

IN THE CIRCUIT COURT OF WASHINGTON COUNTY, ARKANSAS

TERRANCE C. ROCK

PLAINTIFF

v.

Case No. 72CV-17-

743 - 5

THE CITY OF CENTERTON, ARKANSAS;  
CODY HARPER, Individually, and in His  
Official Capacity as Chief of Police for the  
City of Centerton, Arkansas; PATRICK  
MICHAEL STUART, Individually, and in  
His Official Capacity as Police Officer for the  
City of Centerton, Arkansas; CHRISTOPHER  
WILLIAM CUMMINS, Individually, and in His  
Official Capacity as Police Officer for the City  
of Centerton, Arkansas; JEREMIAH NICHOLSON,  
Individually, and in His Official Capacity as Police  
Detective for the City of Centerton, Arkansas; and  
ALEX WALLACE, Individually, and in His Official  
Capacity as Police Detective for the City of Centerton,  
Arkansas

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K. SYLVESTER

DEFENDANTS

COMPLAINT

Comes now the plaintiff in the above captioned action, Terrance C. Rock ("Terrance"), by and through his undersigned attorneys, and for his Complaint against the herein-above named defendants, states and alleges as follows:

**Jurisdiction and Venue**

1. Terrance seeks justice for the loss and deprivation of liberty, and for the fear, embarrassment, emotional distress, physical and mental anguish, harm, hardship, and economic loss, which the defendants have caused him, as a result of their herein-described misconduct, acts, failures, and omissions.

2. This action is brought pursuant to 42 U.S.C. § 1983 and Arkansas law, to redress Defendants' tortious conduct and their deprivation of Terrance's rights secured by the U.S. Constitution.

3. Terrance is a 19 year old, black male who, at all times relevant herein, has resided in Fayetteville, Washington County, Arkansas. At all times relevant herein, Terrance was 18 years of age, a 12<sup>th</sup> grade student (senior) at Fayetteville High School, and a member of what would become, subsequent to the acts and omissions about which he complains herein, the 2016 State High School Championship Football Team, for which he was the starting running back.

4. Defendant City of Centerton, Arkansas, is an incorporated municipality ("City") within Benton County, Arkansas.

5. Defendant Cody Harper is and, at all times relevant herein was, the Chief of Police for the City's Police Department, and a City employee. Upon current information and belief, Defendant Harper is a resident of Benton County, Arkansas.

6. Defendant Patrick Michael Stuart is, and at all times relevant herein was, a police patrol officer with the City's Police Department, and a City employee. Upon current information and belief, Defendant (Officer) Stuart is a resident of Benton County, Arkansas.

7. Defendant Christopher William Cummins was, at all times relevant herein, a police officer (patrol sergeant) with the City's Police Department, and a

City employee. Upon current information and belief, Defendant (Sgt.) Cummins is a resident of Benton County, Arkansas.

8. Defendant Jeremiah Nicholson was, at all times relevant herein, a detective with the City's Police Department, and a City employee. Upon current information and belief, Defendant (Detective) Nicholson is a resident of Benton County, Arkansas.

9. Defendant Alex Wallace was, at all times relevant herein, a detective with the City's Police Department, and a City employee. Upon current information and belief, Defendant (Detective) Wallace is a resident of Benton County, Arkansas.

10. The false and wrongful arrest about which Terrance complains herein occurred in Washington County, Arkansas.

11. This Court has jurisdiction over the subject matters and parties herein, and venue is proper.

#### **Relevant Facts**

12. On Tuesday, November 15, 2016, during school hours, and at Defendant (Detective) Wallace's request, a School Resource Officer at Fayetteville High School pulled Terrance from class and detained him for the Centerton Police Department, in connection with a *Warrant* that had been issued by the Circuit Court of Benton County, Arkansas, based on a Defendant Stuart's sworn *Facts Constituting Probable Cause for a Warrant* (probable cause affidavit).

13. A complete and true copy of said *Warrant*, and of Defendant (Patrol Officer) Stuart's probable cause affidavit, are incorporated herein as **Exhibits A and B** hereto, respectively.

14. The filing of said documents commenced felony criminal proceedings against Terrance, that is, Benton County Circuit Court Case No. CR-16-2048-1. The case has since been dismissed, as is further addressed herein below. And the record is sealed.

15. Terrance's arrest was the result of a criminal investigation that was primarily conducted by Defendant Patrick Stuart, with the assistance of at least three (3) other Centerton Police Officers.

16. Defendant Christopher William Cummins was, at all times relevant, Defendant Stuart's immediate supervisor, both generally, and in specific connection with the subject investigation. And Defendant Stuart was the lead investigator in the investigation.

17. Defendant Harper was, at all times relevant, Chief of Police for the Defendant City, and he was ultimately responsible for all day-to-day practices and policies of the Department, and for all training and education of Defendant City's police personnel, including the individual defendants herein-named. He failed to adequately train, educate, and periodically evaluate his personnel (including defendants) and their day-to-day practices and policies; and he failed to issue adequate written policies and procedures to prevent violations of federal and state law, such as the ones that occurred in this case.

18. Defendant Harper specifically failed to adopt any, much less thorough and comprehensive policies and procedures to address the ever present risk of detentions based on mistaken identity arrests and warrants. Defendant Harper's (the City's) policies could and should have included, but failed to include, any written policies and procedures for obtaining the Prosecuting Attorney's review and approval of a felony probable cause affidavit and warrant request, or any written policies and procedures that specify and require adequate identifying information about a suspect, an actual review of all identifying information obtained, and an approval of a purportedly positive identification of a suspect, by a supervisor – that is – prior to the suspect's arrest.

19. Defendant Harper's failures constituted a deliberate indifference to the need and importance of adequate training, education, and oversight of the Police Department's day-to-day practices, procedures, and actual policies of the personnel (including defendants) within the Department.

20. Terrance's arrest was made in execution of a Warrant that had been issued on October 10, 2016, in connection with a report of a residential burglary and theft of property that was alleged to have been perpetrated by three (3) teenage males on September 25, 2016. The location of the home at which the burglary and theft was alleged to have occurred is in Centerton, Benton County, Arkansas.

21. Upon current information or belief, Terrance's arrest was requested and/or made by Defendant (Detective) Wallace, on the campus of Fayetteville

High School, during school hours, based on an *Affidavit of Probable Cause to Obtain Warrant* that had been signed by Defendant (Officer) Stuart. Terrance was placed in handcuffs, and escorted and placed inside a police vehicle.

22. All of this occurred on the Fayetteville High School campus, in the middle of the school day, while Terrance's classmates, teachers, and school administrators were present.

23. Terrance was then transported from the Fayetteville High School campus in Fayetteville to the Benton County Jail in Bentonville, Benton County, Arkansas, on charges of Residential Burglary, a Class B felony, and Theft of Property, a Class D felony.

24. Upon arriving at the Benton County Jail, mugshots were taken of Terrance, and he was fingerprinted and swabbed for DNA; and his personal belongings, including the clothes he had worn to school that day, along with his jewelry and cell phone, were taken from him.

25. Further, Terrance was issued and required to wear prisoner's clothing, and a bracelet, and he was confined in the Benton County Jail for almost 24 hours, at which time he posted the \$10,000.00 bond that had been set and was needed for his release from custody, and freedom.

26. Terrance spent all afternoon, evening, and overnight on November 15<sup>th</sup>, and the morning of November 16<sup>th</sup>, in the Benton County Jail; he didn't sleep, and he was tired, traumatized, in fear, upset, embarrassed, and confused.

27. While at the jail, Defendant Wallace interrogated Terrance, at which time Terrance advised Defendant Wallace that he (Terrance) had never even stepped foot in Centerton, Arkansas, much less had any involvement in a burglary or theft in the City. Terrance made it clear to Defendant Wallace that he had never associated with either of the other two perpetrators, had never been inside the City limits of Centerton – and that the completely wrong person had been arrested.

28. Defendant Wallace disregarded Terrance's statements, and, instead of recognizing Terrance's mistaken identity protest and evaluating Defendant (Officer) Stuart's probable cause determination for incomplete or conflicting information or errors, he accused Terrance of lying to him, going so far as to opine, in writing, that Terrance "showed some neural linguistic activity which indicated he was not being truthful."

29. Said *post-arrest* interrogation (interview) was the first and only interview that any of the defendants ever conducted of Terrance in the matter; neither Defendant Wallace, Defendant Stuart, nor any other member of the Centerton Police Department conducted *any other* interview of, took any other statement from, *or* made *any* other request or attempt, either by phone, email, text, etc., to speak with Terrance, about the alleged burglary and theft, and to question his involvement or identity in the matter – either prior or subsequent to the issuance or execution of the Warrant.

30. Following that lone interview, post-arrest, neither Defendant Wallace nor any other defendant took any investigative or other action in response to Terrance's statements, and Defendant Wallace failed to provide the lead investigator in the case, Defendant Stuart, or their immediate supervisor, Defendant Cummins, or any other higher ranking officer with the information that Terrance provided him during the interrogation.

31. What is more, Defendant Wallace and/or Defendant Stuart proudly boasted to the burglary victim and other persons in and outside the City's Police Department that Terrance's arrest was a high profile arrest that was going to receive a lot of attention in the news media because Terrance was a 'star football player' at Fayetteville High School.

32. Further, as the Warrant had been issued on October 10, 2016, Defendants elected to wait until mid-week of Fayetteville High School's first state football playoff game, which was more than a full month following the issuance of the Warrant in Benton County, to arrest Terrance on the Warrant that falsely identified him as a criminal perpetrator of Class B and D felonies involving the character trait of dishonesty (burglary and theft).

33. All of this occurred right before the 2016 Thanksgiving and Christmas holidays, and in the middle of Terrance's senior year and high school football season and recruiting, and the state high school playoffs.

34. At the time of his arrest, Terrance had no criminal record and was preparing for a state high school football playoff game which, if won, was, at that

time, expected to lead to a matchup between Fayetteville High School and Bentonville High School in the following round of the playoffs.

35. Instead of arresting him at his home, or at some other location that was off campus and outside the lens of his high school classmates, teachers, and school staff and administration, Defendants arrested Terrance on the Fayetteville High School campus, during school hours, causing him extreme embarrassment.

36. And, just as the defendants had prophetically boasted would occur, the news media *immediately* reported on the arrest, and on the allegations against Terrance; this occurred via online (website) media posts, social media posts, television news stories, and newspaper stories throughout the State of Arkansas.

37. Shortly after the date of his arrest, basic investigative work was done by the undersigned attorney and the Benton County Prosecuting Attorney's Office, the latter of which was instrumental to ending the criminal proceedings (case) that had been commenced against him by the Defendants, and in trying to, as much as possible, reverse the monumental wrong that had been committed against Terrance by the Defendants.

38. Soon thereafter, when confronted with the correct identity of the person who was actually involved in the alleged burglary and theft of property in September, 2016, and supporting information they were provided by the Benton County Prosecuting Attorney with the assistance of the undersigned, Defendants publicly admitted to having requested and obtained an arrest warrant for the wrong person (Terrance).

39. The person for whom the Warrant *should have been* issued was a black male whose first name is similar to the name, "Terrance."

40. Prior and at the time of his execution and submission of the sworn affidavit in support of the request for the Warrant in Terrance's name, Defendant Stuart was in possession of Instagram posts from the juvenile's (actual perpetrator's) account, and the juvenile's profile name clearly indicated the spelling of the juvenile's name, which was clearly different than the spelling of Terrance's name.

41. Even a passing comparison of, on the one hand, the spelling of the juvenile's Instagram name, and his Instagram account information and profile picture, with, on the other hand, the spelling of Terrance's name and his 2016 FHS Football picture, the latter of which the defendants, namely Defendant Stuart, relied in wrongfully identifying Terrance as an offender for whom the Warrant should be issued, would have, ostensibly, resulted in the issuance of a Warrant that correctly identified the offender as the juvenile to whom reference is made hereinabove.

42. Furthermore, prior to Defendant Stuart's execution of his sworn affidavit, in which he stated, under his oath, that the records of the Centerton Police Department revealed that Terrance Rock was co-perpetrator of the burglary and theft, the defendants were provided with, and were in possession of, the correct name and recent photograph of the aforementioned juvenile for whom the warrant should have been issued.

43. In his affidavit, Defendant represented, under oath, that he "Googled the 2016 roster for Fayetteville High School Football and found a senior name Terrance Rock (12/22/1997) that I identified as the same subject from the photos on the Instagram profile for "479tor."

44. Ostensibly, no one other than Defendant Stuart compared the two photographs because, had they done so, they would have quickly concluded that they depicted two completely different young men.

45. Further, prior to Terrance's arrest, Defendants failed to speak with the other two juveniles [who were involved in the alleged burglary and theft in the City] or the victim, and to specifically ask them to identify the third perpetrator as being "Terrance" or another person, that is, prior to Defendant Stuart's request for the Warrant.

46. Indeed, the juvenile daughter of the victim of the alleged crimes had, prior to the issuance or execution of the Warrant in Terrance's name, provided the defendants, namely Defendant Stuart, with the correct identification of the actual perpetrator (juvenile), and the correct spelling of his name; and she had identified him in one or more photographs.

47. Furthermore, Defendants' records reflect that a neighbor of the alleged victim provided a video of the three, juvenile perpetrators exiting the victim's home in Centerton, at the time of the crimes in September, 2016.

48. Additionally, upon information and belief, emails were exchanged between the alleged victim and one or more of the defendants, concerning the identity of the actual juvenile for whom Terrance was wrongfully mistaken.

49. Prior to the filing of this Complaint, a request was made of the Defendant City and its police department, pursuant to the Arkansas Freedom of Information Act, which encompassed any and all emails and other communications, victim statements, witness and other statements, reports, interviews, photographs, videos, and any other information in connection with Terrance's arrest.

50. The defendants failed to produce Terrance's football roster photograph or any roster listing upon which Defendant (Officer) Stuart relied in requesting the Warrant for Terrance's arrest; and they failed to provide witness photographs or any of the video recordings that are referenced in their file, including videos that were taken by a witness (neighbor of the alleged victim), as well as videos that were taken by Defendant (Officer) Stuart himself.

51. Defendants additionally failed to produce any recorded interviews or written statements by the alleged victim or his minor daughter, any of the emails to and from the alleged victim and the defendants, or any of the emails to and from Defendant (Officer) Stuart and the School Resource Officer ("SRO"), all of which, according to other records that were produced by the City in response to the FOIA request, previously existed.

52. The City's production, in response to the FOIA request, was, ostensibly, a production of all requested information; and, therefore, upon information and belief, Defendants have committed either intentional or negligent spoliation of relevant evidence, which warrants the jury instruction on the issue of such spoliation, at trial.

53. On or about November 29, 2016, which was 14 days following Terrance's arrest, and 11 days following notice to the defendants that they were responsible for requesting a warrant for the wrong person, Defendant (Sgt.) Cummins' employment with the City was terminated based on his purported "failure to follow instructions," "insubordination," "substandard work," "failure to perform job duties," "failure to lead/supervise," "failure to disclose the truth," and making "false statements [in] an internal investigation, violating conduct policy - V.S."

54. The period of time in which Defendant is alleged *by the City* to have committed those violations is May 22, 2016 to November 29, 2016.

55. According to Defendant (Officer) Stuart, when he asked his immediate supervisor, Defendant (Sgt.) Cummins, to review his (Defendant Stuart's) report on his investigation of the case, and he indicated he (Defendant Stuart) wanted an arrest warrant issued for Terrance, Defendant Cummins simply said, "sounds good, baby," and he instructed Defendant Stuart to have someone in "day shift or a detective" determine whether probable cause was evidenced by Defendant Stuart's affidavit.

56. Defendant Stuart has stated that he “investigated the report [of the crimes] and located all three suspects to the best of his ability.”

57. However, Defendant Stuart acted with gross negligence in conducting his investigation, relying almost exclusively upon his comparison of one (1) Instagram photograph of the aforementioned juvenile with a 2016 Fayetteville High School Football Roster photograph, the latter of which depicted Terrance and was pulled from the internet, by Defendant Stuart, through a hasty “Google” search.

58. Defendant Stuart’s comparison and wrongful matching of the two different young men and their physical profiles were grossly negligent.

59. Defendant Stuart was also grossly negligent in ignoring (and confusing) the victim’s daughter’s correct, first-name identification of the aforementioned juvenile who actually participated in the events on September 25, 2016, and in otherwise relying upon said minor’s incorrect first-name identification of said juvenile.

60. Defendant Stuart and the other defendants were also grossly negligent in, prior to Defendant Stuart’s execution of the affidavit and request for the Warrant, failing to even request, much less obtain or conduct, a statement or interview from/of Terrance, in regard to any knowledge or his involvement in the crimes in the City, and any association with the other two suspects.

61. Defendant Stuart and the other defendants were also grossly negligent in, prior to Defendant Stuart’s affidavit and request for the Warrant,

failing to even request, much less obtain, any statement from the other two (2) suspects as to the identity of the third suspect for whom the defendants mistook Terrance.

62. Defendant Stuart and the other defendants were also grossly negligent in failing to speak with any of the high school football coaches, school administrators, or either of the two other suspects' parents in regard to the correct identification of the three young men who were alleged to have been involved in the incident in the City, that is, at any time prior to Defendant Stuart's affidavit execution and request for the Warrant.

63. Defendant Stuart was also grossly negligent in his assumption, based on a racial profile, that the young, black high school football player whose picture was depicted in the football roster picture he obtained from his rash Google search was the same black male (juvenile) who was actually involved in the incident in the City.

64. Defendant Stuart was grossly negligent in failing to discuss, in substance, his probable cause determination, investigation, findings, affidavit, or any other information in the matter with Defendant Cummins, or, as he admits being directed to do, with any of the City's detectives - or with any other supervisor.

65. Defendant Stuart has admitted his investigation was not thorough on his part, and that, in retrospect he needed and should have asked for assistance with the investigation.

66. However, Defendant Stuart's and the other defendants' deliberately indifferent acts and omissions did not end within the offices of the Centerton Police Department. Rather, upon identifying Terrance and "completing" their investigation, the defendants intentionally circumvented the Benton County Prosecutor and went straight to the Circuit Court and presented the Warrant for Terrance's arrest; the defendants intentionally forewent any consultation about the case, or any requisition of approval of the probable cause affidavit and felony warrant request, with the Prosecuting Attorney.

67. Said act was an intentional disregard for what is a routine police practice of other law enforcement agencies in Arkansas; it is a safeguard-procedure for reducing the risk of any wrongful arrest and deprivation of liberty, and it prevents the commencement of criminal proceedings in which a Prosecuting Attorney does not want to file charges.

68. In felony cases, it is a common, if not required policy-practice in the State of Arkansas for police officers and their agencies to consult with the County Prosecuting Attorney and obtain his or her approval of the probable cause affidavit and warrant request, prior to the issuance of a felony warrant.

69. In this case, Defendant (Officer) Stuart's probable cause affidavit reflects that, although the Prosecuting Attorney's signature line is on it, the Prosecuting Attorney never signed and did not approve it, as the defendants never consulted with him about the affidavit, warrant request, or case – that is, prior to its commencement.

70. In fact, the Prosecuting Attorney had no knowledge of Terrance's case or arrest until it was brought to the Prosecutor's attention, by Terrance's undersigned attorney, on or about the third day following the arrest.

71. And, as discussed further below, according to Defendant (Sgt.) Cummins, whom the City fired within days following news reports of Terrance's wrongful arrest, he never even sought, much less obtained, the Prosecuting Attorney's approval of felony warrant requests. According to Defendant Cummins, a supervisor within the Department, that was a matter of practice and actual policy within his department.

72. Defendants' wrongful acts and omissions, on a policy-making and management level, constitute a reckless, conscious (intentional) disregard of good police practices and procedures, and a deliberate indifference to the rights of, and the foreseeable probability of injuries to, innocent persons like Terrance.

73. Further, Defendant (Sgt.) Cummins, as Defendant (Officer) Stuart's immediate supervisor, likewise acted with gross negligence, thoughtlessly, and with a conscience and reckless disregard of and deliberate indifference to the significance of his failure to perform his duties, and of the need for a supervisor's review of an investigative report and probable cause affidavit needed for a prudent determination as to whether an arrest warrant that would deprive a person of his liberty and otherwise injure him should be requested.

74. Defendant Cummins was grossly negligent and deliberately indifferent to the consequences of merely directing Defendant Stuart to "get the

affidavit to day shift or a detective to be signed by the judge," with no subsequent follow-up, as opposed to either actually reviewing Defendant Stuart's information, findings, and affidavit himself, or directing Defendant Stuart to have Defendant Nicholson or another detective with the City's police department do so prior to any submission to the judge.

75. Further, and as discussed hereinabove, the defendants acted with extreme recklessness, deliberate indifference, and thoughtless disregard for the foreseeable consequences of their violations of the good and routine police practices and policies followed by other law enforcement agencies in Arkansas, that is, consulting with and obtaining the County Prosecuting Attorney's approval of the warrant request and supporting affidavit and other information (evidence) upon which such a request is based, that is, prior to submitting the warrant to the issuing judicial officer (judge).

76. Further, Defendant (Detective) Nicholson was grossly negligent in merely taking and submitting Defendant Stuart's affidavit and Warrant to the judge, without having first obtained or even requested the Prosecuting Attorney's approval of the request for the arrest Warrant, and without even having first reviewed and approved Defendant Stuart's affidavit, information, and warrant request, or discussed the matter with Defendant (Officer) Stuart, himself.

77. Further, Defendants were grossly negligent in failing to have the CID (detectives') division, and one or more detectives employed by the City

therein, conduct and supervise the investigation, as opposed to allowing an inexperienced and inadequately trained patrol officer (Defendant Stuart), and allowing a derelict supervisor in the patrol (officers') division, that is, Defendant Cummins, "supervise" it.

78. According to Defendant (Officer) Stuart, as of the time of the events about which Terrance has complained herein, Defendant Cummins has a history of hastily reviewing and approving police reports and warrant requests, and Defendant Cummins failed to advise him to forward (turn) the investigation over to someone in CID.

79. According to Defendant (Officer) Stuart, as of the time the events about which Terrance has complained herein, Defendant Cummins told him that he (Defendant Cummins) "doesn't have to read his reports," and "that they are good."

80. According to Defendant (Officer) Stuart, as of the time of the events about which Terrance has complained herein, Defendant (Sgt.) Cummins had only rejected one (1) of Defendant Stuart's reports and warrant requests, and that was for the reason that the victim's name was not in the report field. This was the case during the lengthy period of time in which Defendant Cummins served as Defendant Stuart's immediate supervisor, prior to Defendant Cummins' firing on or about November 29, 2016.

81. What is more, according to Defendant (Officer) Stuart, in the history of their relationship, Defendant (Sgt.) Cummins never once followed up

on *any* of his (the police division's) approvals of Defendant Stuart's warrant requests, to ensure the case files had actually been sent to and received by CID. Defendant Stuart has stated that he asked Defendant Cummins 10-15 times as to why Terrance's case was never followed up on, and he was told he didn't know by Defendant Cummins.

82. In other words, a departmental policy was established through the repeated course of conduct (habit) that Defendant Stuart has only recently disclosed and described.

83. Knowing that Defendant Cummins had a history of not doing his job, and in not actually reading Defendant Stuart's reports, Defendant Stuart had knowledge that his work would not be, and had not been, reviewed by his supervisor (Defendant Cummins), and that it was not going to be, and wasn't, reviewed by *anyone* other than himself, that is, unless he were to take the affirmative step of requesting the assistance and review by a detective in CID, another supervisor, or Defendant Harper.

84. Defendant Stuart's failure to obtain or even request such approval, or report Defendant Cummins' habitual failures in his job, was gross negligence, and a reckless and conscience disregard for the consequences of his failures to, himself, act in the best interests of those with whom he came into contact.

85. Defendant Cummins's history (habit) of disregarding and failing to actually read his officers' reports and accompanying warrant requests at all, or only haphazardly and flippantly doing so on occasion, as a supervisor who was

charged with the responsibility of doing so, and his failure to follow up on the police division's (his) approvals of warrant requests, to ensure the case files had actually been sent to and received by CID, established a City (department) policy of allowing probable cause affidavits and felony arrest warrants to be approved within the department, without any actual, or thoughtful, review.

86. Further, Defendants' history (habit) of disregarding the need and importance of requesting and obtaining the Benton County Prosecuting Attorney's review and approval of the defendants' probable cause affidavits and felony warrant requests, established a City (department) policy of allowing City officers to submit their requests for felony arrest warrants issued by the Benton County Circuit Court, without having first requested and obtained the Benton County Prosecuting Attorney's review and approval of the same.

87. Further, Defendants' history (habit) of allowing less trained and less qualified patrol officers like Defendant Stuart, as opposed to allowing CID detectives who are presumably more adequately trained in felony-probable cause investigations, conduct felony investigations for the purpose of making probable cause determinations and felony warrant requests in connection therewith, established a City (department) policy of allowing those less trained and less qualified patrol officers to conduct the investigations, even in cases in which the offense level was as high as a Class B felony, as in this case, and in which there was no reason not to either turn the investigation over to, or elicit assistance from, the detectives in CID.

88. Similarly, Defendants' history (habit) of failing to provide officers like Defendant Stuart with the assistance he has, after the fact, admitted that he needed in Terrance's case, established a City (department) policy of permitting, and effectively requiring, its patrol officers to conduct investigations on their own, and without the assistance or input they needed from CID.

89. These habits, the City policies and procedures that were established by them, and the risks of foreseeable harm they created, easily could and should have been discovered *prior to* Defendant Stuart's investigation, affidavit, and Warrant request in Terrance's case, and *prior to* Terrance's arrest.

90. The aforementioned habits; Defendant Cummins' failure to perform his supervisory job duties and substandard work; Defendant Stuart's failure to seek assistance with his investigations from CID, or report Defendant Cummins' substandard work and non-performance; the inadequate officers' and detectives' education and training on policies and procedure in regard to high risk, high liability operations and tasks; and what has since been admitted by the City was a "disconnect" between the patrol and CID divisions of the City's Police Department, should and just as easily could have been discovered through the internal audit/investigation that was conducted by Defendant Harper and the City only after, and as a result of, Terrance's wrongful arrest.

91. Indeed, though the City had an internal audits and inspections policy and procedure in place as of the time of the events about which Terrance has complained herein, Defendant Harper and his Police Department

intentionally disregarded them, and they otherwise elected not to perform them, as a general matter.

92. More specifically, in regard to Defendants Cummins and Stuart, the City and Chief Harper failed to periodically review and evaluate their work and non-performance, or the manner and means by which the City's Police Department and separate divisions conducted its investigations and communicated with each other. This was gross negligence and deliberate indifference on the part of Defendant Harper, the Police Department, and City.

93. Simply put, none of the defendants cared anything about the admitted "disconnect," about the inaccuracy and completeness of the defendants' investigative work habits, or about the defendants' and other Police Department employees' inadequate knowledge, education, training, experience, and communications, *until after* Terrance's arrest and the negative, public exposure it caused for the City and the other defendants herein.

94. Rather, the defendants intentionally and recklessly disregarded the need for periodic audits of the Police Department's divisions, and periodic interviews and reviews of City personnel; and their failure to perform such audits, particularly in regard to its supervisors (e.g., Defendant Cummins) and high risk, high liability operations, was gross negligence.

95. The disregarded disconnect and habits within the Police Department resulted in *de facto* departmental policies that significantly increased the risk of false arrests, based on mistaken identities and investigations that were

otherwise poorly conducted and incomplete; they significantly increased the risk of the deprivation of an innocent person's liberty, and of a constitutional injury.

96. The internal audit and investigation that Defendants Harper and the City conducted only subsequent to Terrance's wrongful arrest and their notice of the same revealed numerous acts of misconduct on the part of Defendant Cummins, including allowing his wife to come into the police station and use his work (office) computer while it was logged onto the police department's server, giving her access to all databases available through the secured server.

97. On one occasion, the City's internal audit describes a time that Defendant Cummins chose not to respond to a call that was dispatched as a disturbance, because Defendant Cummins was with his wife, at the station.

98. The City's internal audit additionally revealed that Defendant (Sgt.) Cummins had a history (habit) of placing subpoenas in Defendant Stuart's served-subpoena box within the City's police station, which, according to Defendant Stuart, had never actually been physically served despite Defendant Cummins' indication to the contrary on the affidavit of service portion of the subpoenas.

99. According to Defendant (Officer) Stuart, he had knowledge of all of this misconduct on the part of Defendant Cummins, and, yet, he failed to report any of it until and except in the audit that Defendants Harper and City

conducted only following Terrance's wrongful arrest and the negative attention the City received in the news media, following Terrance's vindication.

100. Further, according to the internal audit that was conducted by Defendant Harper and the City, after the fact, Defendant Cummins admitted he failed to ever contact CID in Terrance's case, and failed to review Defendant Stuart's body cam video of his dispatch to and encounter with the victim and his daughter.

101. And, although Defendant Cummins stated in the audit that he reviewed Defendant Stuart's reports in this case, the audit revealed that Defendant Cummins approved of the Warrant for Terrance's arrest off of the supervisor's screen, and that the reports were never opened.

102. The audit additionally revealed 20 other cases in which Defendant Cummins approved the request for someone's arrest, and the issuance of an arrest warrant, though, according to the Police Departments computer system, he actually spent, on average, *6-7 seconds* per "review" by him.

103. The audit additionally revealed that Defendant Cummins failed to review requests for warrants because two, former employees of the City's Police Department advised him he did not need to do so, evidencing a lack of training and education within the department. Similarly, Defendant Stuart stated he "assumed" case files were turned over to CID by a supervisor in the (his) police division, that is, once they had been approved by his supervisory.

104. In other words, Defendant Stuart was the lead investigator in this case and, yet, he did not have any idea as to the procedure for turning his files over to CID, once a supervisor like Defendant Cummins had approved the warrant request.

105. And although Defendants Harper and Nicholson (and perhaps other employees with the City) are expected to testify that Defendant Cummins was trained to take the probable cause affidavit and warrant request to the Prosecuting Attorney, Defendant (Sgt.) Cummins and others are expected to testify that they were not so trained and, in fact, the City's audit reflects that Defendant Cummins advised that, "the Centerton Police Department did not need to contact the Benton County Prosecutors Office for felony arrests." He further indicated that other officers, including Officers Almond and Brockmeyer, have the practice (habit) of not obtaining the Prosecuting Attorney's approval of requests for arrest warrants.

106. In other words, it is a wrongful (unlawful) policy and practice of the Centerton Police Department to not consult with the Prosecuting Attorney and obtain his approval of an arrest warrant, that is, prior to its issuance.

107. Moreover, a policy, through repeated conduct (habit), was, in any event, established whereby Defendants Cummins, Stuart, and Nicholson never consulted with the Benton County Prosecuting Attorney, and obtained his approval of the warrant request, prior to submitting the same to the Judge.

108. Ostensibly, had such an internal audit and personnel reviews been conducted by a competent, prudential, and caring police agency *prior* to the issuance of the arrest warrant in this case, Terrance would not have been misidentified and arrested.

109. The City's habit-established investigative practices and policies were not isolated but were, rather, institutional, continuous, and systematic in nature; and they were or should have been readily apparent to any moderately alert, sensible, conscientiousness, and principled person.

110. The establishment and lack of any reporting and detection of those departmental practices and policies proximately caused the injuries complained of herein.

111. To be sure, however, the City and Defendant Harper were deliberately indifferent to need for any reasonable, periodic reviews of the day-to-day (actual) practices, policies, and performances of their employees, such as Defendants Cummins and Stuart, until after Terrance's wrongful arrest and the negative media attention that resulted from it.

112. As Chief of Police of a law enforcement agency that is so very small as the Centerton Police Department is, Defendant Harper could not have possibly lacked knowledge of the facts that were discovered from the Department's internal audit, without having been completely and deliberately indifferent to the Police Department's day to day functions and actual practices, and to the potential consequences thereof.

113. Said practices and policies were/are contrary to the procedural and substantive due process guarantees that are afforded to every person under the 4<sup>th</sup> and 14<sup>th</sup> Amendments to the United States Constitution, including every person's freedom from arrest and the resulting loss of liberty, without probable cause.

114. Further, one or more of the defendants' acts and/or omissions, as herein-described, violated one or more City Police Department officially promulgated (written) policies and/or procedures, proximately causing the injuries complained of herein.

115. Said failure to adequately educate and train the defendants, and to periodically review or simply observe their day-to-day job performance, and the day-to-day practices within the police department, for the purpose of determining whether defendants and other personnel within department were complying with City and departmental policies and procedures, proximately caused the injuries complained of herein.

116. All acts and omissions that are described herein were either intentionally committed or were otherwise committed with gross negligence, and with a conscience and reckless disregard for the potential, wrongful arrest and deprivation of liberty, and for the additional consequences in connection therewith.

117. Every reasonable officer would have known that the acts and omissions committed in this case either directly violated or otherwise created the

substantial risk for violating federal civil rights and constitutional law; a reasonable and ethical officer knows that he or she must actually review reports, affidavits, and other relevant information that is available to him; report other officers' misconduct and failures of performance; must have probable cause to make an arrest, or request a warrant for an arrest; every officer knows that he or she must make reasonable efforts to identify the persons whom he or she believes committed a crime; and every reasonable officer knows that he or she must consult with the Prosecuting Attorney and obtain his or her approval of a request for the issuance of a felony arrest warrant.

118. None of the defendants herein acted reasonably in any such respect herein, which proximately caused the injuries complained of herein.

119. In addition to being liable based on their gross negligence as described hereinabove, as well as based on their allowance for the creation of habit-based, departmental practices and policies that enabled the defendants' to violate federal constitutional and statutory law, as well as state law, Defendants Harper and the City are liable herein, based on their deliberate indifference to the their inactions, and of the rights of those with whom their police department and officers come into contact.

120. The City's failure to adequately train and educate the other defendants, evidences a deliberate indifference to the constitutional rights of Terrance and all other persons with whom the City, by and through its police

department, comes into contact, and an indifference to the constitutional deprivation complained of herein.

121. The City and Defendant Harper failed to adequately train and educate all Police Department personnel, in regard to at least the following subject matters:

- a) The intended policies and proper procedures by which felony probable cause and warrant investigations are to be assigned, accurately conducted, managed, completed, reviewed, and approved within and outside of the Department, and to and by whom;
- b) The intended policies and proper procedures in regard to the timing, manner, and means by which the Department should endeavor to avoid a mistaken or wrongful identification of a suspect in a felony investigation that is conducted by the Department;
- c) The intended policies and proper and specific process, timing, and order by which felony probable cause determinations and felony warrant requests are made and approved within the Department, and are approved by the Prosecuting Attorney, prior to submitting a request and proposed felony arrest warrant for a judge to sign;

- d) The intended policies and procedures for accurately identifying by appearance and name, a felony suspect, prior to any probable cause determination or request for a felony arrest warrant;
- e) The intended policies and proper procedures for using social media as a means of investigating a crime or identifying a suspect;
- f) The intended policies and proper procedures in regard to requesting and obtaining statements from all suspects in the investigation, and from all witnesses and other third-parties from whom relevant information can be requested, obtained, and evaluated, prior to making a probable cause determination or felony warrant request;
- g) The intended policies and proper procedures in regard to the timing, manner, and means by which a suspect's assertion that he has been misidentified or wrongfully arrested should be communicated to the investigator in charge of the investigation, following the issuance and execution of a felony arrest warrant that was requested by the officer (investigator) in charge, in an effort to avoid the deprivation of an innocent person's further deprivation of liberty;

- h) The intended policies and proper procedures as to the timing and location of the execution of a felony warrant arrest of a high school student;
- i) The intended policies and proper procedures for accurately identifying a suspect based on a racial profile, the spelling of his name, and/or other identifying information, social media profile and sign-on information, and other available information;
- j) The intended policies and proper procedures by which felony investigative files, probable cause determinations, and warrant requests are specifically assigned, managed, communicated, reviewed, and approved by and between the various personnel of the CID and officers' division of the Department;
- k) The intended policies and proper procedures and timing by which periodic determinations by the City are to be made to insure that all policy-required audits and inspections, as well as periodic employee evaluations, are conducted for the purpose of insuring that all personnel are performing all expected job functions and duties, and insuring that the Department's day-to-day operations are in compliance with federal and state law, and the City's intended policies, day-to-day practices, and procedures;

- l) The intended policies and proper procedures for reporting another employee's violations of intended departmental policies, practices, or procedures, substandard work or non-performance, false statements, or other misconduct and/or acts of negligence within the Department;
- m) The intended policies and proper procedures, manner, means, and timing of turning an investigative file over to CID;
- n) The intended policy and proper practice and procedure, manner, means, and timing of consulting with, and obtaining approval from, the Prosecuting Attorney, in connection with a felony probable cause determination and warrant request; and
- o) The intended policy and proper practice and procedure, manner, means, and timing of obtaining an immediate supervisor's approval of a probable cause determination and felony warrant request.

122. Further, Terrance's mistaken identity protest, which he made immediately upon his arrest, and during Defendant Wallace's post-arrest interrogation in the Benton County Jail, should have triggered a series of actions designed to minimize the infringement of Terrance's liberty interests, and to definitively identify the arrestee (Terrance).

123. However, there were no policies or procedures in place within the Police Department, which would have prompted such action. And none of the

officers involved, including Defendant Wallace, had been adequately trained and educated on what to do in such a situation. Defendant Wallace could and should communicated with Defendant Stuart and/or Defendant Cummins or Defendant Harper, concerning Terrance's denial of involvement and mistaken identity protest, immediately upon his post-arrest interrogation. But he failed to do, and his failure constitutes gross negligence.

124. Such policies and procedures are easy to promulgate, and all of the defendants were aware at and prior to the time of the Terrance's arrest that mistaken identity arrests are not rare.

125. The importance of the policies and procedures discussed herein is significant, in light of the foreseeable and virtually certain risk of wrongful arrests that will result in the deprivation of one's liberty, and injury, in the absence of such policies and procedures.

126. The defendants should have communicated, but at all times failed to communicate, with each other about Terrance and their investigation, and about his arrest and mistaken identity protest.

127. Further, the City's Police Department had no policies in place that imposed any consequences for any of the particular types of acts or omissions that are described in this Complaint.

128. Further, the City's Police Department had no policies and procedures, much less adequate ones, that established a suspect-identifiers checklist, or a procedure for obtaining a supervisor's review of all photographic

and other evidence as to the identification of the suspect, to ensure that all steps for positive identification have been accomplished and approved by a supervisor – particularly in cases involving notice of a misidentification.

129. The City, acting by and through its Police Department and personnel, failed to promulgate policies that establish the said series of actions that were needed leading up to and immediately following Terrance's arrest and protests.

130. The City's establishment of habit-based (day-to-day) policies that violated federal and state law proximately resulted in Terrance's wrongful arrest and deprivation of liberty, in the absence of probable cause or any actual probable cause review or determination by the Prosecuting Attorney.

131. The City's and Defendant Harper's failure to adequately train and educate the City's police personnel proximately resulted in Terrance's wrongful arrest and deprivation of liberty, in the absence of probable cause or any actual probable cause review or determination by the Prosecuting Attorney.

132. As a proximate result of his wrongful arrest, Terrance lost the liberty that was guaranteed him by the Fourth Amendment to the United States Constitution.

133. As a proximate result of his wrongful arrest, Terrance missed more than a full day of school (classes), and football practice.

134. As a proximate result of his wrongful arrest, Terrance suffered the significant stigma associated with being arrested on felony charges that involve offenses of dishonesty.

135. As a proximate result of his wrongful arrest on the Fayetteville High School Campus, during school hours, and as a result of the voluminous amount of news reports, media coverage, and social media posts that immediately followed in the middle of his senior year of high school and football season, Terrance suffered great emotional and physical distress, anguish, loss of sleep, and embarrassment, over an extended period of time, as a result of his arrest.

136. As a proximate cause of his wrongful arrest, Terrance's name and photographs were posted and disseminated across multiple social media and local and state news platforms, and, for months following the City's admission that its police officers and department (Defendants) arrested the wrong person, stories of Terrance's felony arrest and involvement in the crimes, and pictures of Terrance, including his mugshot at the Benton County Jail, continued to be discoverable on the internet. They were discoverable through a quick "Google" search of Terrance's name, on the internet, just like the one on which Defendant Stuart completely relied in matching the face of one young, black high school student with another.

137. As a proximate result of his arrest, Terrance's college football recruiting was affected, to the potential detriment of a college education.

138. As a proximate result of his wrongful arrest, Terrance also incurred attorney's fees, and he lost the time value (interest) of the bond that was refunded to him by the County, following his vindication in the matter.

139. At all times relevant herein, each individual defendant named herein was acting as an employee or agent for the Defendant City, and all acts and omissions committed by them are imputed to Defendant City.

140. All acts and omissions of the individual defendants named herein violated clearly established statutory and constitutional rights of which a reasonable person would have known. Their acts and omissions were so obviously wrongful, in light of preexisting law, that only a plainly incompetent officer or one who was knowingly violating the law would have done such a thing.

#### **Count I: Violation of 42 U.S.C. § 1983 – Due Process**

141. Plaintiff incorporates each paragraph of this Complaint as if fully restated herein immediately below.

142. In the manner described more fully above, Defendants, while acting as investigators, individually, jointly, and in conspiracy with one another, as well as under color of law and within the scope of their employment, deprived Plaintiff of his constitutional right to any probable cause review and determination by the Benton County Prosecuting Attorney, prior to their submission of the Warrant for Terrance's arrest to the Benton County Circuit Court.

143. Defendants knew of their obligation to obtain the Benton County Prosecuting Attorney's approval of any felony probable cause determination and felony warrant request. But they intentionally disregarded their obligation, circumvented the Prosecuting Attorney and his charging authority, and implicitly but nevertheless falsely represented to the Benton County Circuit Court (Judges) that the Prosecuting Attorney had approved warrant requests.

144. According to Defendant Cummins, who was a sergeant and supervisor within the Police Department, this was the regular and routine practice of the Police Department.

145. Defendant Harper and the other defendants were deliberately indifferent to such practices and policies, and to the actual, day-to-day operations and police work that was being conducted within the Department. They were deliberately indifferent to the fact that the practices, policies, omissions, and conduct complained of herein violated federal and state law, were unethical, and risked constitutional injury to those with whom the City, by and through its Police Department and personnel, came into contact. Defendants' acts and failures to act were committed with a complete and deliberate indifference to the foreseeable consequences of the same.

146. Said conduct was part of pattern and practice (habit) and, therefore, a *de facto* policy, of the Defendant City and its Police Department, and the policy was not known but ignored, if not encouraged and accepted, by all of the defendants.

147. This was a proximate result of the City's failure to properly train and educate its police officers and detectives, and its Chief of Police, and a failure to perform periodic audits and reviews of the Police Department's day-to-day operations and personnel.

148. Said acts and omissions, as described herein, were also the proximate result of the defendants' deliberate indifference to what were foreseeable, if not certain, deprivations of one's constitutional rights to due process and liberty.

149. Defendants violated Plaintiff's right to the procedural due process that is guaranteed to him under the 14<sup>th</sup> Amendment to the United States Constitution; the defendants deprived the plaintiff of any probable cause (charging) determination by the Benton County Prosecuting Attorney, prior to Plaintiff's arrest and jailing.

150. Additionally, Defendants violated Plaintiff's right to the substantive due process that is guaranteed to him under the 4<sup>th</sup> Amendment to the United States Constitution; the defendants deprived the plaintiff of liberty, without any probable cause for doing so.

151. Defendants' acts were so reckless and impetuous that malice can and should be inferred. The defendants possessed but intentionally disregarded relevant, exculpatory information that clearly evinced the fact that they had identified the wrong person as a suspect of the crimes that occurred in the City in September of 2016. They were intent on arresting the star running back for

Fayetteville High School, and receiving positive attention of a high profile case against him, and they were following departmental day-to-day practices and *de facto* policies that had resulted from the City's and Defendant Harper's failure to train and educate.

152. Said acts and omissions, and the injuries that resulted, were proximately caused by the City's and Defendant Harper's failure to adequately train, educate, and perform periodic evaluations of the Department's actual practices and *de facto* policies, and of his personnel.

153. Upon information and belief, based on the City's response to an FOIA request that was made prior to the filing of this Complaint, Defendants have concealed exculpatory evidence that has not yet been produced, in an attempt to conceal evidence of the defendants' reckless disregard of, and deliberate indifference to, relevant information that was either exculpatory in nature or evidenced the defendants' gross incompetence (negligence) and deliberate indifference to good police work, the truth, and what were foreseeable consequences of their actions.

154. Plaintiff has suffered all compensatory damages of which he has complained hereinabove, in amounts that will be proven and otherwise requested at trial.

155. Plaintiff is entitled to a judgment against the defendants, in the total amount of the said damages, together with his attorney's fees and costs herein.

156. Additionally, Plaintiff is entitled to a punitive damage award against the defendants, in an amount not less than \$750,000.00.

**Count II: Violation of 42 U.S.C. § 1983 – Malicious Prosecution**

157. Plaintiff incorporates each paragraph of this Complaint as if fully restated herein immediately below.

158. In the manner described hereinabove, Defendants, acting as investigators, individually, jointly, and in conspiracy with one another, as well as under color of law and within the scope of their employment, accused Plaintiff of criminal activity and exerted influence to initiate, continue, and perpetuate judicial proceedings (Benton County, Arkansas Circuit Court Case No. CR-16-2048-1) against the plaintiff, that is, without any probable cause for doing so, and in spite of the fact that they knew or had substantial reason and should have known that he was not only innocent but had actually had no involvement in, or any connection whatsoever with, the alleged crimes or perpetrators.

159. In doing so, Defendants caused Plaintiff to be unreasonably seized without probable cause, and completely deprived of his liberty, in violation of Plaintiff's rights secured by the Fourth and Fourteenth Amendments.

160. The false judicial proceedings against Plaintiff were instituted and continued maliciously, resulting in Plaintiff's injury; and they were terminated only through the work and efforts of the undersigned attorney for the plaintiff, with the assistance of the Prosecuting Attorney's Office.

161. Defendants deprived Plaintiff of any fair or actual probable cause determination by qualified supervisor, detective, or other personnel within the City's Police Department, or by the Benton County Prosecutor, prior to his arrest and detention (jailing), and deprived of any opportunity to defend and exonerate himself.

162. In fact, Defendant Wallace completely disregarded the plaintiff's statements that he had no connection with either the crimes or juvenile suspects involved, had never been to Centerton, Arkansas, and was not the person for whom the City was looking.

163. Arkansas law does not provide an adequate state-tort remedy to redress the harm the plaintiff suffered in connection with the deprivation of his liberty.

164. Defendants subjected Plaintiff to arbitrary governmental action that shocks the conscience, in that Plaintiff was deliberately and intentionally accused of crimes in which he had no involvement whatsoever, because the defendants desired the arrest (and case against) a locally high profile, high school football player who played for a rival high school, and were following Department practices and policies that were the result of the City's failure to adequately train and educate its personnel.

165. The misconduct described herein was objectively unreasonable and was undertaken intentionally, with malice, with reckless and deliberate

indifference to the rights of others, and a complete disregard of the truth and Plaintiff's clear innocence.

166. As a result of Defendants' misconduct described in this Count, Plaintiff suffered loss of liberty, great mental anguish, humiliation, degradation, physical and emotional pain and suffering, and other grievous and continuing injuries and damages as set forth above.

167. On or about December 2, 2016, the judicial (criminal) proceedings against Plaintiff, in Benton County, Arkansas Circuit Court Case No. CR-16-2048-1, were terminated in his favor, with the entry of an *Order of Dismissal and Vacating Arraignment*, by Hon. Robin Green, Benton County Circuit Court Judge, indicative of the plaintiff's innocence.

168. Defendants' misconduct described in this Count was undertaken pursuant to the policies, practices, and customs of the City and its Police Department personnel, including the individual defendants.

169. Defendant City and Defendant Harper were final policymakers for the Police Department.

170. Plaintiff seeks the entry of a judgment against the defendants, jointly and severally, in the total amount of all compensatory and exemplary damages that are claimed herein and proven and otherwise awarded at trial.

### **Count III: Violation of 42 U.S.C. § 1983 – Failure to Intervene**

171. Plaintiff incorporates each paragraph of this Complaint as if fully restated herein immediately below.

172. In the manner described above, during the constitutional violations described herein, one or more of the defendants stood by, without intervening to prevent the violation of Plaintiff's constitutional rights, though they had ample, reasonable opportunity to do so.

173. As a result of the defendants' failure to intervene to prevent the violation of Plaintiff's constitutional rights, Plaintiff suffered pain and injury, as well as emotional distress and the other injuries of which he has complained herein.

174. The misconduct described herein was objectively unreasonable and was undertaken intentionally, with malice, reckless indifference to the rights of others, and in total disregard of the truth and Plaintiff's clear innocence.

175. As a result of Defendants' misconduct described in this Count, Plaintiff suffered a loss of liberty, and great mental anguish, humiliation, degradation, physical and emotional pain and suffering, and other grievous and continuing injuries and damages as set forth above.

176. Defendants' misconduct described in this Count was undertaken pursuant to the policies, practices, and customs of Defendant City, acting by and through its Chief of Police, Defendant Harper, and his police personnel, including the individual defendants herein named.

177. Defendant Harper was a final policymaker for Defendant City, and he was ultimately responsible for all policies, practices, and customs within the Department. And he was additionally responsible for adequately training,

educating, and evaluating all police personnel and their day-to-day practices and policies, though he grossly failed to do so prior to Terrance's criminal arrest.

178. Plaintiff seeks the entry of a judgment against the defendants, jointly and severally, in the total amount of all compensatory and exemplary damages that are claimed herein and proven and otherwise awarded at trial.

#### **State Law Claims - Counts 4-8**

179. Plaintiff incorporates each paragraph of this Complaint as if fully restated herein immediately below.

180. In addition to Plaintiff's Section 1983 claims above (Counts 1-3), Plaintiff asserts the following state law claims, based on Arkansas law, either in addition to Counts 1-3, or as an alternative thereto, to the fullest extent permitted by the federal law and the Federal Rules of Civil Procedure:

**Count 4: Violation of Ark. Code Ann. § 16-123-107**

**Count 5: Malicious Prosecution**

**Count 6: False Light/Invasion of Privacy Claim**

**Count 7: Tort of Outrage**

**Count 8: Ordinary Negligence**

181. Plaintiff seeks the entry of a judgment against the defendants, jointly and severally, in the total amount of all compensatory and exemplary damages that are claimed herein and proven and otherwise awarded at trial.

182. The damages sought under each of the 8 counts asserted herein exceed the threshold amount needed for diversity jurisdiction in federal court.

183. Plaintiff reserves his right to amend this pleading to assert additional claims and add additional defendants following additional investigation, and execution of written and oral discovery, in the case.


184. **PLAINTIFF PRAYS FOR A TRIAL BY JURY ON ALL CLAIMS AND ISSUES SO TRIABLE.**

WHEREFORE, PREMISES CONSIDERED, the Plaintiff prays for judgment against all of the defendants herein-named, jointly and severally, in the amount of all compensatory and exemplary damages requested herein, including all statutory damages, attorney's fees, and costs; and for any and all other relief to which he might prove himself entitled at trial, whether specifically prayed for herein or not.

Respectfully submitted,

Plaintiff,

TERRANCE C. ROCK,

By: /s/   
~~S. Lance Cox-BIN-98127~~  
COX, COX & ESTES, PLLC  
Attorneys at Law  
P.O. Box 9630  
Fayetteville, AR 72703-0028  
(479) 251-7900  
[lcox@coxfirm.com](mailto:lcox@coxfirm.com)

His Attorneys

\*\*\*WARRANT\*\*\*

BENCH

CASE NO. CR-PENDING

DEFENDANT INFORMATION:  
TERRANCE ROCK  
B/M DOB: 12/22/1997

THE STATE OF ARKANSAS:

F460092014

TO ANY SHERIFF, CONSTABLE, CORONER, POLICEMAN OR MARSHAL OF THIS STATE:

YOU ARE COMMANDED FORTHWITH TO ARREST: TERRANCE ROCK  
ADDRESS: UNKNOWN

AND BRING HIM BEFORE THE BENTON COUNTY CIRCUIT COURT TO ANSWER AN INFORMATION IN THAT COURT  
AGAINST HIM FOR:

RESIDENTIAL BURGLARY, 5-39-201, CLASS B FELONY; THEFT OF PROPERTY, 5-36-103, CLASS D FELONY

A FELONY, A MISDEMEANOR, OR IF COURT BE ADJOURNED FOR THE TERM THAT YOU DELIVER HIM TO THE  
JAILER OF BENTON COUNTY, ARKANSAS

WITNESS MY HAND AND THE SEAL OF SAID COURT THIS 10TH DAY OF OCTOBER, 2016.

BRENDA DESHIELDS, CIRCUIT CLERK

BY

*Brenda Deshields*



STATE OF ARKANSAS - COUNTY OF BENTON, SS

I HEREBY CERTIFY THAT I HAVE THIS 15 DAY OF NOV, 2016

DULY SERVED THE WITHIN WARRANT BY ARRESTING THE WITHIN DEFENDANT

BY

*Major Gilbert*  
*Sgt. K. Coyle*

SHERIFF

D.S.

## IN THE BENTON COUNTY DISTRICT COURT,

## CENTERTON DIVISION

## BENTON COUNTY, ARKANSAS

AFFIDAVIT OF PROBABLE CAUSE TO OBTAIN A WARRANT

STATE OF ARKANSAS

VS

Terrance Rock B/M  
DOB: 12/22/1997PLANTIFF  
BENDI DESHIELDS  
CLERK AND RECORDER  
BENTON COUNTY, AR  
DEFENDANT

2016 OCT 10 AM 10:26

FILED

## FACTS CONSTITUTING PROBABLE CAUSE FOR A WARRANT

Comes now, Officer Patrick Stuart, of the Centerton Police Department, and under oath doth state:

The records of the Centerton Police Department reveal that:

On September 25th, 2016 at approximately 2216 hours, I was dispatched to 3431 Oak Tree for a delayed Burglary report.

Upon my arrival, I made contact with James Sliker (8/28/1969). Mr. Sliker explained to me that three teenage males had burglarized his home and stolen from it.

Mr. Sliker explained to me how his daughter knew who the boys were. His daughter, AS(juvenile), explained she met the boys through a friend of hers who dated one of them. She explained she received a text from the boys and they asked where she lived. She stated her father had left the house at approximately 1545 hours. She mentioned she text the one that is known as "Money" (aka MD(juvenile)), whom she knew. She stated they arrived at the house shortly after and parked outside. Her father had left the house to pick up her little sister and ran some errands.

AS explained after they pulled up near the house in their green car, and one subject she knew as "Omar" (aka YS(juvenile)), was driving. She stated they all were trying to coerce her into the vehicle and made some suggestive sexual remarks about them trying to "take turns" with her sexually. She stated she started to feel uncomfortable and called her dad. Mr. Sliker stated he told her he was only a few minutes away and did not pick up on her nervous tone at the time. He stated he realized now something did not seem right and that his daughter was signaling him to

come home. AS explained she felt very uncomfortable and refused to get in the vehicle several times. AS then stated she went to go inside the house to get away from them.

While she was making the call, the neighbor across the street, Kammi Wooldridge, observed the vehicle full of the males and was concerned. The neighbor took a picture of the vehicle and sent it to Mr. Sliker. This neighbor also explained to Mr. Sliker they saw the boys let themselves into the house after AS walked inside.

AS confirmed that as she attempted to close the door, one of the males stopped the door from closing and told her they were coming inside as well. She explained she became increasingly nervous and felt they were very pushy. She went up to her bedroom and was very uncomfortable. AS explained the boys followed her up there and continued their sexual advances, continuing to suggest on "taking turns" with her. She stated they were acting nervous and continued to look out the window for her dad to come home. She mentioned at one point, one of the males, Terrance Rock, became aggressive and walked up to her. She mentioned he put his arms around her from behind. I asked her if he put his hands in any places that she felt unwelcome or inappropriate, to which she replied they were only around her waist. AS said she was uncomfortable with being touched and slid down to the floor, causing Terrance to stop trying to touch her. She then stated YS began to advance on her and take the lead on the advances. She mentioned at one point that MD stopped the other boys from touching her physically. She did mention the verbal advances and suggestive statements continued.

AS mentioned she heard a knock at her door when her father arrived home. She explained the boys all hid in her bathroom/closet area from her father. She stated she went downstairs to get a medicine and get away from them. AS then stated she came back upstairs and had to shower. She explained she locked the boys in her bedroom so they could not access the bathroom while she showered. She then stated shortly after she finished showering, one of the boys told her that they would walk downstairs to her father and tell him that she had sex with all of them if she did not have sex with them in her room. She mentioned they made this comment several times before she finally walked downstairs to leave the house with her father.

AS stated the boys were in the house when she, her father and sister all left. Not long after, her father became aware of the boys being in the house. They came home to the house being trashed and the bedrooms being ransacked. It appeared the boys had gone through all the drawers and closets to find something. Mr. Sliker explained AS' blue tooth Beats Pill speaker (\$180) went missing from her nightstand drawer. He also explained he noticed his phone charger was missing from his room. AS mentioned that approximately \$20 in cash was taken from her black backpack that was in her room. Mr. Sliker explained his closet was completely torn up and everything was thrown on the floor or moved. He explained later that two watches that were located in his top drawer were missing.

AS explained the boys had made some comments that they were in the house and did not take anything. She showed me several messages from Mr. Rock (Instagram User Name - 479tor). Mr. Rock was telling her that she should not lie and say he took anything. It also said that "she did this" because they "let her in the house."

Mr. Sliker showed me several pieces of information on AS' phone and his. He showed me several text conversations with him and Mr. Rock. Below is a compiled paragraphs of information about each boy as I have found and confirmed their identities.

Mr. Sliker showed me one Instagram for MD, aka "Money," as Almightyy.money5. It was explained that he lived in Springdale, but his mother (Tameca) was a teacher in Fayetteville, so he went there and played football for the Freshman team. AS showed me several pictures on his Instagram that depicted him in a football jersey wearing the #6. I googled Fayetteville High School Football and found a freshman football player by the name of Marquez Douglas, who wore number 6. I looked at some photos that popped up and verified they were in fact the subject was in fact "Money." Through making contact with a school resource officer in Fayetteville High School, MD was found to have the birthdate of 12/5/2000.

AS explained she did not know the driver she called "Omar." She explained he was hispanic and was wearing a black Polo hat with a yellow logo and khakis. She explained the car was older and squared. Later, Mr. Sliker sent me an email with screen shot messages he had exchanged with Terrance, where Terrance sent a screen shot of Omar's Snapchat, user name Yiilmar1409. Mr. Sliker asked Terrance what Omar's name was. He stated he did not know his last name because its "something weird, he's Columbian." The Snapchat read as Yiilmar1409 and I tried the same user name on Instagram and found it return to a YS out of Fayetteville and it explained he was Columbian in the summary. Mr. Sliker continued a conversation with Terrance where he said YS was only joking and would return the property if he did not go to the police. It also showed that Terrance stated he did not know YS stole anything until later.

Initially, the only information of Terrance was an Instagram user name of 479tor. I could see in the Instagram that the black male identified by AS as Terrance was wearing a Fayetteville High School football jersey. I googled the 2016 roster for Fayetteville High School Football and found a senior name Terrance Rock (12/22/1997) that I identified as the same subject from the photos on the Instagram profile for "479tor." Several pictures of messages between Mr. Sliker and Terrance Rock have been collected where he admitted to being in the home when items were stolen. Mr. Rock pleaded with Mr. Sliker to let them return the items to avoid getting in trouble with police. AS described Terrance as wearing a black shirt and black shorts.

Mr. Sliker also sent me a picture that his neighbor took of the vehicle they pulled up in. It appeared to be a green 1991-1995 Ford Taurus or Mercury Sable. He explained the neighbor saw a lot, even them letting themselves into the home after AS attempted to go inside.

He explained he would contact the neighbor and have them call us. I notified him that the report would be filed and that the detectives would follow up.

Several neighbor statements were collected stating the same description of the three males in the green car at the house. Once witness, Kammie Wooldridge, witnessed the three males letting themselves into the front door of the house without AS letting them in. It was also described that all three males left the house with items in their hands and wearing different clothes from what they wore when they went inside.

On September 27th, 2016 at approximately 2143 hours, YS was arrested for Theft by Receiving after attempting to return the items to Mr. Sliker in the Walmart Neighborhood Market parking

lot. Several items (Movado Series 800 Watch, Beats Bluetooth Pill Speaker, a Fitbit watch, a blue hat, several rings and one earring) were what Mr. Sliker described to be missing from his home the night of the initial report or items he recognized to belong to him but did not notice were missing. Mr. Sanchez was not interviewed due to a language barrier. Some items are still missing and described to be in MD's possession.

END 1528

I swear that the allegations contained herein are the truth, the whole truth, and nothing but the truth.

Witness my hand this 4th day of October, 2016.

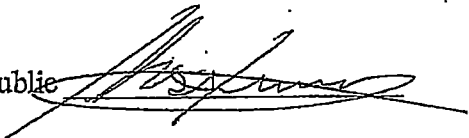


Officer Patrick Stuart, Badge #1528  
Centerton Police Department  
220 Municipal Drive  
PO Box 100  
Centerton, AR 72719  
479-795-4431

STATE OF ARKANSAS  
COUNTY OF BENTON

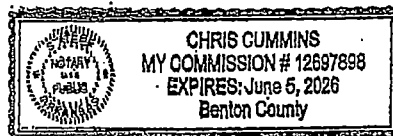
Subscribed and sworn to before me this 4th day of October, 2016.

Notary Public



My Commission Expires: 06/05/2026

APPROVED:



Prosecuting Attorney

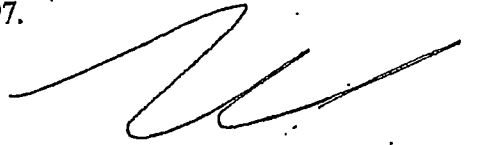
ORDER

I hereby find that this sworn affidavit demonstrates reasonable and probable cause for the issuance of a Warrant of Arrest for the above named individual for the offense of:

*CLASS B Felony* *CLASS D Felony*  
Residential Burglary (5-39-201(a)(1) and Theft of Property (5-36-103(b)(3)(a) and I

direct the Centerton City Court Clerk to issue a warrant for the arrest of Terrance Rock DOB.

12/22/1997.



Judge

*12/14/1996*  
Date