

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**ANTHONY TUBBS AND DEBORAH TUBBS** §  
**Plaintiffs** §

**Civil Action No. 4:18-CV-2518**

**v.** §

**CITY OF BAYTOWN,** §  
**BAYTOWN POLICE DEPARTMENT,** §  
**KEITH DOUGHERTY, Individually** §  
**And In His Official Capacity As** §  
**Police Chief, CITY OF BAYTOWN,** §  
**DEPARTMENT OF PUBLIC SAFETY (DPS),** §  
**HARRIS COUNTY SHERIFF'S DEPT.,** §  
**ED GONZALES In His Official Capacity** §  
**As Harris County Sheriff, Officer John Doe** §  
**And Others known & Unknown** §  
**Defendants** §

**ORIGINAL COMPLAINT**

COME NOW, Anthony Tubbs and Deborah Tubbs and complains of the City of Baytown, Baytown Police Department, Keith Dougherty, individually and in his official capacity as police chief of the City of Baytown, Harris County Sheriff's Department, Ed Gonzales in his official capacity as Harris County Sheriff and Others known and Unknown, ("Defendants") and would respectfully show as follows:

**A. Introduction**

This is an action for violations of Plaintiffs' constitutional rights to be free from unlawful searches and seizures. Plaintiffs seek damages as provided by law because Defendants' agents used force to wrongfully enter Plaintiffs' home and destroyed

Plaintiffs' possessions at the residence, arrested, and took Plaintiffs into custody without probable cause.

**B. Parties**

1. Plaintiffs, **Anthony Tubbs and Deborah Tubbs** are individuals, and citizens of the State of Texas.

2. Defendant, the **City of Baytown**, is a municipal entity and may be served by delivering a copy of the summons and complaint to the city clerk/secretary, Ms. Leticia Brysch at Baytown City Hall, 2401 Market Street, Baytown, Texas 77520.

3. Defendant, **Baytown Police Department**, is a governmental; law enforcement agency located in the State of Texas and may be served by delivering a copy of the summons and complaint to the Baytown City Attorney, Ignacio Ramirez, Sr. at 3200 N. Main St., Baytown, Texas 77521.

4. Defendant, **Keith Dougherty**, individually and in his official capacity as Police Chief, City of Baytown, may be served personally by delivering a copy of the summons and complaint to Keith Dougherty or his authorized agent at 3200 N. Main St., Baytown, Texas 77521.

5. Defendant, **Department of Public Safety (DPS)**, is a law enforcement agency located in the State of Texas and may be served by delivering a copy of the

summons and complaint to The Attorney General of Texas, Ken Paxton, or an authorized agent at 300 W. 15th Street, Austin, Texas 78701.

6. Defendant, **Harris County Sheriff's Department**, is a law enforcement agency located in the State of Texas and may be served by delivering a copy of the summons and complaint to Ed Gonzales, Harris County Sheriff or its agent at 1200 Baker Street, Houston, Texas 77002.

7. Defendant, **Ed Gonzales** in his official capacity as Harris County Sheriff, may be served personally by delivering a copy of the summons and complaint to Ed Gonzales at 1200 Baker Street, Houston, Texas 77002 or by serving Defendant's agent at 1200 Baker Street, Houston, Texas 77002.

### **C. Jurisdiction**

8. The Court has jurisdiction over the lawsuit according to 28 U.S.C. §1331 and 42 U.S.C. §1983. The subject matter is within the jurisdiction of this Court and the damages sought are within the jurisdictional limits of this Court.

9. The amount in controversy exceeds \$250,000.00. Plaintiffs seek relief in an amount and of a character within the jurisdictional limits of this Court.

### **D. Conditions Precedent**

10. Plaintiffs timely presented this claim in writing to Defendants, City of Baytown, et al.

### **E. Facts**

11. On or about July 21, 2016, officers of Baytown Police Department and its SWAT team, in conjunction with others, including Texas DPS officers, Deputies from the Harris County Sheriff's department and others unknown, unlawfully entered Plaintiffs' home located at 2703 Waco St., Baytown, Texas 77521 and carried out an illegal search of Plaintiffs' home and seizure of their persons. The Baytown SWAT team used an explosive device which blew out all of the windows of Plaintiff's home and portions of his house were gutted. During the process, the officers arrested Plaintiffs, destroyed Plaintiffs' place of abode, ransacked everything inside the home, seized and removed several items worth in excess of \$10,000.00, and left the home in a deplorable state. In addition, Plaintiffs, after being arrested were taken into custody.

12. After Plaintiffs were arrested, they were made to lie down on the ground for an extended period of time. Then Plaintiffs were taken into custody and questioned by a plain clothes officer who did not identify himself.

13. When Plaintiffs returned home they found the entry door to the home wide open. The home was ransacked, several household items damaged, and they also discovered numerous personal items of value missing. Defendants were also negligent in failing to secure Plaintiffs' home after leaving the scene.

14. The officers at Baytown Police Department made an inventory of the items seized. None of the items were returned to Plaintiffs. Also, Plaintiffs documented the items that they did not find upon returning to their home after being released.

15. Officers involved in the operation and each of them, misrepresented facts in an effort to justify Plaintiffs' arrests, detention and the search of their home. Defendants violated Plaintiffs' Fourth Amendment Right to be free from searches and seizures without probable cause.

16. Plaintiff's civil rights were violated. The officers and each of them acted under color of law when they unlawfully arrested Plaintiffs, and deprived them of their freedom, and unlawfully searched their home and destroyed several items.

17. Plaintiffs experienced mental anguish and emotional distress. Apart from the humiliation, and damage to their reputation, Plaintiff Deborah Tubbs endured sleepless nights constantly for several months and still battles with depression and emotional distress. Plaintiff experienced headaches and lack of focus, could not concentrate during the day and experienced headaches day and night. Plaintiff's feared being shot and killed in her innocence. Plaintiff silently shed tears sometimes in the daytime and more often at nights.

18. Plaintiff Anthony Tubbs experienced physical pain in his left shoulder for weeks after being 'man-handled' by law enforcement officers. Plaintiff Anthony

Tubbs also experienced many sleepless nights, felt humiliated, was ashamed to interact with neighbors because he believed everyone viewed him as a criminal and drug dealer. Defendants' conduct casted Plaintiffs in false light.

19. Plaintiffs have endured much pain and suffering, mental anguish and emotional distress.

### **F. Damages**

20. As a direct and proximate result of Defendants' unlawful conduct, Plaintiffs Anthony Tubbs and Deborah Tubbs have suffered the following damages:

- a. Unlawful arrests;
- b. Unlawful detention;
- c. Mental anguish;
- d. Harm to reputation;
- e. Infliction of emotional distress, the mental shock experienced and the stigma associated with having been taken into custody;
- f. Intentional inflection of emotional distress;
- g. Physical pain and suffering, and mental anguish in the past;
- h. Physical pain and mental anguish that in reasonable probability, Plaintiffs will suffer in the future;
- i. economic damages;
- j. property damages.

Plaintiffs seek compensatory, aggravated, and punitive damages.

### **G. Negligence**

21. This action is also for negligence, violations, damages and injuries suffered by Plaintiffs because Defendants' agents used force to wrongfully enter Plaintiffs' home and destroy all of Plaintiffs' possessions at the residence.

Defendants were negligent when Defendants' agents failed to properly conduct their investigations before the illegal search and seizure.

Defendants were negligent when Defendants' agents arrested and took Plaintiffs into custody without probable cause.

Defendants' agents destroyed Plaintiffs' home and caused Plaintiffs to lose valuable possessions without probable cause.

Some of the officers believed to be involved in the raid on Plaintiffs' home and their arrests and detention are as follows:

- |    |                        |   |  |
|----|------------------------|---|--|
| a. | Brad Turner            | - | Baytown Police Department                    |
| b. | Scott Vice             | - | Baytown Police Department                    |
| c. | Brian Griffin          | - | Baytown Police Department                    |
| d. | Bill Nelson            | - | Baytown Police Department                    |
| e. | Dallas Bish ID#: 12667 | - | Baytown Police Department<br>Seizing Officer |
| f. | SA Verdeja             | - | Inventoried items                            |

### **H. Municipal Liability**

22. Plaintiffs' constitutional rights were violated when the agents and officers of the city choose to illegally arrest them and search their property.

23. The City of Baytown is liable to Plaintiffs for failing to properly supervise and/or train its officers who conducted the illegal arrests, search, and seizure.

24. Defendants were agents and employees who were acting within the course and scope of their office or employment and acted under the color of law.

All the law enforcement officers worked in conjunction with officers of the City of Baytown.

All named Defendants acted under color of law and are liable to Plaintiffs.

### **I. ATTORNEY FEES AND COSTS**

25. Defendants' unlawful conduct has necessitated the services of the undersigned, and therefore, Plaintiffs seek attorney fees in this case.

Pursuant to the Civil Rights Attorney's Fees Award Act, 42 U.S.C. § 1988, Plaintiffs assert the right to an award of attorney's fees and costs under its U.S.C. § 1983 pleadings.

### **J. JURY DEMAND**

26. Plaintiffs request a trial by jury and have tendered the jury fee.

**K. Prayer**

27. WHEREFORE, Plaintiffs pray that Defendants be cited to appear and answer, and that on final trial, Plaintiffs have:

- a. Compensatory damages, special damage and exemplary damages;
- b. Expenses and costs of court;
- c. Reasonable attorney fees for trial and appeal;
- d. Pre-judgment and Post-judgment interest at the highest rate allowed by law from the date of judgment until paid; and
- e. All further relief the court deems appropriate.

Respectfully submitted,

/s/ Kurt G. Clarke

By: \_\_\_\_\_

Kurt G. Clarke

FED. ADM ID 9917

SBN: 04316720

6200 Savoy Dr., Suite 458

Houston, Texas 77036

Tel: (713)779-5500

Fax: (713)779-6668

E-mail: kgclaw@aol.com

Attorney for Plaintiffs