible for establishing and implementing policy for the Lauderdale County Sheriff’s Department and the Lauderdale County Jail. Sanders is only sued in his official capacity as Sheriff of Lauderdale County, seeking injunctive relief. For purposes of Plaintiffs’ claims for damages, a suit against the Lauderdale County Sheriff in his official capacity is tantamount to a suit against Lauderdale County. *See Kentucky v. Graham*, 473 U.S. 159, 165 (1985).

JURISDICTION AND VENUE

5. This action is brought pursuant to 42 U.S.C. §1983 (federal civil rights), the Fourth and Fourteenth Amendments to the United States Constitution. This Court’s jurisdiction is premised upon 28 U.S.C. §1331 (federal question) and 28 U.S.C. §1343(a)(3) (federal civil rights).
6. Because all parties reside in the Western District of Tennessee, and the cause of action also arose in the district, venue is proper in this Court pursuant to 28 U.S.C. §1391(b).

FACTS

7. Mr. Rhodes and Mrs. Rhodes are married citizens of Lauderdale County. Mr. Rhodes is gainfully employed by SRG Global. Mrs. Rhodes is a fulltime homemaker.
8. On Sunday, January 17, 2010, Mr. and Mrs. Rhodes attended the evening Church service at Ripley Church of God, then went home for the evening.
9. At approximately 10:45 p.m. on Sunday, January 17, 2010 three Lauderdale County Sheriff's Deputies came to the Rhodes home, knocked on their door and told Mr. and Mrs. Rhodes they were being detained for a burglary investigation pursuant to orders of the Sheriff.
10. Mrs. Rhodes asked for more information as to allegedly whom they burglarized and why they were being arrested. One of the deputies responded they were being "detained," not arrested, for suspicion of burglary, and that the Sheriff could hold them for up to 48 hours.
11. Mr. and Mrs. Rhodes were transported to the Lauderdale County Jail and booked on "suspicion of burglary"
12. Mr. and Mrs. Rhodes were forced to change into jail clothes, had mug shots and finger prints taken.
13. Mrs. Rhodes was placed in solitary confinement in a small detention cell that smelled of urine, with a concrete slab for a bed and a steel toilet. Mr. Rhodes was placed in a similar, separate cell also in solitary confinement.
14. Neither Mr. nor Mrs. Rhodes were charged with an offense, nor offered the opportunity to post bail. At first they were refused a phone call. Later Mrs. Rhodes was allowed to make one phone call, but was only allowed to communicate that she was in jail.
15. Hours later Lauderdale County Sheriff's Investigator Kenneth Richardson came into the cell and informed Mrs. Rhodes that Ms. Anita Trosper's home had been burglarized Sunday

evening, January 17th between 6-9 p.m., and that someone had stolen some heart medication.

Ms. Trosper purportedly suspected that the Rhodes were responsible, which is why the Sheriff ordered the Rhodes detained for questioning.

16. Mrs. Rhodes is engaged in child support/visitation litigation with Ms. Trosper's adult son, Ashley Childers, which is currently pending in state court. Though the Rhodes, Ms. Trosper and Mr. Childers have less than amicable feelings towards each other, there is absolutely no basis to believe the Rhodes would burglarize the Trosper home or vice versa.

17. Mrs. Rhodes explained to Investigator Richardson that they were at Church Sunday night, that the Church services were videotaped and the Rhodes attendance at church could be corroborated by numerous witnesses.

18. The Rhodes were finally released from the Lauderdale County Jail on Tuesday, January 19, 2010 at approximately 12 noon, without being charged with an offense, having spent over 36 hours in the Lauderdale County Jail.

19. There was no evidence from which a reasonable person could have concluded that the Rhodes burglarized Ms. Anita Trosper's home.

20. There was no probable cause to believe either Mr. Rhodes or Mrs. Rhodes committed a burglary.

21. Sheriff Sanders has implemented a policy allowing forced arrest and detention of persons in the Lauderdale County Jail for periods of up to 48 hours, without probable cause, in order to investigate possible crimes.

22. Upon information and belief, numerous people have been detained in the Lauderdale County Jail for periods up to 48 hours for investigation, when at the time of arrest there was no probable cause to believe such persons had committed a crime.

**CAUSE OF ACTION
COUNT I**

23. 42 U.S.C. §1983 provides in pertinent part:

Every person who, under color of any statute, ordinance, regulation, custom, or usage of any state...subjects or causes to be subjected, any citizen of the United States, to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

24. To establish liability under 42 U.S.C. §1983, a Plaintiff must establish (1) that he was deprived of a right secured by the constitution or laws of the United States, and (2) that he was subjected or caused to be subjected to this deprivation by a person acting under color of state law. *Alkire v. Irving*, 330 F.3d 802,813 (6th Cir. 2003).

25. The Fourth Amendment to the United States Constitution provides:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.

U.S. Const. Amend IV.

26. By virtue of its incorporation into the Fourteenth Amendment, the Fourth Amendment requires the States to provide a fair and reliable determination of probable cause as a condition for any significant pretrial restraint of liberty. *Gerstein v. Pugh*, 420 U.S. 103 (1975).

27. Whether an arrest violates the Fourth Amendment depends upon whether, at the moment the arrest was made, the officers had probable cause to arrest the arrestee – i.e. whether at that moment the facts and circumstances within their knowledge and of which they had reasonable trustworthy information were sufficient to warrant a prudent person in believing the arrestee had committed or was committing an offense. *Beck v. Ohio*, 379 U.S. 89, 91 (1964).

28. A Fourth Amendment seizure occurs when there is a governmental termination of freedom of movement. *Brower v. County of Inyo*, 489 U.S. 593, 596-597 (1989).
29. A person acts under color of state law when the action in question is made possible only because the wrongdoer is clothed with the authority of state law. *See Monroe v. Pape*, 365 U.S. 167, 180 (1961).
30. At all times material to this Complaint the Sheriff, deputies and Lauderdale County Jail Staff who detained the Rhodes were acting under color of Tennessee law.
31. Mr. and Mrs. Rhodes were seized and detained unreasonably by the Lauderdale County Sheriff, without probable cause, under color of Tennessee law, in violation of the Fourth Amendment to the United States Constitution made applicable to the states by its incorporation into the Fourteenth Amendment, giving rise to liability under 42 U.S.C. §1983.
32. As a direct and proximate result of the Fourth Amendment violations, Mr. and Mrs. Rhodes have both suffered damages including:
- a. loss of liberty
 - b. emotional distress and mental anguish
 - c. personal humiliation
 - d. damage to reputation
 - e. physical suffering
33. A County is liable under 42 U.S.C. §1983 for the acts of those who speak with final policy making authority for a county and violate an individual's constitutional rights. *Gregory v. Shelby County, Tennessee*, 720 F.3d 433, 441 (6th Cir. 2000).
34. Furthermore, a "custom" even if not formally approved by an appropriate decision maker, may nonetheless subject a county to liability on the theory that the relevant practice is so widespread as to have the force of law. *Board of County Commissioners of Bryan County, Oklahoma v. Brown*, 520 U.S. 397, 404 (1997).

35. Sheriff Sanders is responsible for the hiring, training, and control of all deputies of the Lauderdale County Sheriff's Department. Sanders establishes Lauderdale County policy with respect to the arresting and detention of persons in the Lauderdale County Jail.

36. Sheriff Sanders personally authorized detaining Mr. and Mrs. Rhodes for investigation of burglary, without probable cause, thereby rendering Lauderdale County liable for the unconstitutional acts and damages detailed in this complaint.

37. Additionally, Sheriff Sanders has implemented a policy or custom of allowing detention of persons for investigation for up to 48 hours, irrespective of whether there is probable cause to make an arrest. Lauderdale County is further liable because the Rhodes were detained pursuant to the unconstitutional policy or custom.

CLAIM FOR INJUNCTIVE RELIEF

38. Mr. and Mrs. Rhodes who reside in Lauderdale County, are fearful of again being unreasonably detained in the Lauderdale County Jail without probable cause and seek injunctive relief to enjoin the Sheriff of Lauderdale County from detaining them in the Lauderdale County Jail unless there is probable cause to believe they committed a crime.

39. The Rhodes additionally seek to certify a class for declaratory and injunctive relief comprising "all persons who are presently or in the future presented by any law enforcement for detention in the Lauderdale County Jail."

40. The number of persons presented by law enforcement for detention in the Lauderdale County Jail is so numerous that joinder of such persons is impractical.

41. There is a common question of law and fact common to the class, namely whether the policy of detaining persons in the Lauderdale County Jail solely for investigation, without probable cause, constitutes a violation of the Fourth Amendment.

42. The claims of the Rhodes will be typical of the claims of the class.
43. The Rhodes will fairly and adequately represent the members of the class.
44. A class should be certified under F. R. Civ. P. 23(b)(2) since the Lauderdale County Sheriff has acted on grounds generally applicable to the class, thereby making appropriate final injunctive relief and corresponding declaratory relief with respect to the class as a whole.
45. Furthermore because these unlawful detentions are for periods less than 48 hours, the doctrine of “capable of repetition yet evading review” should allow the named plaintiffs to have standing to continue to litigate the case.
46. Plaintiffs also seek a preliminary injunction pursuant to F.R. Civ. P. 65(a), and declaratory relief pursuant to F. R. Civ. P. 57, and 28 U.S.C. §2201.
47. Plaintiffs demand a jury be empanelled to try all issues so triable.

WHEREFORE, PREMISES CONSIDERED, the Rhodes pray for a judgment against Lauderdale County for the following:

1. Compensatory damages in an amount the jury may determine;
2. Attorneys fees and costs pursuant to 42 U.S.C. §1988;
3. Pre and post judgment interest;
4. Certification of a class for declaratory and injunctive relief;
5. Preliminary and permanent, declaratory and injunctive relief; and
6. All such further relief both general and specific to which the Rhodes may be entitled.

Respectfully submitted,
GLANKLER BROWN, PLLC

By: /s/ Robert L. Hutton
Robert L. Hutton, No. 15496
Attorney for Plaintiffs
One Commerce Square
Seventeenth Floor
Memphis, TN 38103-2566
(901) 525-1322