

**IN THE CIRCUIT COURT OF SHARP COUNTY, ARKANSAS
CIVIL DIVISION**

RANDELL LEE VEAZIE

PLAINTIFF

V.

NO. CV-2018-103

**JOSH TRIVITT, COLTON M. WILSON,
JACK N. LOWE, TOM RIGSBY, all individually
and as law enforcement officers for their
respective cities and county; ANTHONY WILES,
individually and in his capacity of Chief of Police
for the City of Ash Flat, Arkansas; RICKEY CROOK,
individually and in his capacity as Chief of Police
for the city of Cherokee Village, Arkansas;
MARK COUNTS, individually and as
Sheriff of Sharp County, Arkansas; THE CITY OF
ASH FLAT, ARKANSAS; THE CITY OF
CHEROKEE VILLAGE, ARKANSAS; and,
THE COUNTY OF SHARP COUNTY, ARKANSAS**

DEFENDANTS

FILED
MAY 16 2018
TOMMY ESTES, CLERK
BY CB 3:10 D.C.

COMPLAINT

COMES NOW Randell Lee Veazie, by and through his attorneys, James W. Harris and Zachary W. Morrison, and for his complaint against the defendants named above, states:

JURISDICTION AND VENUE

1. This is an action for damages sustained by a citizen of Arkansas against police officers of the City of Ash Flat, Arkansas; the City of Cherokee Village, Arkansas; and, the county of Sharp County, Arkansas, who unlawfully assaulted, prosecuted, and harassed him; against the Police Chiefs and County

Sheriff, as the supervisory officers responsible for the conduct of the individual law enforcement officer defendants; and, for their failure to take corrective action with respect to police personnel, whose vicious propensities were notorious, to assure proper training and supervision of the personnel, or to implement meaningful procedures to discourage lawless official conduct; and, against the City of Ash Flat; the City of Cherokee Village; and the county of Sharp County as the employers of the police personnel, which are sued as a person under 42 U.S.C. §1983.

2. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988 and the first, fourth, fifth, eighth, and fourteenth amendments to the Constitution of the United States; Plaintiff also alleges causes of action under the common law of the State of Arkansas.

3. Plaintiff Randell Lee Veazie is a resident of Arkansas, and at all times relevant to the allegations of this complaint was a resident of Sharp County, and a citizen of the United States.

4. At all times relevant hereto, defendants Trivitt, Wilson, Lowe and Rigsby were law enforcement officers employed by the City of Ash Flat, the City of Cherokee Village, or Sharp County, to perform duties within their respective cities and the county. At all relevant times, they were acting in such capacities as the agents, servants, and employees of the defendant City of Ash Flat, City of Cherokee

Village or Sharp County. The law enforcement officer defendants are sued individually and in their official capacities.

5. At all times relevant hereto, defendant Anthony Wiles was the duly appointed Chief of the Ash Flat Police Department. At all times relevant hereto, defendant Rickey Crook was the duly appointed Chief of the Cherokee Village Police Department. At all times relevant hereto, defendant Mark Counts was the duly elected Sheriff for Sharp County. As such, each was the commanding officer of one or more of the law enforcement officer defendants, and was responsible for their respective officer's training, supervision, and conduct. They were also responsible by law for enforcing the regulations of the Ash Flat Police Department, the Cherokee Village Police Department, and the Sharp County Sheriff's Department, respectively; and, for ensuring that law enforcement personnel obey the laws of the State of Arkansas and of the United States. At all relevant times, they were acting in such capacities as the agents, servants, and employees of the defendant City of Ash Flat, City of Cherokee Village, and County of Sharp County, respectively. They are sued individually and in their official capacities.

6. As noted in Paragraph 5, Anthony Wiles, Rickey Crook and Mark Counts, for and on behalf of their respective cities and county, are the responsible parties for supervising the training, instruction, discipline, control and conduct of Defendant law enforcement officers. They are also charged with promulgating all

orders, rules, instructions and regulations of their respective city and county law enforcement departments, including but not limited to those orders, rules, instructions, and regulations concerning the use of force and of deadly weapons. They also have the authority to approve all weapons to be used by members of their respective law enforcement departments. They are sued both individually and in their official capacity. Upon information and belief, Defendants Wiles, Crook and Counts are all residents of Sharp County, Arkansas.

7. The City of Ash Flat is a municipal corporation charged with and responsible for appointing and promoting, through the Mayor of Ash Flat, the members of the Ash Flat City Police Department, and for the supervision, training, instruction, discipline, control, and conduct of the Ash Flat City Police Department and its personnel. At all relevant times, Defendant Municipality had the power, right and duty to control the manner in which the individual Defendants carried out the objectives of their employment, and to see that all orders, rules, instructions and regulations promulgated for the Ash Flat City Police Department were consistent with the Constitution and the laws of the municipality.

8. The City of Cherokee Village is a municipal corporation charged with and responsible for appointing and promoting, through the Mayor of Cherokee Village, the members of the Cherokee Village City Police Department, and for the supervision, training, instruction, discipline, control, and conduct of the Cherokee

Village City Police Department and its personnel. At all relevant times, Defendant Municipality had the power, right, and duty to control the manner in which the individual Defendants carried out the objectives of their employment and to see that all orders, rules, instructions and regulations promulgated for the Cherokee Village City Police Department were consistent with the Constitution and the laws of the municipality.

9. The Sharp County is a political subdivision of the State of Arkansas, charged with and responsible for appointing and promoting, through the County Judge and the Quorum Court of Sharp County, the members of the Sharp County Sheriff's Department, and for the supervision, training, instruction, discipline, control, and conduct of the Sharp County Sheriff's Department and its personnel. At all relevant times, Defendant County had the power, right and duty to control the manner in which the individual Defendants carried out the objectives of their employment, and to see that all orders, rules, instructions and regulations promulgated for the Sharp County Sheriff's Department were consistent with the Constitution and the laws of the municipality.

10. The defendant City of Ash Flat is a municipal corporation within the State of Arkansas and, at all relevant times, it employed one or more of the law enforcement officer defendants and the Chief of Police, Anthony Wiles.

11. The defendant City of Cherokee Village is a municipal corporation within the State of Arkansas and, at all relevant times, it employed one or more of the law enforcement officer defendants and the Chief of Police, Rickey Crook.

12. The defendant Sharp County, Arkansas is a political subdivision of the State of Arkansas and, at all relevant times, it employed one or more of the law enforcement officer defendants through the Sheriff's Department, over which the county exercises some degree of oversight and supervision.

13. At all times relevant hereto and in all their actions described herein, defendants Trivitt, Wilson, Lowe, Rigsby, Wiles, Crook and Counts were acting under color of law and pursuant to their authority as police personnel.

14. This court has jurisdiction over the parties hereto and over the subject matter, and venue lies in this court.

FACTS

15. The acts complained of herein arise out of a series of events which began on November 12, 2016.

16. At about 8:25 p.m. on that date, the Sharp County Sheriff's Office records note a 911 call was received that a person was "Code 2 on something" and an officer was requested to come to the scene.

17. In response to the 911 call, Defendants Trivitt and Rigsby went to the scene, 42 Diane Drive, Ash Flat, Arkansas, where they found Plaintiff in a state of apparent intoxication. The scene is Plaintiff's home, and also present at the time were Plaintiff's wife, young daughter, and mother-in law.

18. Plaintiff was placed in hand-cuffs and at that point, Defendant Trivitt, body slammed Plaintiff to the floor, exclaiming at the same time, "I body slammed the mother-f***er."

19. On at least two prior occasions, Defendant Trivitt had body-slammed arrestees under similar circumstances.

20. After body-slamming Plaintiff, Defendant Trivitt and Defendant Rigsby escorted Plaintiff from the home with the stated purpose of placing him a police car to take him to the police station. Sharp County radio logs indicate Plaintiff was "in custody" as of 8:34 p.m., nine minutes after the first 911 call was received.

21. Police video beginning at 9:41 p.m. show Defendant Rigsby standing over Plaintiff, with Plaintiff handcuffed and sitting or lying on the ground. Defendant Rigsby yelled at Plaintiff to shut up, and then struck Plaintiff on the right side of Plaintiff's face and head with a "mag light." Defendant Rigsby then calmly placed the "mag light" on the hood of the police car.

22. When Defendant Rigsby struck Plaintiff on the face and head, Defendant Trivitt covered his body camera lens with his right hand, obviously in an attempt to conceal any evidence as to what happened.

23. The blow to Plaintiff's face and head with the "mag light" was the first proximate cause of the injuries Plaintiff received: (1) a left nasal bone fracture, (2) a midline mandibular fracture, (3) a comminuted dislocated mandibular head, and (4) multiple deep lacerations to the face, neck and head.

24. At 9:42 p.m., Plaintiff asked Defendant Rigsby to get him medical attention because he was injured. Defendant Rigsby responded by telling Plaintiff to "shut the f**k up we will get you some."

25. At some point during the interactions between Plaintiff and the Defendant law enforcement officers, Plaintiff had been placed inside Defendant Wilson's police car for transport to the emergency room. Plaintiff, according to Defendant Wilson, caused a disturbance, so Defendant Wilson stopped the police car and dragged Plaintiff out onto the street, causing Plaintiff to hit his chin on the pavement, with resulting bleeding. Defendant Wilson and Defendant Rigsby then bound Plaintiff's feet as well as his hands and threw Plaintiff back into the car for transport.

25. Shortly after Defendant Rigsby responded to Plaintiff's request for

medical treatment, Defendant Trivitt can be heard on video laughing and saying, “f**k, he’s bleeding bad.”

26. As of 9:43 p.m. all the Defendant officers can be seen on police video standing around, laughing, and mentioning how badly Plaintiff was bleeding.

27. Also at 9:43 p.m., Defendant Trivitt got into his police car and mumbled to himself, “I slammed his f**cking ass,” referring to the body slam that took place inside the home.

28. As a direct and proximate result of the actions of the Defendant law enforcement officers, Plaintiff suffered extreme personal injuries, including: (1) a left nasal bone fracture, (2) a midline mandibular fracture, (3) a comminuted dislocated mandibular head, (4) multiple deep lacerations to the face, neck and head; and, (5) profuse bleeding. Plaintiff’s injuries were extremely painful and he continues to endure pain resulting from the injuries he received at the hands of the Defendant law enforcement officers.

29. Plaintiff has been required to seek medical care for the injuries he sustained as a result of the beatings he suffered at the hands of the Defendant law enforcement officers.

30. Plaintiff’s medical expenses to date, attributable to the injuries he sustained as a result of the beatings he suffered at the hands of the Defendant law

enforcement officers, are in excess of \$50,000 and will continue to accrue well into the future.

31. Plaintiff has been in constant pain as a result of the beatings he suffered at the hands of the Defendant law enforcement officers and he continues to be in pain. In all likelihood, that pain will be with him for the rest of his life.

32. Plaintiff has been permanently injured as a result of the beatings he suffered at the hands of the Defendant law enforcement officers.

33. As a direct and proximate result of the actions of the Defendant law enforcement officers, Plaintiff lost time from work and will likely lose additional time in the future. He has, thus, suffered a loss of earnings and a loss of future earning capacity.

34. Upon information and belief, Defendant Trivitt has used overly aggressive methods to effectuate arrests in the past, and that is known to his police chief, Defendant Crook, and to those responsible for governing the City of Cherokee Valley. Despite that knowledge, neither the Defendant Crook nor the Defendant City of Cherokee Village took any reasonable steps to correct Defendant Hill's actions and methods.

35. On information and belief, the abuse to which plaintiff was subjected was consistent with an institutionalized practice of the Cherokee Village City Police Department and the Ash Flat City Police Department, which was known to and

ratified by Defendants Wiles, Crook, City of Ash Flats and City of Cherokee Village, the defendants having at no time taken any effective action to prevent the Defendant law enforcement officers and other law enforcement officers from continuing to engage in such misconduct.

36. On information and belief, Defendants Wiles, Crook, City of Ash Flats and City of Cherokee Village had prior notice of the vicious propensities of the Defendant law enforcement officers, but took no steps to train them, correct their abuse of authority, or to discourage their unlawful use of authority. The failure to properly train the Defendant law enforcement officers included the failure to instruct them in applicable provisions of Arkansas State Law and with proper and prudent use of force.

CAUSES OF ACTION

37. The herein above described actions and omissions, engaged in under color of state authority by the defendants, including defendant Cities and County, sued as persons, responsible because of their authorization, condonation, and ratification thereof for the acts of its agents, deprived the plaintiff of rights secured to him by the Constitution of the United States, including, but not limited to, his fourth amendment right to be free from unlawful seizure of his person, his fifth and fourteenth amendment rights to due process of law, including the right to be free

from unjustified and excessive force utilized by police, and his eighth amendment right to be free from cruel and unusual punishment.

38. Acting under color of law and the authority of Defendant Municipalities and County, the Defendant law enforcement officers, intentionally, negligently, and with complete and deliberate indifference for Plaintiff's rights caused Plaintiff to be deprived of his constitutional rights, including but not limited to those under the fourth, fifth, sixth and eighth amendments by:

- a. using a degree of force that was unreasonable and excessive under the circumstances, and in violation of Plaintiff's rights to be free of an unreasonable seizure under the fourth amendment;
- b. subjecting Plaintiff to punishment without the benefit of a trial by jury in violation of his rights under the sixth and eighth amendments; and
- c. depriving Plaintiff of his liberty by subjecting him to unwarranted and unreasonable restraints on his person without due process in violation of his rights under the fifth amendment.

39. Defendant Police Chiefs and Defendant Sheriff, under color of law, intentionally, negligently, and with complete and deliberate indifference to Plaintiff's rights, caused Plaintiff to be deprived of his constitutional rights including but not limited to the fourth, fifth, sixth, and eighth amendments, by:

- a. failing to supervise properly the training and conduct of Defendant law enforcement officers;
- b. failing to enforce the laws of Arkansas and the provisions of the Constitution of the United States concerning use of force by members of the police force while making an arrest; and

c. issuance of vague, confusing, and contradictory policies concerning the use of force that are inconsistent with the requirements of the fourth, fifth, sixth, and eighth amendments of the United States Constitution.

40. Defendants Municipalities and County, under color of law, intentionally, negligently, and with complete and deliberate indifference for Plaintiff's rights, authorized, permitted, and tolerated the custom and practice of the unconstitutional and excessive use of force by members of the Ash Flat City Police Department, Cherokee Village City Police Department and Sharp County Sheriff's Office by failing to:

- a. appoint, promote, train and supervise members of the respective departments who would enforce the laws in effect in Arkansas and who would protect the constitutional rights of the people of Arkansas;
- b. require Defendant Police Chiefs and Defendant Sheriff to promulgate procedures and policies for the use of force and weapons that were consistent with the fourth, fifth, sixth and eighth amendments of the Constitution; and
- c. by permitting the policy and custom of using unreasonable force to exist and to be followed by the City Police Departments and County Sheriff's Office, thereby proximately causing the deprivation of Plaintiff's rights under the fourth, fifth, sixth and eighth amendments to the United States Constitution.

41. Defendants Trivitt, Rigsby and Wilson committed assaults and batteries on Plaintiff which proximately caused him injuries and subsequent damages.

DAMAGES

42. As a proximate result of the improper and illegal actions of Defendants, and each of them, Plaintiff has sustained the following damages:

- a. Medical expenses in the past and it is reasonably certain he will incur additional medical expenses into the foreseeable future;
- b. Past pain, suffering and mental anguish and it is reasonably certain he will incur additional pain, suffering and mental anguish into the foreseeable future;
- c. Lost earnings in the past and it is reasonably certain he will incur lost earning in the future; and
- d. A permanent and debilitating injury with resulting impairment in his functioning.

43. Plaintiff has sustained damages in an amount in excess of the amount required to obtain diversity of citizenship jurisdiction in the United States District Court.

44. The actions, or failures to act, by all the Defendants were undertaken with malice or with such disregard for the rights of Plaintiff that malice may be inferred. Plaintiff is entitled to an award of punitive damages against each Defendant in an amount to be determined by the trier of fact.

ENTITLEMENT TO ATTORNEY'S FEES

45. Plaintiff is entitled to an award of his reasonable attorney's fee for bringing this action for vindication of the violation of his constitutional rights, as allowed by 42 U.S.C. §1983, *et. seq.*

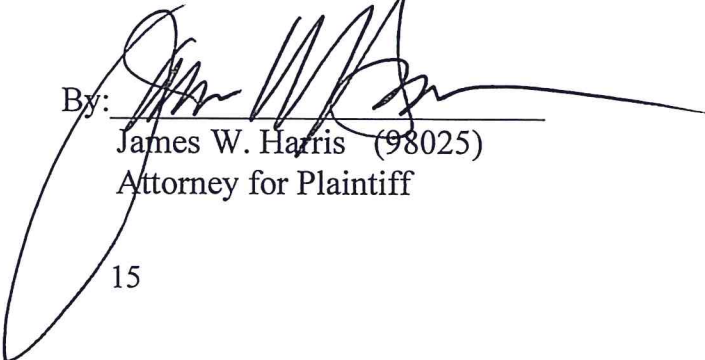
DEMAND FOR TRIAL BY JURY

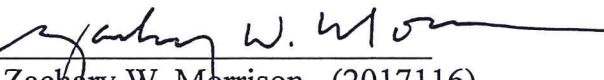
46. Plaintiff demands trial by jury on all issues of fact and law so triable.

PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays for judgment against each and all of the named Defendants for such sums as will compensate him for the damages he has suffered as alleged above, for judgment against each and all of the named Defendants for punitive damages, for an award of his reasonable attorney's fees to be assessed against each and all of the Defendants, for his costs herein laid and expended, and for any and all other proper relief, whether legal or equitable, to which he may prove himself entitled.

Respectfully submitted,
Randell Lee Veazie, Plaintiff

By: 
James W. Harris (98025)
Attorney for Plaintiff

By: 
Zachary W. Morrison (2017116)
Attorney for Plaintiff

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