

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
CHATTANOOGA DIVISION**

HUGO GARCIA PADILLA,)	
)	
PLAINTIFF,)	
)	
vs.)	No. _____
)	JURY DEMAND
)	
BILLY LANKFORD,)	
)	
DEFENDANT.)	

COMPLAINT

Comes the Plaintiff, Hugo Garcia Padilla, by and through undersigned counsel, and for his cause of action against the Defendant would respectfully show to the Court and Jury as follows:

I. THE PARTIES

1.1 The Plaintiff, Hugo Garcia Padilla, is a resident of Hamilton County, Tennessee.

1.2 The Defendant, Billy Lankford, is, upon information and belief, a resident of Hamilton County, Tennessee, and at all times relevant to this Complaint was acting under color of state law as a police officer for Soddy-Daisy, Tennessee. Defendant Lankford is being sued in his individual capacity as a police officer of the Soddy-Daisy Police Department.

II. JURISDICTION

2.1 This Court has jurisdiction over the Federal claims asserted in this action pursuant to 28 U.S.C. § 1331 (Federal Question) and § 1343 (Civil Rights), as well as 42 U.S.C. § 1983. This court has jurisdiction over the State claims asserted in this action pursuant to 28 U.S.C. §1347 (Supplemental), as both the State claims and Federal claims form part of the same controversy.

III. VENUE

3.1 Venue of this action is proper pursuant to 28 U.S.C. 1391(b) in that the events giving rise to the action occurred in the Eastern District of Tennessee.

IV. NATURE OF THE CASE

4.1 This action arises under the Fourth Amendment to the United States Constitution and under federal law, specifically, the Civil Rights Act of 1964 (as amended), 42 U.S.C. § 1983 *et seq.* for violations of the Constitutional Rights of the Plaintiff, Hugo Garcia Padilla. It also arises under Tennessee law for a claim of false imprisonment and malicious prosecution.

V. FACTS

5.1 On or about January 4, 2022, there was a shooting which took place at 9607 Barbee Road, Lot 87, Soddy-Daisy, Tennessee.

5.2 Defendant Lankford, a police officer with the Soddy-Daisy Police Department, responded to the incident and took a report from the victim, Mr. Leonardo Maya.

5.3 Mr. Maya gave Defendant Lankford the first name of the suspect, which was “Hugo.”

5.4 Mr. Maya also informed Defendant Lankford that the suspect lived near the O’reilly’s Auto Parts store on Hixson Pike.

5.5 Mr. Maya also reported that the suspect drove a Grey Ford F-150 pickup truck.

5.6 Mr. Maya never told Defendant Lankford that the name of the suspect was Hugo Garcia Padilla.

5.7 Mr. Maya never told Defendant Lankford that the suspect lived on Ely Road where Mr. Padilla lived.

5.8 Mr. Padilla did not own a Grey Ford F-150 pickup truck.

5.9 On January 5, 2022, Defendant Lankford swore out an affidavit of complaint against Mr. Padilla claiming that he was guilty of violating Tenn. Code Ann. § 39-13-102 - Aggravated Assault, A Class C Felony, and Tenn. Code Ann. § 39-13-103 - Reckless Endangerment, a Class E Felony.

5.10 Within the affidavit, Defendant Lankford stated under oath that the victim, Mr. Maya, told him that the name of the suspect was “Hugo Garcia-Parilla” and that the suspect lived at Mr. Padilla’s address.

5.11 Defendant Lankford’s statements in the affidavit of complaint were false because Mr. Maya had only provided the first name of the suspect, “Hugo,” and had not identified Mr. Padilla as the suspect because Mr. Maya knew Mr. Padilla and knew that he was not the person who had assaulted him.

5.12 Defendant Lankford's statements in the affidavit of complaint were also false because Mr. Maya had not given Mr. Padilla's address as the address of the suspect.

5.13 Defendant Lankford knew his statements were false or was reckless in making his statements without knowing whether they were true or false, at the time he made the statements.

5.14 Because Defendant Lankford's statements were false, there was no probable cause to charge or arrest Mr. Padilla with aggravated assault or reckless endangerment.

5.15 Despite Defendant Lankford's statements being false, warrants were issued for Mr. Padilla's arrest.

5.16 Defendant Lankford made, influenced, and participated in the prosecution of Mr. Padilla for aggravated assault and reckless endangerment.

5.17 Pursuant to the warrant, Mr. Padilla was arrested and detained at the Hamilton County Jail.

5.18 Despite the lack of probable cause for his prosecution, Mr. Padilla continued to be subject to detention even after his initial arrest as a result of the charges brought against him by Defendant Lankford.

5.19 Mr. Padilla's case was ultimately dismissed when it was confirmed by the district attorney's office that Mr. Padilla was not the actual suspect in the case.

5.20 As a result of the unfounded criminal charge brought against him, Mr. Padilla suffered public humiliation, stress and anguish as well as a deprivation of his liberty, was required to defend himself from criminal charges that lacked probable cause, and incurred economic hardships.

5.21 In swearing out the affidavit of complaint against Mr. Padilla, Defendant Lankford was acting intentionally and deliberately and under the color of the laws of the State of Tennessee and in his capacity as police officer for Soddy-Daisy, Tennessee.

5.22 The Fourth Amendment to the Constitution of the United States requires probable cause to exist before a person is arrested.

COUNT I
(FOURTH AMENDMENT - VIOLATION OF 42 U.S.C. § 1983 -
FALSE ARREST AND MALICIOUS PROSECUTION)

6.1 Defendant Lankford's false statements and other actions described above to obtain criminal warrants against Mr. Padilla while acting under color of law, deprived Mr. Padilla of his right to be secure in his person against unreasonable searches and seizure as guaranteed to Mr. Padilla under the Fourth Amendment to the United States Constitution.

6.2 As a result of Defendant Lankford's actions, Mr. Padilla was arrested and prosecuted for violating Tenn. Code Ann. §§ 39-13-102 and 39-13-103.

6.3 Defendant Lankford made, participated in, and/or influenced the prosecution of Mr. Padilla, in that he made false statements claiming that Mr. Padilla was the person identified as engaging in the criminal conduct alleged in the affidavit of complaint.

6.4 Defendant Lankford's statements were made knowing that the statements were false or with a reckless disregard to their truth.

6.5 The arrest and prosecution of Mr. Padilla for violating Tenn. Code Ann. §§ 39-13-102 and 39-13-103 was without any probable cause because Mr. Padilla was not the

person who had engaged in such criminal conduct and had never been identified by anyone as being the person engaging in such conduct.

6.6 As a direct and proximate result of the criminal prosecution of Mr. Padilla for violating Tenn. Code Ann. §§ 39-13-102 and 39-13-103, Mr. Padilla was deprived of his right to be free from arrest and prosecution without probable cause.

6.7 The charges against Mr. Padilla for violation of Tenn. Code Ann. §§ 39-13-102 and 39-13-103 were dismissed on or about February 1, 2022.

6.8 Pursuant to statute, Defendant Lankford is liable to Mr. Padilla for special and general compensatory damages, including but not limited to, emotional, physical, economic, and pecuniary damages, punitive damages, and reasonable attorney's fees and costs.

COUNT V
(State Law Claims - False Imprisonment and Malicious Prosecution)

7.1 On January 5, 2022, Mr. Padilla was arrested and prosecuted for violation of Tenn. Code Ann. §§ 39-13-102 and 39-13-103.

7.2 Defendant Lankford restrained and arrested Mr. Padilla without probable cause and without any evidence that Mr. Padilla had committed any crime.

7.3 Defendant Lankford started and/or brought about the criminal prosecution of Mr. Padilla as described above with malice and without probable cause that Mr. Padilla had committed any crime.

7.4 The charges against Mr. Padilla were dismissed on or about February 1, 2022.

DAMAGES

8.1 As a direct and proximate result of the unlawful conduct of the Defendant as described above, Hugo Garcia Padilla experienced significant emotional pain and suffering.

8.2 As a direct and proximate result of the unlawful conduct of the Defendant as described above, Hugo Garcia Padilla experienced significant mental anguish.

8.3 As a direct and proximate result of the unlawful conduct of the Defendant as described above, Hugo Garcia Padilla has experienced a diminished quality of life and impairment to his ability to enjoy life.

8.4 As a direct and proximate result of the unlawful conduct of the Defendant as described above, Hugo Garcia Padilla has experienced a loss of earnings and an impairment to his earning capacity.

8.5 As a direct and proximate result of the unlawful conduct of the Defendant as described above, Hugo Garcia Padilla incurred costs in having to defend himself from the criminal charges brought against him.

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully demands judgment against Defendant to the extent permitted by law, as follows:

1. That proper process issue and be served upon the Defendant, requiring him to answer this Complaint within the time required by law;
2. That Plaintiff be awarded a judgment for compensatory damages in an amount to be determined by the trier of fact not to exceed the maximum amount allowed by law;

3. That the Plaintiff be awarded a judgment for punitive damages against Defendant Lankford, in an amount that is necessary to punish Defendant Lankford, and to deter others from committing similar wrongs in the future;

4. That the Plaintiff be awarded his costs, litigation costs, discretionary costs, pre- and post judgment interest, and attorney's fees pursuant to 42 U.S.C. §1988; and

5. That Plaintiff be granted such other, further, and general relief as to which he is entitled.

Respectfully Submitted,

MOSELEY & MOSELEY

ATTORNEYS AT LAW

BY: /s/ James Bryan Moseley

James Bryan Moseley No. 021236

Attorneys for Plaintiff

237 Castlewood Drive, Suite D
Murfreesboro, Tennessee 37129

615/ 254-0140

Fax: 615/ 634-5090

bryan.moseley@moseleylawfirm.com

UNITED STATES DISTRICT COURT

for the

Eastern District of Tennessee

HUGO GARCIA PADILLA

Plaintiff(s)

v.

BILLY LANKFORD

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Billy Lankford
Soddy Daisy Police Department
9835 Dayton Pike
Soddy Daisy, Tennessee 37379
423-332-3577

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: James Bryan Moseley, MOSELEY & MOSELEY, Attorneys at Law
237 Castlewood Dr., Ste. D,
Murfreesboro, TN 37129
615-254-0140 Fax: 615-634-5090
bryan.moseley@moseleylawfirm.com

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: