

**UNITED STATES DISTRICT COURT  
for the  
DISTRICT OF MINNESOTA**

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Roberto Franco, Analese Franco,  
Gilbert Castillo, Michael Castillo,  
Nancy Castillo, Thomas Bostwick,  
R.F., A.F & A.F., minors,

**COMPLAINT**

v.

State of Minnesota, County of Ramsey,  
City of St. Paul, St. Paul Police Department  
Shawn Scovill, Steve Anderson, Patrick Chesier,  
Craig Gromek, Terry Ecker, Andy Gubash,  
Mike Heski, Rick Porras, Joe Robertson,  
Jeremiah Simonson, Tommy Booth, Jason Polinski,  
And Chris Melton

Jury Trial Requested

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**STATEMENT OF JURISDICTION**

This action arises under 42 U.S.C. §§ 1981 and 1983 and the Fourth and Fourteenth Amendments of the United States Constitution.

**STATEMENT OF THE CLAIMS**

1. Plaintiffs allege that defendants violated their Constitutional rights against unreasonable search and seizure when they broke into and raided their home on July 13, 2010 and carried out a night-time raid of their home and where they searched and seized plaintiffs and their property at gun point without a proper search warrant.
2. The search warrant specifically named Rafael Ybarra as the intended target suspect. Plaintiff Roberto Franco was not named in the search warrant, nor was any person who lived in the raided house named in the search warrant.
3. There was never a mention of plaintiff, Roberto Franco, in any documents related to the raid search warrant.
4. Plaintiff, Roberto Franco, had never been discussed or considered a suspect by law enforcement, Scovill or any of the defendants directly involved or indirectly involved in

the raid, relative to any alleged involvement by Franco in any distribution of contraband prior to the wrong house raid.

5. Plaintiffs allege that defendant, Shawn Scovill, provided false and misleading information to a Minnesota District Court judge in order to obtain a search warrant. Defendant Scovill lied when he informed the District Court judge who reviewed Scovill's search warrant application that Scovill had obtained information from the confidential informant that the plaintiffs' home was the properly targeted house and that the address and the identity of the individuals who resided therein were the plaintiffs.

6. Plaintiffs allege that defendants negligently violated their U.S. Constitutional and federal statutory rights as detailed below. Alternatively, plaintiffs allege that defendants intentionally violated said rights. Alternatively, plaintiffs allege that defendants' activities were a combination of intentional and negligent acts which caused them grave personal injury and abridged their rights to privacy and such other rights by their illegal and improper invasion of plaintiffs' home.

7. On or about July 13, 2010, officer Shawn Scovill of the Dakota County Drug Task Force and Officers Steve Anderson, Patrick Chesier, Craig Gromek of the St. Paul Police Department, officers Terry Ecker, Andy Gubash, Mike Heski, Rick Porras, Joe Robertson, Jeremiah Simonson, Tommy Booth, and Sgt. Jason Polinski of the Dakota County Drug Task Force, and Agent Chris Melton of the DEA, negligently raided the home of plaintiffs, by raiding the wrong home and physically brutalizing all the above-named occupants of said house.

8. Defendants were attempting to arrest an individual by the name of Rafael Ybarra who actually lived next door to the plaintiffs.

9. Defendants had a search warrant that contained the name of Rafael Ybarra as the named suspect who was wanted under suspicious of distribution of contraband.

10. While in the home of plaintiffs, the defendants learned that the suspect who was named in the search warrant lived in the house next door, at the address of 165 Annapolis East, St. Paul, MN 55107.

11. The house that defendants raided was at the address of 171 Annapolis East, St. Paul, MN 55107.

12. Despite the fact that defendants learned that the suspect did not live at the address raided, defendants remained in the home of plaintiffs and continued searching the home.

13. Defendants, handcuffed all of the inhabitants of the plaintiffs' home except plaintiff Analese Franco who was forced, virtually naked, from her bed onto the floor at gun point by officers of the St. Paul Police Department SWAT team and officers of the St. Paul Police Department.

14. Defendants performed a night-time raid of the plaintiffs' home by breaking down the front storm door and front interior door.

15. Upon forcibly breaching the plaintiffs' home, defendants terrorized the plaintiffs at gun and rifle point.

16. Each plaintiff was forced to the floor at gun and rifle point and handcuffed behind their backs.

17. Defendants shot and killed the family dog and forced the handcuffed children to sit next to the carcass of their dead pet and bloody pet for more than an hour while defendants continued to search the plaintiffs' home.

18. Defendants performed an illegal search of the plaintiffs' home whereupon following significant time spent at searching the plaintiffs' home located a .22 caliber revolver in the lower basement bedroom of plaintiff, Gilbert Castillo.

19. Defendants improperly attributed the possession of said weapon to plaintiff, Roberto Franco and arrested him under Minn. Stat. M. S. 624.713.1(2)

20. Plaintiff Roberto Franco was wrongfully convicted of the alleged offense and is currently incarcerated with the Minnesota Department of Corrections.

21. While plaintiff, Gilbert Castillo, was pushing the family trash receptacle to the curb for early morning trash pick-up, he was attacked by defendants, thrown to the ground, whereupon officers dressed in Army fatigues rushed him with weapons in hand. One member of the St. Paul SWAT team threw Gilbert Castillo to the ground and pounced on him, forcing entire weight of his body upon Gilbert Castillo, rammed his knee into the shoulder blades of plaintiff Gilbert Castillo handcuffed his hands behind his back.

22. Officer St. Police Department SWAT officers broke into the bedroom of plaintiff, Roberto Franco, forced him out of bed, nearly naked out of bed and onto the floor where he was forcibly handcuffed and forced to remain in an awkward, uncomfortable position, hands cuffed behind his back with his weight of over 400 pounds, bearing down on the handcuffs which induced unbearable pain upon plaintiff, Roberto Franco.

23. Plaintiff Analese Franco and her baby were forced from her bed, virtually naked, and onto the floor of her bedroom by armed SWAT officers.

24. Plaintiff Roberto Franco was illegally and improperly searched and arrested.

25. Plaintiff Michael Castillo was forced to the floor and handcuffed at gun-point. Said plaintiff was illegally and improperly searched by defendants.

26. Plaintiff, Thomas Boswick was forced to the floor and handcuffed at gun-point. Said plaintiff was illegally and improperly searched by defendants.

27. Plaintiff, minor R.F. was kicked in the side, handcuffed and searched at gun-point by SPPD SWAT.

28. Plaintiff, minor, A.F., a diabetic, was handcuffed at gun-point and prevented by officer from obtaining and taking her medication, thus induced a diabetic episode as a result of low-blood sugar levels.

29. Plaintiff, Nancy Castillo, was forced to the floor at gun-point and handcuffed by officer SWAT and other defendants.

30. Defendants improperly and illegally remained in the home of the plaintiffs searching and seizing items despite the fact that they had learned that they had raided the wrong home.

31. Defendant, Shawn Scovill intentionally perjured himself in his sworn testimony on the witness stand at the suppression hearing and at the trial of plaintiff, Roberto Franco.

32. Defendant, Shawn Scovill intentionally misrepresented the facts of the criminal case against Roberto Franco in all documents following the arrest of, plaintiff Roberto Franco.

33. Defendant Shawn Scovill intentionally misrepresented the facts in the State's criminal against plaintiff Gilbert Castillo when he said that Gilbert Castillo did not state that the confiscated weapon belonged to Gilbert Castillo.

34. Defendant Shawn Scovill perjured himself when he testified in the suppression hearing and at the trial of plaintiff Roberto Franco that Scovill had received a text message from the confidential informant which stated the address of the house to be raided was the house address that Scovill had placed on the search warrant.

35. Defendants had identified and raided the wrong house.

36. The search warrant was defective in that it did not provide a description of the targeted house as required.

37. Defendant Scovill was the officer who directed, supervised and orchestrated the raid of plaintiffs' home.

38. The search warrant was defective in that Scovill did not provide the required independent corroboration of the allegations that drug dealings were occurring in the target house.

39. Scovill perjured himself when he testified he and his officers had observed illegal drug dealings occurring at plaintiffs' home.

40. Scovill perjured himself when he testified that he had questioned plaintiff, Gilbert Castillo and that Gilbert Castillo did not claim ownership of the weapon in question.

41. Scovill perjured himself after plaintiff, Franco's attorney impeached when Scovill retook the witnessed stand as a rebuttal witness and changed the testimony that he provided on direct examination as to critical evidence for the length of time and the content of his interrogation of plaintiffs Roberto Franco and Gilbert Castillo.

42. Officer Scovill attempted to bribe plaintiff, Franco, to agree to not pursue civil redress against defendants by assuring him that if Franco would not pursue legal redress, he would not charge Franco with any crime.

43. As a direct result of defendant Scovill's perjured testimony, plaintiff, Roberto Franco, was illegally and improperly convicted of a felony for which he is currently incarcerated pending appeal before the Minnesota Supreme Court.

44. As a direct result of defendant Scovill's perjured testimony, plaintiff, Gilbert Castillo was improperly convicted of possession of contraband.

45. As a result of defendants' actions, plaintiffs, R.F., A.F., and A.F., have suffered traumatic emotional and other permanent personal injuries that require on-going therapy.

46. Each of the named plaintiffs have suffered personal injuries including emotional and psychological injuries as a result of the actions of defendants.

### **REQUEST FOR RELIEF**

Plaintiffs pray for joint and several relief in a sum in excess of ten million dollars, (\$10,000,000.00), for breach of their Constitutional rights, together with attorneys fees, costs and disbursements and any other relief that the Court deems just and appropriate.

Plaintiffs request twenty million dollars (\$20,000,000.00) in punitive damages.

Dated: July 12, 2012

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