

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No.

CHARLES H. CLEMENTS,

Plaintiff,

V.

STEPHEN ROBSON #5763

R. SMART #4014

OFFICER CRAFT #248

OFFICER TARR #244

Defendants.

COMPLAINT WITH JURY DEMAND

Comes now the Plaintiff, CHARLES H. CLEMENTS, pro se, and Complains against the Defendants as follows:

The Parties and Jurisdiction

1. Plaintiff CHARLES H. CLEMENTS is a natural person and, at the time this action is commenced, a resident of the State of Colorado.
2. Defendant Officer Stephen Robson #5763 is a natural person who at all times relevant hereto was employed by the Arizona Department of Public Safety in the Highway Patrol Division., acting under color of law, even when the actions of said Defendant were in violation of the laws of the State of Arizona, the State of Colorado, and the constitution and laws of the United States of America.
3. Defendant Supervisor R. Smart #4014 is a natural person who at all times relevant hereto was employed by the Arizona Department of Public Safety in the Highway Patrol Division in a Supervisory capacity, acting under color of law, even when the actions of said Defendant were in violation of the laws of the State of Arizona, the State of Colorado, and the constitution and laws of the United States of America.
4. Defendant Officer Craft #248 is a natural person who at all times relevant hereto was employed by the Arizona Department of Public Safety in the Highway Patrol Division., acting under color of law, even when the actions of said Defendant were in violation of the laws of the State of Arizona, the State of Colorado, and the constitution and laws of the United States of America.
5. Defendant Officer Tarr #244 is a natural person who at all times relevant hereto was employed by the Arizona Department of Public Safety in the Highway Patrol Division., acting under color of law, even when the actions of said Defendant were in violation of the laws of the State of Arizona, the State of Colorado, and the constitution and laws of the United States of America.

6. Jurisdiction is conferred upon this court by 28 U.S.C. §§ 1331, 1332, 1343(a)(3) and 1367. Venue of this action is proper under 28 U.S.C. § 1391(b).

General Averments

7. Plaintiff is a 60 year old man who, on November 17, 2003: 1218 hrs. at Milepost 205, I-40, was a passenger in a vehicle stopped by Defendant STEPHAN ROBSON, Defendant OFFICER TARR, and Defendant OFFICER CRAFT, operating under the supervision of Defendant R. SMART upon Federal Interstate Highway 40, near Flagstaff, Arizona.
8. On November 17, 2003, Defendant Robson stopped the vehicle 'for a cracked windshield on passenger side', self-described.
9. Plaintiff was arrested.
10. Plaintiff was handcuffed.
11. Plaintiff's person was searched thoroughly, after handcuffing, without consent.
12. Plaintiff was made to kneel, while handcuffed behind his back, on the sharp cinders of the shoulder turn-off for some several minutes.
13. Plaintiff was then required to sit, handcuffed, on the cold ground for over thirty minutes, while every personal item in the automobile was removed and thoroughly searched a couple of times by the Defendants.
14. Defendants then thoroughly searched Plaintiff's luggage without consent.
15. Defendants then acted in concert and subjected Plaintiff to a long religious lecture in a loud, derisive, denigratory and humiliating manner.

First Claim for Relief – Unlawful traffic stop

16. Plaintiff incorporates the preceding paragraphs of this Complaint into this claim for relief as if set forth fully herein.
17. Defendant Robson stated the reason for the traffic stop was a cracked windshield on passenger's side. No established Federal Law provides for such a traffic stop on a Federal Interstate. The traffic stop, *without probable cause*, of the Plaintiff by Defendant Stephan Robson and the **arrest and detention** of the Plaintiff by Defendants Robson, Tarr, and Craft were in violation of the Fourth, Sixth, Eighth and Fourteenth Amendments to the Constitution of the United States and are actionable under 42 U.S.C. § 1983 & 1985. Any reasonable officer of the law would know that conduct complained of herein would certainly result in the deprivation of constitutionally secured rights guaranteed by the Fourth, Fifth, Eighth, Ninth, Tenth and Fourteenth Amendments to the Federal Constitution. Even laymen and citizens understand the warrant requirement prior to an exhaustive and intrusive search or seizure. Officer Robson knowingly and deliberately acted in direct defiance to the People's Rights protected by constitution and defended in the Federal Courts.
18. The stop of the Plaintiff by Defendant Stephan Robson and the detention of the Plaintiff by Defendants Robson, Tarr and were deliberately calculated to violate Plaintiff's Fourth, Sixth, Eighth, Ninth, Tenth and Fourteenth Amendments to the Constitution of the United States.

19. The actions of these Defendants were knowing, intentional, deliberate and willful, or accompanied by a reckless disregard for the rights of the Plaintiff such as to permit punitive and exemplary damages in order to deter such conduct in the future.

WHEREFORE, Plaintiff prays for damages against Defendants Stephan Robson and Officers Tarr and Craft pursuant to 42 U.S.C. § 1983 & 1985, as determined by the trier of fact, including punitive damages, and equivalent attorney fees and costs as provided by 42 U.S.C. § 1988.

Second Claim for Relief – Unlawful Arrest

20. Plaintiff incorporates the preceding paragraphs of this Complaint into this claim for relief as if set forth fully herein.

21. The Defendants did not possess an arrest warrant for anyone in the automobile, nor did the occupants fit any description of criminal perpetrators, nor had a crime been committed for which perpetrators were being sought by Defendants. The Arrest of the Plaintiff by Defendant Stephan Robson and detention of the Plaintiff by Defendants Robson, Tarr, and Craft were knowingly and deliberately in violation of the Fourth Amendment to the Constitution of the United States and are actionable under 42 U.S.C. § 1983 & 1985.

22. The arrest of the Plaintiff by Defendant Stephan Robson and the detention of the Plaintiff by Defendants Robson, Tarr and Craft were deliberately calculated to violate Plaintiff's Fourth Amendment guarantee to freedom from unlawful search and seizure secured by the Constitution of the United States.

24. The actions of these Defendants were willful, or accompanied by a reckless disregard for the rights of the Plaintiff such as to permit punitive and exemplary damages in order to deter such conduct in the future.

WHEREFORE, Plaintiff prays for damages against Defendants Stephan Robson and Officers Tarr and Craft pursuant to 42 U.S.C. § 1983 & 1985, as determined by the trier of fact, including punitive damages, and equivalent attorney fees and costs as provided by 42 U.S.C. § 1988.

Third Claim for Relief – Improper use of restraints

25. Plaintiff incorporates the preceding paragraphs of this Complaint into this claim for relief as if set forth fully herein.

26. The Handcuffing of the Plaintiff by Defendants Robson, Tarr, and Craft was unnecessary and contrary to established police procedures and is in violation of the Fourth and Eighth Amendments to the Constitution of the United States and is actionable under 42 U.S.C. § 1983 & 1985 and chargeable under 18 U.S.C. 241 & 242.

27. The handcuffing of the Plaintiff by Defendant Stephan Robson and the detention of the Plaintiff by Defendants Robson, Stephan Robson were deliberately calculated to violate Plaintiff's rights protected by the Fourth and Eighth Amendments to the Constitution of the United States.

28. The actions of these Defendants were willful, or accompanied by a reckless disregard for the rights of the Plaintiff such as to permit punitive and exemplary damages in order to deter such conduct in the future.

WHEREFORE, Plaintiff prays for damages against Defendants Stephan Robson and Officers Tarr and Craft pursuant to 42 U.S.C. § 1983 & 1985, as determined by the trier of fact, including punitive damages, and equivalent attorney fees and costs as provided by 42 U.S.C. § 1988.

Fourth Claim for Relief – Unlawful Personal Search while Handcuffed

29. Plaintiff incorporates the preceding paragraphs of this Complaint into this claim for relief as if set forth fully herein.

30. The Defendants did not procure a search warrant. The Defendant's Stephan Robson, Tarr, and Craft's actions were knowingly and intentionally in violation of the Fourth Amendment to the Constitution of the United States and are actionable under 42 U.S.C. § 1983 & 1985

31. The personal search of the Plaintiff by Defendants Robson, Stephan Robson was calculated to violate Plaintiff's right to be secure in person and papers secured by the Fourth Amendment to the Constitution of the United States. The personal search of the Plaintiff, subsequent to the arrest and handcuffing of Plaintiff by Defendants Robson, Tarr, and Craft was in violation of the Fourth Amendment to the Constitution of the United States and is actionable under 42 U.S.C. § 1983 & 1985.

32. The actions of these Defendants were willful, or accompanied by a reckless disregard for the rights of the Plaintiff such as to permit punitive damages in order to deter such conduct in the future.

WHEREFORE, Plaintiff prays for damages against Defendants Stephan Robson and Officers Tarr and Craft pursuant to 42 U.S.C. § 1983 & 1985, as determined by the trier of fact, including punitive damages, and equivalent attorney fees and costs as provided by 42 U.S.C. § 1988.

Fifth Claim for Relief- excessive use of force for cruel punishment

33. Plaintiff incorporates the preceding paragraphs of this Complaint into this claim for relief as if set forth fully herein.

34. The elderly Plaintiff was forced to kneel, while handcuffed behind his back, on the sharp cinders of the turnout in a humiliating and painful position, in full view of the passersby, by Defendants Robson, Tarr, and Craft after being informed of Plaintiff's physical limitations, *and in particular*, bad knees, and such abuse was knowingly and deliberately intended to cause harsh pain to Plaintiff, and to humiliate and degrade the Plaintiff in violation of the Eighth Amendment to the Constitution of the United States and are actionable under 42 U.S.C. § 1983 & 1985.

35. The forced kneeling by the Plaintiff by Defendants Robson, Stephan Robson was calculated to violate Plaintiff's right to be free from cruel and unusual punishment guaranteed by the Eighth Amendment to the Constitution of the United States.

36. The actions of these Defendants were willful, or accompanied by a reckless disregard for the rights of the Plaintiff such as to permit punitive and exemplary damages in order to deter such conduct in the future.

WHEREFORE, Plaintiff prays for damages against Defendants Stephan Robson and Officers Tarr and Craft pursuant to 42 U.S.C. § 1983 & 1985, as determined by the trier of fact, including punitive damages, and equivalent attorney fees and costs as provided by 42 U.S.C. § 1988.

Sixth Claim for Relief- Long-term handcuffing for physical abuse

37. Plaintiff incorporates the preceding paragraphs of this Complaint into this claim for relief as if set forth fully herein.

38. Defendants Robson, Tarr and Craft forced the elderly Plaintiff, first to kneel on hard road cinders, then to sit handcuffed for over a half hour in the chill November wind on the cold ground, and the long-term handcuffing of the Plaintiff, after an unlawful search of Plaintiff's person by Defendants Robson, Craft and Tarr was deliberately calculated to violate Plaintiff's right to be free from cruel and unusual punishment guaranteed by the Eighth Amendment to the Constitution of the United States.

39. The actions of these Defendants were willful, or accompanied by a reckless disregard for the rights of the Plaintiff such as to permit punitive damages in order to deter such conduct in the future.

WHEREFORE, Plaintiff prays for damages against Defendants Stephan Robson and Officers Tarr and Craft pursuant to 42 U.S.C. § 1983 & 1985, as determined by the trier of fact, including punitive damages, and equivalent attorney fees and costs as provided by 42 U.S.C. § 1988.

Seventh Claim for Relief – Forced Imposition of Religious practice

40. Plaintiff incorporates the preceding paragraphs of this Complaint into this claim for relief as if set forth fully herein.

41. Defendants Robson, Tarr, and Craft loudly discussed their religious persuasion and practice and Defendant Robson gave Plaintiff a long scolding lecture about his religious perspectives concerning 'wasting my life', the regard of my children and the community, asked about my religious persuasion and then questioned my claim of Christianity, and is in violation of the First Amendment guarantee of the Right to Freedom of Religion secured by the Constitution of the United States and is actionable under 42 U.S.C. § 1983.

42. The actions of these Defendants were willful, or accompanied by a reckless disregard for the rights of the Plaintiff such as to permit punitive damages in order to deter such conduct in the future.

WHEREFORE, Plaintiff prays for damages against Defendants Stephan Robson and Officers Tarr and Craft pursuant to 42 U.S.C. § 1983 & 1985, as determined by the trier of fact, including punitive damages, and equivalent attorney fees and costs as provided by 42 U.S.C. § 1988.

Eighth Claim for Relief – Failure to properly supervise subordinates

43. Plaintiff incorporates the preceding paragraphs of this Complaint into this claim for relief as if set forth fully herein.

44. Defendant Supervisor R. Smart #4014 failed to properly supervise Defendants Robson, Tarr, and Craft by implementing a custom and policy of pretextually stopping, arresting and searching out-of-state travelers on Federal Interstate Highway 40 and is in violation of the Fourth, Fifth, Sixth, Eighth, Ninth, Tenth and Fourteenth Amendments to the Constitution of the United States and is actionable under 42 U.S.C. § 1986.

45. The actions of these Defendants were willful and in concert, or accompanied by a reckless disregard for the rights of the Plaintiff such as to permit punitive and exemplary damages in order to deter such conduct in the future.

WHEREFORE, Plaintiff prays for damages against Defendant Supervisor R. Smart #4014 pursuant to 42 U.S.C. § 1983, 1985 & 1986, as determined by the trier of fact, including punitive damages, and equivalent attorney fees and costs as provided by 42 U.S.C. § 1988.

Ninth Claim for Relief – Violation of 18 U.S.C. 241 & 242

46. Defendants Robson, Tarr and Craft did go in disguise upon the highway with the express and oft-stated intent by their direct speech, to deprive out of state travelers of Constitutionally secured rights, to wit: arrest without warrant, imprisonment without due process, search and seizure without warrant and cruel and unusual punishment. Supervisor R. Smart #4014, and others yet undiscovered, through a meeting of the minds, motivated by pecuniary gain, did institute a custom and policy any reasonable person would know would deprive out of state motorists with fundamental rights guaranteed by the U.S. Constitution.

47. The actions of the Defendants were willful and deliberate and accompanied by a reckless disregard for the constitutionally secured rights of the Plaintiff such as to permit punitive and exemplary damages in order to deter such conduct in the future.

WHEREFORE, Plaintiff prays for damages against Defendants Stephan Robson, Officer Tarr, Officer Craft and Supervisor R. Smart #4014 pursuant to 42 U.S.C. § 1983, 1985 and 1986 as determined by the trier of fact, including punitive damages, exemplary, and equivalent equivalent attorney fees and costs as provided by 42 U.S.C. § 1988.

Plaintiff demands trial by jury as to all actions so triable.

Respectfully submitted:

Charles H. Clements
1741 Dallas Street
Aurora, Colorado
80010-2018