

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE at CHATTANOOGA

SHAWN GRAHAM and
MICHELLE GRAHAM

Plaintiff,
Vs.

SEQUATCHIE COUNTY
GOVERNMENT,

SHERIFF RONNIE HITCHCOCK,
In his individual capacity and
Official capacity as an agent for
Sequatchie County Government,

BRANDON AUSTIN,
In his individual capacity and
Official capacity as an agent for
Sequatchie County Government,

STACY WHITE,
In her individual capacity and
Official capacity as an agent for
Sequatchie County Government,

WILLIE BREWER
In his individual capacity and
Official capacity as an agent for
Sequatchie County Government,

VAN BUREN COUNTY
GOVERNMENT,

MARK EVANS,
In his individual capacity and
Official capacity as an agent for
Van Buren County Government,

DONNIE EVANS,
In his individual capacity and
Official capacity as an agent for
Van Buren County Government,

CHAD MARTIN,
In his individual capacity and
Official capacity as an agent for
Van Buren County Government,

CASE NO. 1:10-CV-20
Edgar/Carter

JURY DEMAND

FILED

JAN 29 2010

Clerk, U. S. District Court
Eastern District of Tennessee
At Chattanooga

JASON LADD,
UNITED STATES FEDERAL MARSHALL
In his individual capacity

JIM ROBERSON,
UNITED STATES FEDERAL MARSHALL
In his individual capacity

Defendants.

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COMPLAINT

COME NOW THE PLAINTIFFS, by and through the undersigned attorney and for cause of action against the defendant respectfully state as follows:

PARTIES

1. Plaintiffs, Shawn Graham and Michelle Graham, are adult citizens of Spencer, Van Buren County, Tennessee.
2. Defendant Sequatchie County, is a municipality chartered by the State of Tennessee and as such is a political subdivision of the State of Tennessee and among other functions operates and maintains a law enforcement agency known as the Sequatchie County Sheriff's Department. The County of Sequatchie is under a duty to operate its policing activities in a lawful manner so as to preserve to its citizens the rights, privileges, and immunities

guaranteed to them by the constitutions and laws of the United States and the State of Tennessee.

3. Defendant Van Buren County is a municipality chartered by the State of Tennessee and as such is a political subdivision of the State of Tennessee and among other functions operates and maintains a law enforcement agency known as the Van Buren County Sheriff's Department. The County of Van Buren is under a duty to operate its policing activities in a lawful manner so as to preserve to its citizens the right, privileges, and immunities guaranteed to them by the constitutions and laws of the United States and the State of Tennessee.

4. Upon information and belief, Defendants, Sheriff Ronnie Hitchcock, Brandon Austin, Stacy White, and Willie Brewer are adult citizens of Sequatchie County, Tennessee and are law enforcement officers with the Sequatchie County Sheriff's Department. They are sued individually and in their official capacities as law enforcement officers of the SCSD. At the time of the incident, which is the subject matter of this litigation, all these defendants were acting under the color of state law and by virtue of their positions as law enforcement officers.

5. Upon information and belief, Defendants, Mark Evans, Donnie Evans, and Chad Martin are adult citizens of Van Buren County, Tennessee and are law enforcement officers with the Van Buren County Sheriff's Department. They are sued individually and in their official capacities as law enforcement officers of the VBCSD. At the time of the incident, which is the subject matter of this litigation, all these defendants were acting under the color of state law and by virtue of their positions as law enforcement officers.

JURISDICTION AND VENUE

6. Plaintiffs hereby incorporate by reference paragraphs 1-6 of the complaint as set forth above.
7. The cause of action arises out of an incident which occurred on or about January 29, 2009, on Highway 399 in Sequatchie County Tennessee.
8. Jurisdiction lies with this court pursuant to federal question jurisdiction 28 USC §1331, 28 USC §1343 (1) (2) (3) (4), 42 USC §1983, 42 USC §1988, and the Fourth and Fourteenth Amendments of the Constitution of the United States. The plaintiffs further invoke the pendent and supplemental jurisdictions of this Court to hear claims arising out of state law pursuant to 28 USC §1367. Venue lies with the Court pursuant to 28 USC §1391.

FACTS

9. Plaintiffs hereby incorporate by reference paragraphs 1-8 of the complaint as set forth above.
10. Early on the morning of January 29, 2009, Shawn and Michelle Graham were headed home on Highway 399. Shawn was driving toward its intersection with Highway 111 when the unexpected occurred.
11. Suddenly a group of men on foot appeared on the side of the road. They had run down an embankment and crossed Highway 399 directly in front of the Graham's 1996 Nissan. Many wore camouflage, but none wore a police uniform.
12. After Mr. Graham stopped his vehicle, a man charged its driver's side and demanded that he roll down his window.
13. When he did, this man thrust a loaded shotgun into his car and held it near Mr. Graham's face, sometimes tapping his head with the barrel.
14. The men then pulled both of the Grahams out of their Nissan and thrust them onto the road, face down. The men yelled death threats and angry curses at the Grahams.
15. After the men had Mr. Graham patted down, they allowed him to stand.
16. However, it was just moments before the men ordered Mr. Graham down again, though their frisk had revealed no weapons, no drugs, and no contraband.

17. Sheriff Ronnie Hitchcock stood behind Mrs. Graham, and ordered her to put her hands on the hood of his car. He then patted her down in an extended, intrusive and humiliating fashion. He reached inside the pockets of her clothing, making inappropriate contact with her breasts and groin areas. Handcuffed in the back seat of Sheriff Hitchcock's cruiser, Mr. Graham was forced to watch this unconstitutional spectacle.
18. He then told Mrs. Graham that he had a picture of her in a truck with Alvin Johnson. When Mrs. Graham demanded to see the picture, the Sheriff ordered her back to the pavement, face down.
19. Mrs. Graham told the Sheriff that night that she had never been photographed with Alvin Johnson. The Sheriff knew that night that he had never possessed or seen such a photograph.
20. The men on the road ransacked the Graham's glove compartment and next the trunk, having forced the car keys from Mrs. Graham.
21. The men on the road found no weapons, drugs, contraband, or anything illegal either in the vehicle or on the person of Mr. or Mrs. Graham.
22. Nonetheless, one of these men threatened Mr. Graham with prosecution and jail time, compliments of the U.S. Attorney, if Mr. Graham did not tell the truth. He said to Mr. Graham, "I can make a phone call, and we can be in Chattanooga tonight."
23. The men on the road had the couple transported to the Sequatchie County Jail, where Stacy White ordered Mrs. Graham to go into a room and to undress in her presence. Still in that room, Stacy White ordered Mrs. Graham to stand

naked, squat, and then cough. Ms. White stood behind Mrs. Graham while she followed each of her instructions.

24. In a different room, Mr. Graham went through the same process with Brandon Austin. Both defendant White and Austin refused to allow the Grahams to make a phone call.
25. None of the Defendants charged Mr. Graham or Mrs. Graham with a crime.
26. The men on the road had the Grahams transported to and detained in jail that morning; yet, not one of them had any credible evidence that either of the Grahams had any connection to the crimes for which they arrested Alvin Johnson.
27. The men on the road had the Grahams transported to and detained in jail that morning; yet, their searches of the Grahams, their vehicle, and their belongings had revealed no hint of criminal activity by either of the Grahams.
28. None of the men on the road had any individualized suspicion about either of the Grahams.
29. Upon information and belief, the Grahams aver the Sequatchie County Sheriff's Department had nothing in its policy and procedures manual regarding when and how it is legal and proper for its corrections officers to perform a strip search.
30. Upon information and belief, the Grahams aver that it is the practice of the Sequatchie County Sheriff's Department to perform strip searches on individuals not charged with any crime, or charged with non-serious misdemeanors.

31. Upon information and belief, the Grahams aver that Sheriff Hitchcock ordered the strip search of the Grahams.
32. Upon information and belief, the Grahams aver that Sheriff Hitchcock ratified both strip searches and has taken no administrative action against either Stacy White or Brandon Austin for performing them.
33. As the highest elected law enforcement officer in Sequatchie County, Sheriff Hitchcock failed to intercede and stop any in his armed crew from threatening to kill the Grahams by “ blowing their f..... heads off ”, pointing rifles at them, cursing them, frisking them, ransacking their car, handcuffing them, transporting them, jailing them, and then stripping them. At no point in this series of events did the Sheriff charge either of the Grahams with a crime. Indeed, the Sheriff planned, orchestrated, participated in, and approved each official act in this series of events.
34. Sheriff Hitchcock never has and still has no particularized reason to believe that either of the Grahams was involved in criminal activity during the early morning hours of January 29, 2009.
35. Upon information and belief, the Grahams aver that once the circumstances of their arrests became more known, Hitchcock conversed with several of the County Commissioners about the arrests.
36. Upon information and belief, the Sheriff, even then, did not investigate or review his department’s action; instead, he refused to release public records about his department’s policies and procedures in effect on January 29, 2009.

37. In fact, the Sheriff made sure his Department maintained little or no paper work about Shawn and Michelle Graham, indentifying each only by the number given the jail cell he or she occupied on January 29, 2009.
38. Defendant Chad Martin refused to intercede, though he knew the Grahams. He later fumblingly apologized to them during a basketball game at the Van Buren County High School.
39. The “men on the road” are all of the individual male Defendants except jailer Brandon Austin. Upon information and belief, Plaintiffs aver that a federal Marshall by the name of Jason Ladd pulled them over and pointed a shotgun at his face.
40. Upon information and belief, the Plaintiffs allege that Jason Ladd was, in this instance, acting under the authority of Sheriff Hitchcock to arrest Alvin Johnson on state charges.
41. Upon information and belief, the Plaintiff alleges that the Sequatchie County Sheriff’s Department has no internal affairs unit, nor any civilian review of police conduct. There is no formal procedure in place to process disciplinary complaints against county police officers.
42. The Defendants’ arrest and seizure of the Grahams on January 29, 2009, stemmed solely from their propinquity to a suspect who had attempted to evade arrest.

COUNT 1

DEFENDANT OFFICERS

43. Plaintiffs hereby incorporate by reference paragraphs 1-42 of the complaint as set forth above.
44. The Grahams allege that their arrest, frisk, detention, and strip search by Sheriff, by all the deputies, and the de facto deputies under his command were unjustified, unprovoked, disproportionate, and unconstitutional in that these Defendants failed to exhaust other reasonable means of ascertaining the Graham's intentions before resorting to assault with a deadly weapon, death threats, cursing, frisking, arrest, detention, and strip searches.
45. Defendants committed these above actions under color of law and thereby substantially deprived the Grahams of their clearly established rights, privileges, and immunities guaranteed to them by the Fourth, Ninth, and Fourteenth Amendments of the United States Constitution and 42 USC § 1983, § 1988, § 1985, including, but no limited to:
- (A) Freedom from unreasonable seizure of person;
 - (B) Freedom from the threat of deadly, unreasonable, and unjustified assault;
 - (C) Freedom from deprivation of liberty without due process of law;
 - (D) Freedom from intrusive, substantial, and unwarranted invasions of privacy.

(E) Freedom from the fear being seized, detained, and jailed by groups of camouflaged men armed with shotguns and threatening death.

As a direct and proximate result of these actions and omissions, the Grahams sustained violations of their constitutional rights and suffered legally cognizable damages.

COUNT II

SEQUATCHIE COUNTY, TENNESSEE

AND SEQUATCHIE COUNTY SHERIFF'S DEPARTMENT

46. Plaintiffs hereby incorporate by reference paragraphs 1-45 of the complaint as set forth above.
47. Upon information and belief, Plaintiffs aver that either the Sheriff's office or Jason Ladd videotaped some or all of the events of January 29, 2010.
48. Defendants Sequatchie County through its Sheriff Ronnie Hitchcock, knowingly permitted, encouraged, and tolerated an official pattern, practice, or custom of its police officers' violating the constitutional rights of the public at large, including the Grahams.
49. The violations by Sheriff Hitchcock of the Grahams' liberty and privacy interests were unjustified, unreasonable, grossly disproportionate and violated their rights under the Fourth and Fourteenth Amendment of the United States Constitution and 42 USC § 1983, 1985, and 1988.

50. The Sheriff and his County are also liable per se to the Plaintiffs under Tennessee Code Annotated § 39-13-10 in that the Sheriff and all deputies on the scene put the Grahams in imminent fear of serious bodily harm.
51. The Sheriff and his County are also liable to the Grahams under Tenn. Code Ann. § 8-8-302, as well as under those provisions in the Articles of the Tennessee State Constitution that correspond to the United States Constitution.
52. Sequatchie County and Sheriff Hitchcock failed to train and educate officers Austin and White in the proper manner of detention and search, thereby evincing a deliberate indifference for gross disregard of the Grahams' rights under the Fourth and Fourteenth Amendment of the United States Constitution and 42 USC § 1983.
53. To the extent that any of the aforementioned allegations found in negligence, the Sheriff and his County are liable under Tennessee's Governmental Tort Liability Act (GTLA), especially insofar as he has failed to properly train and educate defendants White and Austin in the manner of respecting the privacy of those detained, but not charged with a crime.

COUNT III

VAN BUREN COUNTY, TENNESSEE AND

VAN BUREN COUNTY SHERIFF'S DEPARTMENT

54. Plaintiffs hereby incorporate by reference paragraphs 1-50 of the complaint as set forth above.
55. The Grahams aver that Van Buren County and its Defendant Deputies are liable to them under the same statutes, laws, ordinances and constitutions they have propounded with regard to Sequatchie County. Capturing the spirit of excess, one Defendant Chad Martin, expressed aloud that “he wished he’d killed Alvin Johnson”. The Van Buren County deputies aided and abetted Sheriff Hitchcock’s constitutional violations against the Grahams and became part of a compact (42 USC § 1985) that deprived them of their liberty and privacy.
56. Van Buren County failed to train and educate its Defendant officers in the constitutional manner of arrest and detention and thereby evinced a deliberate indifference to the rights the Grahams had under the Fourth and Fourteenth Amendment to the United States Constitution and 42 USC § 1985.
57. Federal Agents Ladd and Roberson aided and abetted the unconstitutional conduct by Sheriff Hitchcock and acted as his de facto deputies under the Tenn. Code Ann. § 8-8-301 et seq. They facilitated, participated in or encouraged the unconstitutional arrest, frisk, detention and assault of the Grahams. They intentionally or recklessly deprived the Grahams of their liberty and privacy. They acted under color of law and substantially deprived the Grahams of their clearly established rights, privileges, and immunities guaranteed to them by the Fourth, Ninth, and Fourteenth Amendment of the

United States Constitution. Their seizure and detention of the Grahams occurred without due process of law and violated the equal protection clause of both the federal and state constitutions.

DAMAGES


53. Plaintiffs hereby incorporate by reference paragraphs 1-52 of the complaint as set forth above.
54. As a direct and proximate result of the aforementioned acts and/or omissions of the defendants, the plaintiffs were assaulted, battered, illegally detained, illegally transported, falsely imprisoned, illegally strip searched, and subjected to outrageous conduct. By these means were the Grahams' aforementioned rights under the federal and state constitution violated. The damages for which the plaintiffs seek compensation individually include, but are not limited to, the following:
 - a. Fright, wrongful arrest, and false imprisonment;
 - b. Physical pain and suffering;
 - c. Emotional pain and suffering;
 - d. Gross invasion of privacy;
 - e. Embarrassment and humiliation;
 - f. Punitive damages against the applicable defendants;
 - g. Attorney fees and costs of this action pursuant to 42 USC §1988;
 - h. Any such further relief, to which the evidence in this case may entitle them under the law.

PRAYER FOR RELIEF

WHEREFORE PREMISES CONSIDERED, the Plaintiffs pray for a judgment against the defendants, both jointly and severable, for the following:

- a. A declaratory judgment that the policies, practices, and/ or customs of the defendants complained of herein are illegal and unconstitutional;
- b. Compensatory damages in an amount to be determined by the jury;
- c. Punitive damages against the applicable defendants in an amount to be determined by the jury;
- d. Attorney fees and costs of this action pursuant to 42 USC § 1988;
- e. All such further relief, both general and specific, to which the plaintiffs may be entitled.

PLAINTIFFS DEMAND A JURY TO TRY THE ISSUES.


Respectfully Submitted,

LAW OFFICES OF JOHN M. WOLFE, JR.

/s/ JOHN M. WOLFE, JR.

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