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11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 NICHOLAS HOSKINS,
14 Plaintiff,

15 v.

16 CITY OF SAN DIEGO; SAN DIEGO
17 POLICE DEPARTMENT OFFICER
18 DOES 1-4.
19 Defendants.

Case No.: '24CV1488 AJB BJC

COMPLAINT FOR DAMAGES

1. **42 U.S.C. § 1983: Fourth Amendment, Unreasonable Search**
2. **Cal. Civ. Code § 52.1 (Bane Act).**
3. **Negligence.**

Demand for Jury Trial.

20 **INTRODUCTION**

- 21 1. Nicholas Hoskins is a 31-year-old Black man.
- 22 2. He was born and raised in San Diego.
- 23 3. Mr. Hoskins spent eight years in prison for conduct that the California
24 Supreme Court unanimously held did not prove any crime.
- 25 4. After the District Attorney chose not to pursue additional charges, Mr.
26 Hoskins was released from custody in February of 2023.

1 5. Over the next approximately 14 months, Mr. Hoskins was stopped and
2 seized at least four (4) different times by the San Diego police department, for the
3 intention of conducting unlawful searches and seizures of his person.

4 6. On May 9, 2024, Mr. Hoskins was pulled over by SDPD Officers for at
5 least the fourth time since February of 2023.

6 7. Without any legal cause, Defendant Officers demanded to conduct a search
7 of Mr. Hoskins' vehicle and person—searches that were unsupported by any
8 probable cause or reasonable suspicion whatsoever, and that were directly
9 contrary to controlling case law. When Mr. Hoskins politely asked to speak to a
10 supervisor and pointed out the lack of probable cause for any search, Defendant
11 Officers shattered his passenger side window, pulled him out of the car, illegally
12 searched and arrested him, and falsely accused him of a crime.

13 8. Defendant Officers did so knowing that Mr. Hoskins had actually
14 committed no crime, did not act violently or in a threatening manner toward any
15 officers, and that their actions violated the law.

16 9. Each of these intentional actions violated Mr. Hoskins's clearly established
17 constitutional rights.

18 10. Mr. Hoskins requests a jury trial to pursue justice on these claims.

19
20 **JURISDICTION AND VENUE**

21 11. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331
22 because Plaintiff asserts causes of action for constitutional violations arising under
23 42 U.S.C. § 1983.

24 12. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because
25 Plaintiff's claims arise out of events and omissions occurring in the County of San
26 Diego, which is situated in the Southern District of California.

1 13. On June 18, 2024, Plaintiff submitted a timely tort claim pursuant to the
2 California Tort Claims Act (Cal. Gov. Code §§ 810-996.6) against the City of San
3 Diego. On the same date, the City acknowledged receipt of the claim.

4 14. On or about August 13, 2024, the City denied the claim without
5 explanation.

6 **PARTIES**

7 15. Plaintiff Nicolas Hoskins was, at all times relevant to this lawsuit, a resident
8 of the State of California, and a citizen of the United States.

9 16. Defendant City of San Diego (“The City”) is a governmental entity
10 organized and existing under the laws of the State of California. The San Diego
11 Police Department (“SDPD”) is organized under, and part of, the City of San
12 Diego.

13 17. Defendant Doe SDPD Officers 1-4¹ (“Defendant Officers”), at all times
14 relevant herein, were deputies for SDPD, acting within the scope of their
15 employment at all times relevant to this Complaint.

16 **FACTUAL ALLEGATIONS**

17 18. Nicolas Hoskins is a resident of San Diego County.

18 19. He is a father, a student, and an active member of his community.

19 20. At approximately 4:00 P.M. on May 9, 2024, Mr. Hoskins had left a
20 community event at a park and was driving in his car on his way to pick up son
21 from school.

22 21. San Diego Police Department (“SDPD”) Officers initiated a traffic stop
23 near the 805-north ramp in San Diego, California.

24 22. Mr. Hoskins pulled over to the side of the highway.

25 23. Two police officer cars parked behind Mr. Hoskins’ car and two police cars
26 parked in front.

27 _____
28 ¹ Plaintiff is ignorant to the identity of the officers but has reason to believe one of
the officers is Braden Wilson, #7497.

1 24. DEFENDANT OFFICERS 1-2 approached Mr. Hoskins who was sitting in
2 the driver's seat of his car with his window open.

3 25. DEFENDANT OFFICERS 1-2 told Mr. Hoskins he was being pulled over
4 because he allegedly did not make a complete stop at a stop sign.

5 26. That was not true. Mr. Hoskins did come to a complete stop at the stop sign
6 in question.

7 27. Nevertheless, DEFENDANT OFFICERS 1-2 asked Mr. Hoskins for his
8 license and registration.

9 28. Mr. Hoskins provided the DEFENDANT OFFICERS 1-2 his license and
10 registration.

11 29. Both were valid and current.

12 30. DEFENDANT OFFICER 1 took Mr. Hoskins' license and registration to
13 his patrol car.

14 31. DEFENDANT OFFICER 2 asked Mr. Hoskins for his name and date of
15 birth.

16 32. Mr. Hoskins provided DEFENDANT OFFICER 2 with his name and his
17 date of birth.

18 33. The information provided was accurate.

19 34. DEFENDANT OFFICER 2 asked Mr. Hoskins where he had come from.

20 35. Mr. Hoskins told DEFENDANT OFFICER 2 he had left a park in South
21 Crest and that he was about to pick up his son from school.

22 36. Those statements were truthful.

23 37. DEFENDANT OFFICER 2 asked for his address.

24 38. Mr. Hoskins told DEFENDANT OFFICER 2 his address.

25 39. That information was truthful.

26 40. DEFENDANT OFFICER 1 returned to the driver side window of Mr.
27 Hoskins car and handed DEFENDANT OFFICER 2 Mr. Hoskins driver's license
28 and registration.

41. Nothing had transpired to suggest that Mr. Hoskins was armed and
presently dangerous.

1 42. Nothing had transpired to suggest that evidence of a crime would be found
2 in the car.

3 43. No facts whatsoever provided reasonable suspicion, much less probable
4 cause, to search Mr. Hoskins' vehicle or his person.

5 44. There was no further need to prolong the traffic stop even if it had been
6 justified in the first place.

7 45. The traffic stop was not, however, justified in the first place.

8 46. Nevertheless, DEFENDANT OFFICERS prolonged the stop for the express
9 purpose of carrying out a patently unconstitutional search.

10 47. DEFENDANT OFFICER 2, for example, continued by asking Mr. Hoskins
11 if he had anything in the car.

12 48. Mr. Hoskins responded, "No."

13 49. DEFENDANT OFFICER 2 then told Mr. Hoskins to undo his seatbelt and
14 get out of the car *so they could search for weapons in the car.*

15 50. Any reasonably trained officer would know that there was no probable
16 cause or reasonable suspicion to search Mr. Hoskins's person or his car at that
17 juncture for weapons.

18 51. Mr. Hoskins politely asked for his I.D. back and requested that they call a
19 supervisor.

20 52. Mr. Hoskins further explained that he was a father, and that he only had 15
21 minutes to pick up his son from the bus stop.

22 53. With the express intention of unlawfully prolonging this encounter, and
23 knowing that he lacked reasonable suspicion or probable cause for a search,
24 DEFENDANT OFFICER 2 told Mr. Hoskins to open the door, and to undo his
25 seatbelt, because he did not want to have to do it for him.

26 54. Mr. Hoskins asked the officers repeatedly what probable cause they had to
27 search him and his car.

28 55. Mr. Hoskins repeatedly asked to speak with a supervisor.

56. Mr. Hoskins again asked the officers what the basis for the search was.

1 57. Mr. Hoskins told DEFENDANT OFFICER 2, “There is nothing dangerous
2 in this car, I am a black male.”

3 58. DEFENDANT OFFICER 2 responded “I just want to make sure.”

4 59. Mr. Hoskins explained to the officers that he was not under probation or
5 parole so there was no reason that the officers should have “to make sure.”

6 60. Mr. Hoskins again told officers there were no weapons in the car, he was
7 not a danger, and again asked to speak with a supervisor.

8 61. At the time of this encounter, a reasonably trained officer would know that
9 under the Fourth Amendment, a seizure for a traffic stop is “a relatively brief
10 encounter,” “more analogous to a so-called *Terry* stop than to a formal arrest.”
11 *Rodriguez v. United States*, 575 U.S. 348, 354 (2015)(quoting *Knowles v. Iowa*,
12 525 U.S. 113, 117, (1998).

13 62. A reasonably trained officer would also know that to be lawful, a traffic
14 stop must be limited in its scope: an officer may “address the traffic violation that
15 warranted the stop,” make “ordinary inquiries incident to the traffic stop,” and
16 “attend to related safety concerns.” *Id.* at 354–355. A well-trained officer would
17 also know that the stop may last “no longer than is necessary to effectuate” these
18 purposes and complete the traffic “mission” safely. *Id.* at 354–355.

19 63. Long after the time necessary for a traffic stop had passed, two additional
20 police officers also exited their police cars and surrounded Mr. Hoskins’ car.

21 64. At no point in time did Mr. Hoskins use force against any officers, act
22 violently, or in a threatening manner toward any officers.

23 65. DEFENDANT OFFICER 3 and DEFENDANT OFFICER 4 stood on the
24 passenger side of Mr. Hoskins’ car.

25 66. Without legal cause, and in order to effectuate a patently illegal search,
26 DEFENDANT OFFICER 3 smashed Mr. Hoskins’ front passenger window.

27 67. DEFENDANT OFFICER 3 hit the window no less than 10 times to do so.
28

1 68. The violent destruction of the car window caused glass to spray across Mr.
2 Hoskins.

3 69. DEFENDANT OFFICERS, did not have probable cause to arrest Mr.
4 Hoskins for any public offense.

5 70. Despite lacking probable cause to arrest Mr. Hoskins, DEFENDANT
6 OFFICERS pulled Mr. Hoskins out of his car, handcuffed, searched and arrested
7 him.

8 71. DEFENDANT OFFICERS placed Mr. Hoskins in the back of the police
9 car, where he sat for hours.

10 72. Without a warrant or consent DEFENDANT OFFICERS searched Mr.
11 Hoskins' backpack, car, and the trunk of the car.

12 73. Mr. Hoskins was transported to the San Diego Central Jail and eventually
13 was released and given a notice to appear in Court for a misdemeanor pursuant to
14 California Penal Code § 148, resisting arrest.

15 74. DEFENDANT OFFICERS each either wrote reports themselves or helped
16 one another write reports that they knew contained fabrications about Mr. Hoskins
17 and the encounter on May 9.

18 75. Each DEFENDANT OFFICER fabricated facts in both writing and oral
19 statements, intended to justify cause for a traffic stop in the first instance.

20 76. Each DEFENDANT OFFICER fabricated facts in both writing and oral
21 statements, intended to justify cause to search Mr. Hoskins' vehicle.

22 77. Each DEFENDANT OFFICER fabricated facts in both writing and oral
23 statements, intended to justify an arrest for resisting arrest under Penal Code §
24 148.

25 78. Mr. Hoskins suffered damages from the arrest and seizure.

26 79. This incident in May of 2024 was at least the fourth unjustified seizure that
27 San Diego police have inflicted on Mr. Hoskins over approximately the past year.

28 80. In the spring of 2023, San Diego police officers detained Mr. Hoskins in the
East Village in San Diego.

1 81. Mr. Hoskins had committed no crime that day.

2 82. Mr. Hoskins has never been charged with any crime for the East Village
3 encounter, because he had committed no crime.

4 83. Several weeks after his seizure in the East Village in 2023, San Diego
5 police stopped Mr. Hoskins again.

6 84. Officers sought to search Mr. Hoskins's car on that date.

7 85. Officers lacked probable cause to search on this second encounter.

8 86. Mr. Hoskins was released with no charges or citation, because he had
9 committed no crime.

10 87. In March of 2023, San Diego police pulled Mr. Hoskins for at least the third
11 time.

12 88. San Diego police officers asked Mr. Hoskins where he lived, if he had a
13 job, his plans for the rest of the day, his phone number and social security number.

14 89. A San Diego police officer also pointed out that a speaker in the backseat
15 looked expensive.

16 90. Mr. Hoskins was released with no charges or citation, because he had
17 committed no crime that day either.

18 91. Each prior incident contributed to Mr. Hoskins reasonable request to speak
19 to a supervisor in May of 2024. Mr. Hoskins is experiencing cumulative
20 emotional distress from the harm inflicted by all four episodes.

21 **I.**

22 **FIRST CAUSE OF ACTION**

23 **42 U.S.C. § 1983: Unreasonable Search**

24 **(vs. Individual Defendant Officers)**

25 92. Plaintiff alleges and incorporates herein by reference each and every
26 allegation contained in the preceding paragraphs.

27

28

1 93. The Fourth Amendment protects “[t]he right of the people to be secure in
2 their persons, houses, papers, and effects, against unreasonable searches and
3 seizures.” U.S. Const. amend. IV.3.

4 94. “Ordinarily, before conducting a search, police must obtain a warrant issued
5 by a judicial officer based ‘upon probable cause, supported by Oath or
6 affirmation, and particularly describing the place to be searched, and the persons
7 or things to be seized.’” *United States v. Cano*, 934 F.3d 1002, 1010–11 (9th Cir.
8 2019).

9 95. “[S]earches conducted outside the judicial process, without prior approval
10 by judge or magistrate, are per se unreasonable under the Fourth Amendment—
11 subject only to a few specifically established and well-delineated exceptions.”
12 *Katz v. United States*, 389 U.S. 347, 357 (1967).

13 96. Defendant Officers did not have a reasonable suspicion or probable cause to
14 pull Plaintiff over in the first instance.

15 97. Regardless, Defendant Officers did not have a warrant to search Plaintiff’s
16 car or person.

17 98. Defendant Officers did not have a valid basis to conduct a warrantless
18 search of Mr. Hoskins’ car or person even if there was cause for an initial traffic
19 stop.

20 99. Defendant Officers, individually and in concert, nevertheless searched
21 plaintiff’s vehicle and person.

22 100. The search included smashing Mr. Hoskins’ window when it was
23 unreasonable and unnecessary to do so.

24 101. The search included pulling Mr. Hoskins from the car when it was
25 unreasonable to do so and searching him when it was unlawful to do so.

26 102. Defendant Officers searched Mr. Hoskins’ closed containers within the car
27 without a warrant or Fourth Amendment exception either.

28 103. Defendant Officers each acted intentionally in conducting the search.

1 104. Defendant Officers knew or should have known that their search of
2 Plaintiff's car violated the Fourth Amendment.

3 105. Defendant Officers acted under color of state law.

4 106. Defendant Officers' actions caused Plaintiff general and special damages in
5 an amount to be proven at trial.

6 **II.**

7 **SECOND CAUSE OF ACTION**

8 **Violation of Cal. Civ. Code § 52.1 (Bane Act)**

9 **(Defendant Officers)**

10 107. Plaintiff realleges and incorporates herein by reference each and every
11 allegation contained in the preceding paragraphs.

12 108. The California Legislature has declared that it is a violation of state civil
13 rights act for any person to interfere with the exercise or enjoyment by any
14 individual of his rights secured by the United States Constitution or state or
15 federal law. This includes any interference of these rights by threats, intimidation,
16 coercion or attempted threats, intimidation, or coercion.

17 109. Defendant Officers acted with threats, intimidation, and coercion as
18 described throughout this Complaint.

19 110. Defendant Officers violated Plaintiff's clearly established rights under the
20 United States Constitution, California constitution, and California statutes,
21 including:

- 22 a. The right to be free from unlawful seizures pursuant to the Fourth
23 Amendment to the United States Constitution and Article 1, Section
24 13 of the California Constitution;
- 25 b. The right to be free from excessive force under the Fourth
26 Amendment of the United States Constitution and Article 1, Section
27 13 of the California Constitution;
- 28

- c. The right to be free from the deliberate fabrication of evidence under the Fourteenth Amendment to the Constitution;
- d. The right to be free of deprivation of life, liberty, or property without due process of law or denied equal protection of the laws pursuant to the Fourteenth Amendment to the United States Constitution and Article 1, Section 7 of the California Constitution;

111. Defendant Officers denied Plaintiff the enjoyment of his rights while acting with malice, fraud, and oppression. As such, their actions justify an award of exemplary and punitive damages in an amount to be determined at the time of trial.

III.
THIRD CAUSE OF ACTION
Negligence

(Defendants City, Defendant Officer)

112. Plaintiff realleges and incorporates herein by reference each and every allegation contained in the preceding paragraphs.

113. Defendants had a duty to use reasonable care regarding members of the public, their rights to freedom of movement, and autonomy of person and property.

114. Defendants had a duty to use reasonable care in determining whether reasonable suspicion or probable cause existed to stop, detain, and arrest someone.

115. Defendants had a duty to use reasonable care regarding members of the public and their personal property rights. Defendants had a duty to use reasonable care in searching the property of others.

116. Defendants breached their duty of care and caused harm to Plaintiff, including fear, mental anguish, humiliation, indignity, and degradation based on their conduct described above.

1 117. As a direct, proximate, and foreseeable result of the breach of Defendants’
2 duties of care, Plaintiff suffered damages in an amount according to proof at the
3 time of trial.

4 118. Pursuant to Cal. Gov. Code § 815.2, Defendant City is vicariously liable for
5 the actions and/or omissions of its employees, Defendant Officers, acting within
6 the scope of their employment.

7 **PRAYER FOR RELIEF**

8 Plaintiff prays for judgment against defendants as follows:

- 9 1. General and compensatory damages in an amount according to proof;
- 10 2. Punitive and exemplary damages;
- 11 3. Civil penalties as provided by law;
- 12 4. Attorney fees under Cal. Civil Code § 52.1(b) and Cal. Civil Code § 52;
- 13 5. Costs of suit;
- 14 6. And for such other and further relief as the Court may deem proper.

15
16 Dated: August 21, 2024

Respectfully Submitted,

17
18 /s/ Timothy A. Scott
19 TIMOTHY A. SCOTT
20 MICHELLE C. ANGELES
21 McKENZIE SCOTT PC
22 Attorneys for Plaintiff
23 NICHOLAS HOSKINS
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