

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

DOUG TANNER,)	
)	
Plaintiff)	
)	
v.)	
)	CASE NO. 1:20-CV-68-ALB
RAYMOND W. GROSS;)	
BRANDON PETERS; and)	Jury Trial Demanded
CITY OF DOTHAN,)	
ALABAMA,)	
)	
Defendants.)	

FIRST AMENDED COMPLAINT

Plaintiff Doug Tanner complains of defendants, stating as follows:

Parties

1. Doug Tanner is of legal age and a U.S. citizen. He resides in Atlanta, Georgia.
2. Defendant Raymond W. Gross was employed by the City of Dothan as a police officer at all times relevant to the allegations in this complaint and is a resident and citizen of the state of Alabama.
3. Defendant Brandon Peters was employed by the City of Dothan as a police officer at all times relevant to the allegations in this complaint and is a resident and citizen of the state of Alabama.
4. The City of Dothan is an Alabama municipality.

5. The individual defendants are sued in their individual capacity only.

Facts

6. On or about August 2, 2019, after midnight, Tanner, an over-the-road truck driver from Atlanta, was driving through Dothan on his way to deliver a load in Panama City.

7. For reasons unknown to Tanner, a woman in a car harassed Tanner as he drove.

8. The harassment started around Phenix City and continued off and on for over 2 hours.

9. The woman flashed her high beams, drove up on Tanner, passed him and then slowed down so he would have to pass her, and otherwise harassed him with her vehicle.

10. Tanner thought it was a young person being stupid or a drunk person. He did not know that the person was a woman or her race.

11. The last time the woman passed Tanner was several minutes prior to the events at issue.

12. Tanner lost sight of the woman's vehicle and hoped the harassment was over.

13. Tanner now thinks the woman must have gone the other way on "The Circle," the local term for the highway that literally circles Dothan.

14. Tanner pulled into a gas station at the intersection with Highway 231 (The Flying J) to get gas oblivious that the woman was at the same gas station.

15. Tanner filled up.

16. Tanner saw the woman's car when he was inside getting his receipt.

17. Tanner made no contact with her.

18. Tanner left from a different exit than the woman.

19. Apparently, he and the woman were both traveling the same direction, as he ended up behind the woman on Highway 231 South.

20. The woman turned into a parking lot.

21. Tanner pulled to the side of the road nearby.

22. Tanner got out and walked to put himself in position to photograph the woman's license plate in case she harassed him any further.

23. Before getting anywhere near close enough to photo the license plate, Tanner saw the woman on the phone, assumed she was calling the police, and waited for officers to arrive.

24. Tanner never contacted the woman.

25. Defendant Fisher arrived and contacted Tanner first.

26. Tanner explained the situation.

27. Fisher asked for driver's license.

28. After questioning the officer's demanding of Tanner's licence, Tanner

got his license out of the cab of the truck and gave it to the officer.

29. At some point Tanner commented, “This is some BBQ Becky shit,” referencing a highly-publicized incident from California involving a white woman who called the police on some black people barbequing at a public park.

30. Tanner is black.

31. The woman was white.

32. Fisher questioned whether Tanner was accusing him of being racist.

33. Tanner explained that he was not, that he was talking about the woman.

34. Fisher then went to speak with the woman.

35. Tanner started recording on his cell phone.

36. A second officer, defendant Raymond Gross, arrived on the scene and promptly handcuffed Tanner, based on Fisher’s false claim that Tanner was being disorderly.

37. Tanner asked to speak with a sergeant.

38. A sergeant arrived, defendant Peters, and approached Tanner.

39. Tanner tried to speak with defendant Peters.

40. Because Tanner was being critical of the officers, the sergeant walked away without giving Tanner a chance to say much.

41. Fisher eventually said he was going to let everyone go.

42. Fisher let the woman leave first.

43. Tanner remained in cuffs as the white woman, who was never cuffed, drove off.

44. After the white woman left, defendant Gross prepared to release Tanner from the cuffs.

45. Defendant Gross asked Tanner multiple times if he was going to do anything when he took the cuffs off, falsely implying Tanner had been acting in a menacing or threatening manner.

46. Tanner reminded Gross multiple times that he had not done anything.

47. Gross, in retaliation for Tanner's protesting that he did nothing wrong or otherwise for Tanner's speech, told Tanner he was under arrest.

48. Defendant Gross arrested Tanner.

49. Defendant Peters watched and approved.

50. Defendant Gross told Tanner he was under arrest for disorderly conduct.

51. Tanner was never disorderly.

52. Tanner was upset at the situation, but Tanner never yelled or cursed at the officers, and no member of the public was present to hear what was said or could have heard what was said.

53. The charges were dismissed in January 2020 at the request of a city attorney.

Count I - 42 U.S.C. § 1983 - Illegal Seizure / False Arrest

54. On or about August 2, 2019, defendant Gross, acting under color of law within the meaning of 42 U.S.C. § 1983, seized Tanner without probable cause, thereby depriving Tanner of his rights under the Fourth and Fourteenth Amendments to the Constitution of the United States in violation of 42 U.S.C. § 1983. Specifically, defendant Gross violated Tanner's right to be free from unlawful seizure.

55. Defendant Peters was present, was defendant Gross' supervisor, and had the power to stop the wrongful arrest. He refused to do so.

56. Defendants Gross and Peters acted with malice or reckless indifference to Tanner's constitutional rights.

57. As a result of the conduct of defendants, Tanner has been caused to suffer emotional injuries and damages and has been caused to incur expenses.

Count II - 42 U.S.C. § 1983 - First Amendment

25. On or about August 2, 2019, defendant Gross, acting under color of law within the meaning of 42 U.S.C. § 1983, seized and arrested Tanner in retaliation for his exercising his free speech rights, thereby depriving Tanner of his rights under the First and Fourteenth Amendments to the Constitution of the United States in violation of 42 U.S.C. § 1983.

58. Defendant Peters was present, was defendant Gross' supervisor, and had the power to stop the wrongful arrest. He refused to do so.

59. As a result of the conduct of defendants, Tanner has been caused to suffer emotional injuries and damages and has been caused to incur expenses.

Count II - State Law - False Arrest / False Imprisonment

60. On or about August 2, 2019, defendant Gross seized Tanner without probable cause.

61. The conduct of Gross and his supervisor, Peters, who authorized and approved the false arrest, was either negligent, wanton, malicious, willful, or in bad faith.

62. To the extent Gross and Peters were negligent, the City is vicariously liable for their conduct.

63. As a result of the conduct of defendants, Tanner has been caused to suffer emotional injuries and damages and has been caused to incur expenses.

Other Matters

64. All conditions precedent to the bringing of this suit have occurred.

Relief Sought

65. As relief, plaintiff seeks the following:

- a. That plaintiff be awarded such compensatory damages as a jury shall determine from the evidence plaintiff is entitled to recover;
- b. That plaintiff be awarded against the individual defendant only such punitive damages as a jury shall determine from the evidence plaintiff is entitled to recover;

- a. That plaintiff be awarded prejudgment and postjudgment interest at the highest rates allowed by law;
- b. That plaintiff be awarded the costs of this action, plaintiff's reasonable attorney's fees, and plaintiff's reasonable expert witness fees;
- e. That plaintiff be awarded such other and further relief to which plaintiff is justly entitled.

Dated: May 14, 2020.

Respectfully submitted,

s/ Henry F. (Hank) Sherrod III
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Jury Demand

Plaintiff requests a trial by jury.

s/ Henry F. (Hank) Sherrod III