

2. This civil rights action is brought under 42 U.S.C. §1983 against the Estate of Former Grundy County Sheriff Brent Myers; Former Grundy County Sheriff Chief Deputy Lonnie Cleek (collectively, “Defendant Officers”); in their individual capacities, and against Defendant Grundy County, Tennessee.

3. This action seeks damages against Defendants caused by the violation of Plaintiff’s constitutional rights.

4. This action also raises state claims for malicious prosecution, civil conspiracy, *respondeat superior*, and indemnification.

5. Plaintiff seeks compensatory and punitive damages against the individual Defendants in their individual capacities and against Grundy County, Tennessee.

JURISDICTION AND VENUE

6. Plaintiff’s claims for relief are predicated upon 42 U.S.C. §1983, which authorizes actions to redress the deprivation, under color of state law, of rights, privileges, and immunities secured to the Plaintiff by the Constitution of the United States.

7. This action arises under the Fourth and Fourteenth Amendments to the United States Constitution. This court has jurisdiction over this action under 28 U.S.C. §§1331 and 1343.

8. Venue is proper in the Eastern District of Tennessee under 28 U.S.C. §1391(b)(2) because the events complained of occurred in this District, and because, on information and belief, Defendants reside in this District. Venue is also proper in

the Winchester Division of this Court because the events complained of occurred in Grundy County.

THE PARTIES

9. Adam Braseel (“Plaintiff”) is a United States citizen and resident of Tennessee.

10. Defendant Grundy County is a municipality formed under the laws of the state of Tennessee. The Grundy County Sheriff’s Office is a municipal agency or department of Defendant Grundy County Tennessee. Defendant Grundy County is liable for the acts of Defendants Myers and Cleek while acting within the scope of their employment pursuant to its statutory obligation to indemnify them.

11. Defendant Estate of Brent Myers (“Defendant Myers”) is joined as successor in interest to Brent Myers, who at all times relevant to this litigation was the duly elected Sheriff of Grundy County. Defendant Myers played a lead role in the investigation of Plaintiff’s case and was responsible for supervising his officers, including Defendant Cleek. He was also responsible for identifying, preserving, and disclosing favorable and material evidence to the Grundy County District Attorney General’s Office.

12. Defendant Lonnie Cleek (“Defendant Cleek”) was at all times relevant to this litigation former Chief Deputy of the Grundy County Sheriff’s Office. Defendant Cleek played a lead role in the investigation of Plaintiff’s case and was responsible for identifying, preserving, and disclosing favorable and material evidence to the Grundy County District Attorney General’s Office.

13. As Chief Deputy, Defendant Cleek supervised Grundy County Officers during the investigation of Plaintiff's case.

14. At all times relevant to this litigation, Defendants Myers and Cleek acted under color of state law and in the course and scope of their employment with Defendant Grundy County.

15. Defendants Myers and Cleek are sued in their individual capacities.

FACTUAL BACKGROUND

16. Plaintiff was wrongfully prosecuted and convicted for the murder and robbery of Malcolm Burrows ("Mr. Burrows") and attempted murder and assault of Rebecca Hill ("Ms. Hill"), which occurred in Tracy City, Tennessee on January 7, 2006. Specifically, Plaintiff was wrongfully convicted of first degree premeditated murder, felony murder, especially aggravated robbery, attempted first degree murder, aggravated assault and sentenced to an effective sentence of life imprisonment with the possibility of parole.

17. Due to Defendants' unconstitutional conduct described herein, Plaintiff spent over eleven years of his life in jail serving a life sentence for a brutal murder and assault that Kermit Bryson committed.

The Crimes

18. On Saturday, January 7, 2006, the night of the murder, the victim, Malcolm Burrows ("Mr. Burrows") and his sister Rebecca Hill ("Ms. Hill") were attacked by a perpetrator who pretended to be having car trouble after he came to Mr. Burrows' home.

19. After Mr. Burrows and the perpetrator had a conversation, Mr. Burrows left with the perpetrator in Ms. Hill's vehicle to help the perpetrator with his car troubles and was subsequently beaten to death. Ms. Hill's son, Kirk Braden ("Mr. Braden") was sleeping at the time.

20. The perpetrator returned to Mr. Burrows' house and assaulted Mr. Burrows' sister, Ms. Hill, and then the perpetrator got into a scuffle with Mr. Braden after he awoke. The perpetrator fled the scene.

21. Mr. Braden went to a neighbor's house and called 911 at 9:52 p.m.

The Investigation

22. Tracy City Officer Caldwell arrived at Mr. Burrows' house at approximately 10:00 p.m. and called an ambulance for Ms. Hill. There was blood everywhere. Pools of blood were on the kitchen floor and blood spatter covered the living room furniture.

23. Officer Andrew West from Grundy County arrived at the scene around 10:30 p.m. and spoke to Mr. Braden. Officer West reported the following description given by Mr. Braden of the perpetrator: an unknown young man with short red hair, medium build and about eye level height to Mr. Braden, which Officer West thought to be about 5'7".

24. Officer West requested Sergeant Michael Brown ("Sergeant Brown") to come to the scene at 10:30 p.m. to assist him with what was believed to be an assault call. Sergeant Brown arrived at the scene at 10:45 p.m.

25. Ms. Hill was airlifted to Erlanger Hospital.

26. The officers went back to Ms. Hill's car, which was still on the side of the road where Mr. Burrows had parked it after he left his home with the perpetrator.

27. Sergeant Brown found Mr. Burrows' body in the woods a short distance from Ms. Hill's blue Chrysler in a wooded area.

28. Sergeant Brown searched Mr. Burrows' body for identification and found Mr. Burrows' wallet in his right back pocket, which contained hundreds of dollars and Mr. Burrows' ID. The discovery of Mr. Burrows' ID allowed the police to identify him.

29. Sergeant Brown took photographs of Mr. Burrows' body as well as Mr. Burrows' wallet and attached the photographs to his police report, which he provided to the Grundy County Sheriff's Department. This report and the attached photographs were removed from the file by Defendants.

30. Lt. Scissom, who was already at the scene, requested the Grundy Sheriff's Department call Defendants Sheriff Brent Myers and Lonnie Cleek to the scene at 11:31 p.m.

31. The police processed both scenes: the house and the murder scene. At the house, they collected evidence and dusted for fingerprints. At the murder scene, they dusted the vehicle Mr. Burrows drove for prints and transported the car to the Tennessee Bureau of Investigation ("TBI").

32. Immediately after the scene was processed, Sergeant Brown began to ask everyone if they knew anyone who fit the description of the suspect. On the morning of January 8, 2006, a Confidential Informant (CI) advised him that she used to go to church with and sing in the choir with Plaintiff, but that Plaintiff's house

burned down in Pelham and he moved to Franklin County. The CI commented to Sergeant Brown that Plaintiff was a good Christian and not capable of murder.

33. After speaking to this CI, Sergeant Brown advised Defendant Sheriff Brent Myers that he found someone with red hair. After the information about Plaintiff having red hair was provided to Defendants Myers and Cleek, Defendant Cleek contacted TBI Agent Larry Davis and informed him that Plaintiff was a suspect. TBI Agent Davis was notified of this by Defendant Cleek at 1 p.m. on January 8, 2006, the day after the murder of Mr. Burrows.

34. Defendant Sheriff Myers, Sergeant Brown, and TBI Agent Larry Davis then located Plaintiff's mother.

35. After the visit to Plaintiff's mother, Sergeant Brown had no further role in the case and was not called as a witness in Plaintiff's trial, although he volunteered to testify.

36. With no leads, Defendant officers went to find Plaintiff because of the information that this one woman from town knew of one redheaded man, Plaintiff.

37. At Plaintiff's mother's house, Defendants had learned that Plaintiff had been driving his mother's car, a gold Acura. When they located Plaintiff and the Acura, they discovered that the Acura was not operable and had to be towed.

38. A search of the Plaintiff's mom's car (the Acura vehicle Plaintiff was driving) by TBI agents did not turn up any forensic evidence connecting Plaintiff with the murder and assault. There were no trademarks, matching the vehicle Plaintiff was driving during the relevant time, at the crime scenes either.

Plaintiff's Arrest

39. On January 18, 2006, Plaintiff was arrested. Among the charges for Plaintiff was the charge of felony murder especially aggravated robbery. The felony murder charge was based upon the predicate felony of aggravated robbery, which was based upon the premise that Plaintiff had stolen Mr. Burrows' wallet.

40. Plaintiff's jury trial began on November 7, 2007. Plaintiff's jury trial lasted two days, and Plaintiff was convicted of first degree premeditated murder, felony murder, especially aggravated robbery, attempted first degree murder, aggravated assault and sentenced to an effective sentence of life imprisonment with the possibility of parole.

41. On direct appeal, Plaintiff challenged the sufficiency of the evidence for murder, especially aggravated robbery and aggravated assault. He also complained that the pretrial identification processes were unduly suggestive. The appellate court found that Plaintiff waived the issue with regard to impermissibly suggestive pre-trial identification because no motion to suppress was filed pre-trial and no objection was lodged during trial to challenge the identifications.

42. The Tennessee Supreme Court denied Plaintiff permission to appeal.

43. On February 14, 2012, Petitioner filed a petition for post-conviction relief, alleging ineffective assistance of counsel, that his convictions were based on an unconstitutional failure of the prosecution to disclose evidence favorable to the defense, that his convictions were based on an unconstitutionally selected and impaneled grand jury, and that the trial court erred in admitting illegal evidence. Specifically, with regard to ineffective assistance of counsel, Petitioner questioned

trial counsels' failure to object to or contest the eyewitness identifications, call certain alibi witnesses, and the failure of trial counsel to request a jury instruction regarding the reliability of eyewitness identification. Petitioner also argued that trial counsels' cumulative failure to object to evidence at trial was ineffective assistance of counsel and that the State utilized an impermissibly suggestive photographic lineup for identification.

44. In a written order, the post-conviction court granted relief. On January 8, 2016, Plaintiff was released from prison. The State filed a notice of appeal.

45. On October 7, 2016, the appellate court reversed and remanded the post-conviction court, finding that Plaintiff failed to demonstrate ineffective assistance of counsel. The appellate court also rejected that a *Dyle* jury instruction should have been given on the eye-witness identification. Therefore, the appellate court reinstated Plaintiff's conviction, and Plaintiff returned to prison on October 11, 2016.

46. On May 23, 2017, Plaintiff filed a petition for a writ of habeas corpus in U.S. District Court for the Eastern District of Tennessee. Plaintiff filed a state petition for a writ of error *coram nobis* in state court, also on May 23, 2017. While the *coram nobis* hearing was taking place, the State offered an *Alford* plea to Plaintiff. Plaintiff entered an *Alford* plea to aggravated assault on Hill, allowing his immediate release from prison.

47. Plaintiff subsequently filed for clemency.

48. At the hearing, Sheriff Clint Shrum, who replaced Defendant Myers in 2014, stated, "I'm not a conspiracy theorist, but what I do think is this was some of the worst police work that I have ever seen in my life." In an affidavit that

accompanied one of Plaintiff's petitions, Mr. Shrum stated that the department's case file on the murder was missing when he took office.

49. After an evidentiary hearing, on June 24, 2020, the Tennessee Board of Parole met and voted unanimously to recommend that Governor Bill Lee pardon Plaintiff. Governor Bill Lee issued an exoneration to Plaintiff on December 2, 2021.

50. Plaintiff is Tennessee's first convicted murderer to be exonerated.

Failure to Investigate the Real Killer of Malcolm Burrows and Real Assailant of Rebecca Hill - Kermit Bryson

51. In the rush to judgment to prosecute and convict Plaintiff, Defendant overlooked the most obvious suspect, Kermit Bryson ("Kermit").

52. The murder of Mr. Burrows was clearly a rage killing fueled by deep personal animosity and not a robbery by a person with no relationship to the victim and no apparent need for resources, such as Plaintiff. Kermit's girlfriend was raising a young boy that Mr. Burrows considered his grandson; Mr. Burrows had raised the child's father. There was tension between Kermit and Mr. Burrows over the custody of the young boy was the most probable motive for the murder of Mr. Burrows.

53. Defendant failed to investigate witness reports of seeing a male resembling the perpetrator, Kermit, at Mr. Burrows' property before and on the night of Saturday, January 7, 2006.

54. One witness, Jay Douglas, reported to Defendant Myers that on Friday, January 6, 2006, he went to Mr. Burrows' residence and observed a male and female there with Mr. Burrows. Mr. Douglas described the male as white, about 6 feet tall, with hair that was over his ears and bushy, wearing a t-shirt, blue jeans, and reported

that there was a blonde female with this male, and that they had been driving a gold or tan car the size of a Toyota or Honda.

55. A number of witnesses reported observing a gold/tan vehicle at or near Mr. Burrows' property on Friday, January 6, 2006 and Saturday, January 7, 2006.

56. A neighbor of Mr. Burrows, Angela White, was interviewed on January 8, 2006. Ms. White gave a handwritten statement to Defendants. In the statement, Ms. White provided that at around 4:00 p.m. on January 7, 2006, she observed a "light gold newer model car turn around in our driveway." She stated that the same vehicle turned around and parked at the edge of her yard at about 6:45 p.m. Defendants ignored this information.

57. A neighbor, Tommy Flurry, provided a statement that was memorialized in a report, which Defendants had, that on the day of Mr. Burrows' murder, around 9-9:15 p.m., he was on his way home and saw a light colored car parked on right side of road and a man walking with a gas can was up the road near driveway of Mr. Burrows' house. Defendants also ignored this information.

58. Plaintiff had an airtight alibi for all these timeframes that witnesses observed a male resembling Kermit and his girlfriend and the vehicle they drove in the vicinity of Mr. Burrows' property. Plaintiff was in Coalmont, Tennessee at the time the crimes occurred. He was visiting with friends about a twenty-minute drive away from where the crimes unfolded.

59. Defendants failed to investigate the type of car witnesses observed the perpetrator was driving. Kermit's car was a tan/beige 1998 Ford Escort whereas Plaintiff's mother's car was a gold 1995 Acura. The cars are of two completely distinct

body styles. The Acura is boxy whereas the Ford Escort is rounded. The cars were also two different colors. The initial reports stated that witnesses observed a tan car. No witness reported observing an Acura.

60. Kermit fit the description given by Mr. Braden that he had red hair, medium built, and was about 5'7" in height.

61. Witnesses reported that Mr. Burrows and the perpetrator knew each other well. Plaintiff had no relationship with Mr. Burrows and only recognized him in passing. Kermit would have known Mr. Burrows well enough to know he was a mechanic of sorts. Kermit, in order to deceive Mr. Burrows and persuade him to go with him, to the vehicle he was driving, told Mr. Burrows' that his car had broken down (which was a lie because he drove away from the scene in it). Mr. Burrows was deceived by Kermit and Kermit got in the passenger seat, and Mr. Burrows drove him about 200 yards down the road to the 1998 tan/beige Ford Escort that Kermit was driving.

62. After Mr. Burrows and Kermit arrived there, Kermit brutally beat Mr. Burrows to death on the side of the road, likely using a weapon similar to a tire iron. Kermit then returned to Mr. Burrows' house in order to eliminate Ms. Hill as a witness. Kermit drove away from the scene in his fully functioning tan/beige Ford Escort.

63. Kermit did not have an alibi during the time of the crimes Plaintiff was convicted of.

64. Kermit had a criminal history. He had been convicted of Aggravated Burglary, Burglary, Theft and Escape and sent to prison. He was paroled in September 2003 and released from parole in May, 2005.

65. Long after the arrest, prosecution, and conviction of Plaintiff, the State disclosed the following facts about Kermit, which leave no doubt that he was the perpetrator of the crimes against Mr. Burrows and Ms. Hill:

- 1) Kermit's fingerprint was found on the Chrysler Fifth Avenue passenger door handle (interior);
- 2) Kermit had a violent criminal history and was released from parole in May, 2005 (about 8 months before the murder);
- 3) Kermit had killed a police officer in 2008 and killed himself in a subsequent standoff;
- 4) Kermit did not have a connection to Plaintiff;
- 5) Kermit's girlfriend was raising a boy that Mr. Burrows considered to be his grandson; and
- 6) Kermit rode around in his girlfriend's car (her name was not disclosed by Defendants despite Defendants having interviewed her).

66. Kermit's involvement in the murder was corroborated by a confession he gave to Elizabeth Rector ("Ms. Rector"), a close friend of his at the time of Mr. Burrows' murder.

67. Ms. Rector came forth to Plaintiff's post-conviction counsel and stated that during a conversation with Kermit, Kermit told her that he had killed Mr. Burrows. Ms. Rector stated that she had also told this information to a professor, Mr. Rasch, as part of a research study in 2018.

68. Ms. Rector's account was corroborated by Professor Rasch. Mr. Rasch confirmed that Ms. Rector had told him that Kermit was involved in Mr. Burrows' murder in May of 2018 and that she was interested in telling someone about it so that it could be public. Incredibly, he had a recording of the interview.

69. Kermit's mental health records showed a tendency to commit impulsive acts of violence. Kermit suffered from multiple mental illnesses, including: Major Depressive Disorder; Conduct Disorder, Solitary Aggressive Type; Intermittent Explosive Disorder; Antisocial Personality Disorder; and Bipolar Disorder. Because of his mental condition, he was prone to extremely violent, unwarranted outbursts. Kermit reported that he would often black out during the outbursts and "wake up" to see that he had given people black eyes and bruises. He also reported hallucinations.

70. It was also discovered that in late June 2005, around six months before he committed the murder, Kermit's girlfriend brought him to the mental health facility because he was hallucinating. Once there, Kermit reported that he had a desire to hurt himself and others. He was admitted for several days and prescribed medication. He was supposed to come back for monthly checkups to monitor his progress and fill prescriptions, but he failed to show up to any of his monthly appointments prior to the murder.

71. Defendants failed to investigate the fingerprint on the interior of the passenger door handle of Ms. Hill's Chrysler which did not match Plaintiff.

72. In 2017, it was revealed to Plaintiff that the fingerprint on the vehicle was determined to match Kermit's right index finger.

73. Defendants should have discovered the animosity in the relationship between Kermit and Mr. Burrows' and obtained the fingerprints of Kermit immediately after the murder. They would have quickly solved the case by having the true perpetrator of the crimes arrested, prosecuted, and convicted, rather than convicting an innocent man who spent years achieving his exoneration.

74. Before and after Plaintiff's arrest, there was zero physical evidence connecting Plaintiff to the crime, despite a bloody scene and multiple physical altercations with the perpetrator. There was no blood on Plaintiff clothes, shoes, or his mother's gold Acura. There was also no connection between Plaintiff and the victims. Rather, it was the real murderer's (Kermit Bryson's) fingerprints that were left at the crime scene.

75. Defendants intentionally failed to conduct a thorough investigation pursuant to their conspiracy to frame Plaintiff for Mr. Burrows' murder.

Fabrication of Evidence against Plaintiff

The Coerced "Identifications"

76. On or about January 17, 2006, after Ms. Hill recovered and was released from the hospital, she came to the Grundy County Sheriff's Department with Mr. Braden, and in the presence of Captain Anthony Bean and Defendant Sheriff Myers, Defendant Sheriff Myers showed Ms. Hill and Mr. Braden a photograph of Plaintiff. Defendant Sheriff Myers told Ms. Hill words to the effect "this is the guy who did it," twice and she responded with words to the effect, "I am not sure that is the guy." Mr. Braden agreed with Ms. Hill that he was also not sure that Plaintiff was the perpetrator. Defendant Sheriff Myers stated to them words to the effect, "You are going to say this is the guy."

77. Defendants falsely claimed that prior to this encounter with Defendant Sheriff Myers, Mr. Braden had positively identified Plaintiff.

78. As reflected in Mr. Braden's initial interviews, he did not know who the perpetrator was at the time the attack occurred. Mr. Braden testified in Plaintiff's

trial, admitting that he had seen and known who Plaintiff was prior to the attack by the perpetrator. Mr. Braden revealed this information to Defendants, yet they chose to ignore it and falsely claimed that Mr. Braden positively identified Plaintiff as the unknown person to Mr. Braden, who assaulted Ms. Hill.

The “Missing” Wallet Fabrication

79. Defendant Cleek falsely reported that Mr. Burrows’ wallet was missing to the Grand Jury. Based on Defendant Cleek’s fabricated testimony, Plaintiff was indicted on Seven Counts, Count 2 being in violation of T.C.A. 39-13-202(a)(2), in that “said killing committed in the perpetration of a robbery or attempt to perpetrate a robbery” and Count 3 being in violation of T.C.A. 39-13-403, in that he “did unlawfully and knowingly obtain property, to-wit: good and lawful U.S. currency and a wallet, from the person of Malcolm Burrows, by violence and accomplished by the use or display of deadly weapon, to-wit: a fire extinguisher and as a result of which the said Malcolm Burrows suffered serious bodily injury.”

80. Sergeant Michael Brown, who was suspiciously never called as a witness even though he was one of the first responders to the crime scene and was more than willing to testify, later revealed to Plaintiff’s defense counsel that he responded to the scene and Mr. Burrows’ wallet was, in fact, with his person. Sergeant Brown wrote a report about discovering the wallet and took photographs of the wallet at the scene. Both the report and photographs disappeared prior to Plaintiff’s trial.

81. Defendants Myers and Cleek arrived at the scene, which had already been secured. The wallet then disappeared. Neither Defendants Myers and Cleek logged Mr. Burrows’ wallet into evidence. Defendants suppressed Sergeant Brown’s

police report regarding the existence of Mr. Burrows' wallet at the scene and photographs of Mr. Burrows' wallet.

82. Plaintiff anticipates that Defendants will claim that a third party took the wallet but this does not absolve them for the *Brady* violation in suppressing the report and photograph of the wallet.

83. Defendant Cleek's false testimony about Mr. Burrows' wallet to the Grand Jury made, influenced, and participated in the decision to prosecute Plaintiff.

84. To support Plaintiff's felony murder charge, the State claimed that the murder was a robbery gone bad.

Conspiracy to Frame Plaintiff

85. Mr. Braden's original description of the vehicle that the perpetrator was driving was that it was tan/beige. Pursuant to their conspiracy to frame Plaintiff, Defendants altered and fabricated Mr. Braden's description of the perpetrator's vehicle to make it a "gold Acura" such as the one that Plaintiff was driving.

86. At the prompting of Defendant Myers, Mr. Braden falsely testified at trial that Plaintiff drove away from the scene in a gold vehicle which had a dent on the right front fender and a sunroof. This was not in Mr. Braden's original descriptions provided in police reports. In fact, he referred to the vehicle as "tan" in color and did not report seeing any damage before police began to target Plaintiff as their primary and only suspect.

87. Sergeant Michael Brown met with Mr. Burrows' neighbor, Angela White, as part of the investigation. In her written statement that was provided to

Defendants, Ms. White never stated that she observed an Acura anywhere near Mr. Burrows' property.

88. Defendants coerced Angela White into falsely testifying at Plaintiff's trial that on January 6, she noticed an unfamiliar gold vehicle with a dent in the front parked in her yard facing Mr. Burrows' house, and that the gold Acura that Plaintiff had borrowed from his mother "looked like the car" she had seen near Mr. Burrows' house.

89. As reflected in initial interviews of Angela White, Angela White did not see a dent in the front of the perpetrator's vehicle.

The Fabrication and Alteration of Jay Douglas' Description

90. Defendant Myers interviewed an individual named Jay Douglas, who told him that on January 6, 2007, he saw Mr. Burrows talking to a tall, white man with *dark hair* over his ears. The man was with a blonde woman, and they were driving a tan or gold car.

91. In his report, Defendant Myers altered the description, writing "[Douglas] told me that the subject in the car was a white male between twenty-five and thirty years old with red hair." Thus, Defendant Myers altered the witness description from dark hair to red hair solely to match Plaintiff.

Fabrications about Kirk Braden that He Hit the Assailant

92. In the initial police reports, including Officer Caldwell and Sergeant Brown's reports memorializing Mr. Braden's statements about what had happened, Mr. Braden never once mentioned anything about striking the assailant anywhere, let alone on his face.

93. After realizing that Plaintiff had a mark on his face which was actually from a work related injury, Defendant Cleek falsified information that Mr. Braden stated that he hit the assailant in the cheek in his Affidavit for probable cause.

94. Defendants Myers and Cleek then coerced Mr. Braden into giving false testimony about having hit the assailant in the cheek.

Suppression and Destruction of Evidence

95. The corruption in the County Sheriff's and DA's Offices shaped Plaintiff's investigation, arrest, prosecution, conviction, appeal, and post-conviction. In particular, Defendants demonstrated a pattern of destroying and/or suppressing material exculpatory information.

96. Defendants suppressed police reports relating to the investigation of Mr. Burrows' murder throughout the pendency of Plaintiff's case.

97. Upon taking office, the current sheriff of Grundy County, Clint Shrum, stated: "When I took office on September 1, 2014, there was not even a single case file on the Braseel Case at the Sheriff's Office. The question is this; was there something the past administration did not want me to see?"

98. In addition to suppressing and/or destroying the police reports/file, Mr. Burrows' wallet, the police report regarding the discovery of the wallet and the attached photographs of the wallet, were suppressed and/or destroyed.

PLAINTIFF ADAM BRASEEL'S INJURIES

99. In serving nearly a decade and half of his life in prison, Plaintiff was wrongfully deprived of a significant portion of his young adult life. Imprisoned at age twenty-four (24) and released at age thirty-seven (37), Plaintiff must now attempt to

make a life for himself outside of prison without the benefit of the years of life experiences which ordinarily equip adults for that task. He missed out on the ability to share holidays, births, funerals, and other life events with loved ones. He missed out on the fundamental freedom to live one's life as an autonomous human being. He lost his precious mother and other loved ones during his wrongful incarceration. He missed out on acquiring the training and education that would have equipped him for more lucrative employment than what he has currently experienced.

100. Additionally, the emotional pain and suffering caused by losing over thirteen years in the prime of his life has been enormous. The over eleven years breaks down to **4,012 days or 133 months, 3 weeks, and one day** that Plaintiff will never get back no matter what compensation may be awarded to him. During his wrongful incarceration, Plaintiff was stripped of the various pleasures of basic human experience, from the simplest to the most important, which all free people enjoy as a matter of right. Every day of his incarceration, Plaintiff suffered from anxiety from the thought of not knowing whether he was ever going to come home. Plaintiff suffered and still suffers to this day the fear that he and his family might be killed by law enforcement as a form of retribution.

101. As just one example of the humiliations to which Plaintiff was subjected while incarcerated, Plaintiff had feces thrown on him to the point that he was covered in excrement, all while he held a door open for an injured officer.

102. Plaintiff suffers from many physical ailments directly attributable to his wrongful conviction. During his incarceration, Plaintiff slept on concrete beds for 4,860 nights. He injured his back working at the prison, scraping floors for fifty cents

an hour. From another job hand-scraping hardwood floors at the prison, he injured his shoulders. Because of this, his hands often go numb, and he still suffers from back and shoulder injuries. Plaintiff suffers from neck pain due to not having a pillow in prison. Further, because of the extremely loud noise associated with scraping hardwood boards at his prison job, he had become deaf in one ear. Plaintiff suffered a severed ACL and a large tear in his meniscus during his incarceration.

103. During his wrongful incarceration, Plaintiff caught a staph infection, which nearly killed him. His wrist swelled up double its size and bright red streaks appeared on his arms. He was eventually taken to an outside hospital for a massive emergency surgery. Plaintiff nearly died.

104. Plaintiff will require numerous visits and courses of treatments to address the many physical injuries caused by his unconstitutional incarceration.

105. Plaintiff currently suffers from overwhelming depression, anxiety, and terror.

106. Due to his incarceration, his former wife divorced him. Plaintiff was deprived of the ability to have a successful marriage and children with his former wife.

107. Additionally, Plaintiff's family name was tarnished in the community. The "Braseel" family name had always had a good reputation until Plaintiff's wrongful arrest, conviction, and incarceration. Prior to his incarceration, Plaintiff had a well-paid job and promising career working for UPS. Because of his wrongful incarceration, he has been deprived of thirteen years of job training, experience and

seniority which would have resulted in promotions and increases in pay at UPS and retirement benefits which would have accumulated for thirteen years.

108. As a result of the foregoing, Plaintiff has suffered tremendous damage, including physical sickness and injury and emotional damages, all proximately caused by Defendants' misconduct. Plaintiff's life will never be the same because of what Defendants willingly and knowingly did to him.

COUNT I:

**VIOLATION OF THE FOURTH AND FOURTEENTH
TO THE UNITED STATES CONSTITUTION:
(AGAINST ALL INDIVIDUALLY NAMED DEFENDANTS)**

**MALICIOUS PROSECUTION
(42 U.S.C. § 1983)**

109. Each paragraph of this Complaint is incorporated as if fully set forth herein.

110. In summary, as alleged more fully above, Defendants Myers and Cleek acting individually, jointly, and in conspiracy, procured through coercion the only evidence putatively implicating Plaintiff in the crime, *i.e.*, the identifications made by Ms. Hill and Mr. Braden.

111. Defendants unconstitutionally bolstered identifications they knew to be false by fabricating evidence to falsely inculcate Plaintiff, intentionally avoiding investigation that would exonerate Plaintiff, and suppressing evidence that undermined the notion that Plaintiff committed the crime.

112. Defendants acted with malice and deliberate indifference to Plaintiff's constitutional rights.

113. In the foregoing manner, Defendants Myers and Cleek initiated Plaintiff's prosecution.

114. The determination of probable cause for Plaintiff's arrest and prosecution was premised on Defendant Cleek's own material misrepresentations, as well as Defendants' coerced and false evidence.

115. Because of the false and coerced evidence, the proceedings were initiated against Plaintiff without probable cause.

116. As a consequence of the criminal prosecution, Plaintiff suffered a deprivation of liberty apart from his initial seizure.

117. Plaintiff's criminal prosecution ultimately terminated in his favor in a manner indicative of his innocence.

118. As a direct and proximate result of Defendants' unconstitutional conduct, Plaintiff was arrested, prosecuted, and convicted of a crime he did not commit.

119. As a further direct and proximate result of Defendants' unconstitutional conduct, Plaintiff suffered injuries and damages, including but not limited to the loss of liberty, physical sickness and injury, emotional pain and suffering, and other grievous and continuing injuries and damages as set forth above.

COUNT II:

**VIOLATION OF DUE PROCESS CLAUSE OF THE FOURTEENTH
AMENDMENT TO THE UNITED STATES CONSTITUTION
- PROCEDURAL DUE PROCESS:**

**UNLAWFUL SUPPRESSION OF EVIDENCE/*BRADY* VIOLATION
(AGAINST ALL INDIVIDUALLY NAMED DEFENDANTS)
(42 U.S.C. § 1983)**

120. Each paragraph of this Complaint is incorporated as if fully set forth herein.

121. As more fully set forth above, throughout the investigation Defendants concealed exculpatory and impeaching evidence in violation of Plaintiff's fundamental right to due process. This includes but is not limited to the suppressed evidence as described below.

122. Sergeant Brown found Mr. Burrows' wallet, wrote a report concerning it, and took photographs documenting his findings, which he attached to his report. The report and photographs were removed by Defendants from Plaintiff's case file.

123. If the report and photographs of Mr. Burrows' wallet had not been suppressed by Defendants, the probable cause for Plaintiff's arrest would have been nonexistent and the subsequent prosecution and conviction of aggravated robbery as the predicate for felony murder and for aggravated robbery (Counts 2 and 3 of the Indictments) would have never occurred.

124. Had the foregoing evidence been disclosed, Plaintiff would not have been convicted.

125. Defendants acted with malice and deliberate indifference to Plaintiff's constitutional rights.

126. As a direct and proximate result of Defendants' unconstitutional conduct, Plaintiff was arrested, prosecuted, and convicted of a crime he did not commit.

127. As a further direct and proximate result of Defendants' unconstitutional conduct, Plaintiff suffered injuries and damages, including but not limited to the loss of liberty, physical sickness and injury, emotional pain and suffering, lost wages from his job, and other grievous and continuing injuries and damages as set forth above.

COUNT III:

**VIOLATION OF THE DUE PROCESS
CLAUSE OF THE FOURTEENTH AMENDMENT
TO THE UNITED STATES CONSTITUTION:**

**FABRICATION OF EVIDENCE
(AGAINST ALL INDIVIDUALLY NAMED DEFENDANTS)
(42 U.S.C. § 1983)**

128. Each paragraph of this Complaint is incorporated as if fully set forth herein.

129. In summary, as more fully alleged above, Defendants Myers and Cleek acting individually, jointly, and in conspiracy, fabricated evidence to arrest Plaintiff and later offered it to convict Plaintiff at Plaintiff's trial.

130. Defendants knowingly fabricated evidence and that false evidence affected the decision of the jury.

131. Defendants thereby rendered Plaintiff's court remedy ineffective, violating Plaintiff's constitutional right to access to the courts.

132. Defendants acted with malice and deliberate indifference to Plaintiff's constitutional rights.

133. As a direct and proximate result of Defendants' unconstitutional conduct, Plaintiff was arrested, prosecuted, and convicted of a crime he did not commit.

134. As a further direct and proximate result of Defendants' unconstitutional conduct, Plaintiff suffered injuries and damages, including but not limited to the loss of liberty, physical sickness and injury, emotional pain and suffering, lost wages from his job, and other grievous and continuing injuries and damages as set forth above.

COUNT IV:

**VIOLATION OF THE DUE PROCESS CLAUSE OF THE FOURTEENTH
AMENDMENT TO THE UNITED STATES CONSTITUTION:**

**CONSPIRACY TO DEPRIVE CONSTITUTIONAL RIGHTS
(AGAINST ALL INDIVIDUALLY NAMED DEFENDANTS)**

(42 U.S.C. § 1983)

135. Each paragraph of this Complaint is incorporated as if fully set forth herein.

136. In summary, as more fully alleged above, Defendants Myers and Cleek acting in concert reached an agreement between themselves to frame Plaintiff for a crime he did not commit and therefore to deprive him of his constitutional rights, all as described in this Complaint.

137. In doing so, these co-conspirators conspired to accomplish an unlawful purpose by an unlawful means. In addition, these co-conspirators agreed among themselves to protect one another from liability depriving Plaintiff of these rights.

138. In furtherance of their conspiracy, each of these co-conspirators committed overt acts and were otherwise willful participants in joint activity.

139. Defendants acted with malice and deliberate indifference to Plaintiff's constitutional rights.

140. As a direct and proximate result of Defendants' unconstitutional conduct, Plaintiff was arrested, prosecuted, and convicted of a crime he did not commit.

141. As a further direct and proximate result of Defendants' unconstitutional conduct, Plaintiff suffered injuries and damages, including but not limited to the loss of liberty, physical sickness and injury, emotional pain and suffering, lost wages from his job, and other grievous and continuing injuries and damages as set forth above.

COUNT V:

**FAILURE TO INTERVENE
(AGAINST ALL INDIVIDUALLY NAMED DEFENDANTS)
(42 U.S.C. § 1983)**

142. Each paragraph of this Complaint is incorporated as if fully set forth herein.

143. In the manner described more fully above, during the constitutional violations described herein, one or more of Defendants stood by without intervening to prevent the violation of Plaintiff's constitutional rights, even having the opportunity to do so.

144. Defendants acted with malice and deliberate indifference to Plaintiff's constitutional rights.

145. As a direct and proximate result of Defendants' unconstitutional conduct, Plaintiff was arrested, prosecuted, and convicted of a crime he did not commit.

146. As a further direct and proximate result of Defendants' unconstitutional conduct, Plaintiff suffered injuries and damages, including but not limited to the loss of liberty, physical sickness and injury, emotional pain and suffering, lost wages from his job, and other grievous and continuing injuries and damages as set forth above.

COUNT VI:

**SUPERVISORY LIABILITY
(AGAINST DEFENDANT MYERS AND CLEEK)
(42 U.S.C. § 1983)**

147. Each paragraph of this Complaint is incorporated as if fully set forth herein.

148. The constitutional injuries complained of herein were proximately caused by the intentional misconduct of the supervisory defendants, including Defendants Cleek and Myers, or when they were deliberately, recklessly indifferent to their subordinates' misconduct, knowing that turning a blind eye to that misconduct would necessarily violate Plaintiff's rights.

149. Defendants Cleek and Myers were aware of and facilitated, condoned, and oversaw the unconstitutional measures used to obtain the false testimony of FBI Agent Larry Davis; Mr. Braden; Ms. Hill; and Ms. White.

150. Further, Defendants Cleek and Myers were aware of and facilitated, condoned, oversaw, and participated in the withholding of exculpatory evidence, including but not limited to Mr. Burrows' wallet; Mr. Kermit's print on Ms. Hill's vehicle; and numerous police reports including those interviewing potential suspects.

151. As a direct and proximate result of Defendants' unconstitutional conduct, Plaintiff was arrested, prosecuted, and convicted of a crime he did not commit.

152. As a further direct and proximate result of Defendants' unconstitutional conduct, Plaintiff suffered injuries and damages, including but not limited to the loss of liberty, physical sickness and injury, emotional pain and suffering, lost wages from his job, and other grievous and continuing injuries and damages as set forth above.

COUNT VIII:

**MALICIOUS PROSECUTION
TENNESSEE LAW CLAIM**

153. Each paragraph of this Complaint is incorporated as if fully set forth herein.

154. In the manner described more fully above, Defendant Officers, acting individually, jointly, and in conspiracy with each other, instituted or continued the prosecution of Plaintiff without probable cause. As a consequence of the criminal prosecution, Plaintiff was unlawfully seized, deprived of liberty, and wrongfully convicted of a crime for which he is innocent. Plaintiff's criminal prosecution was terminated in his favor in a manner indicative of innocence.

155. Defendant officers accused Plaintiff of criminal activity of knowing those accusations to be without genuine probable cause, and they made statements to prosecutors with the intent of exerting influence to institute and continue the judicial proceedings.

156. Statements of the Defendants regarding Plaintiff's alleged culpability were made with knowledge that such statements were false. In so doing, Defendants fabricated evidence and withheld exculpatory information.

157. Defendants were acting under color of law and within the scope of their employment when they took these actions.

158. Through the doctrine of *respondeat superior*, Defendant Grundy County is liable as principal for all torts committed by its employees or agents, including the misconduct by Defendant Officers described in this Count.

159. As a direct and proximate result of Defendants' actions, Plaintiff's constitutional rights were violated and he suffered injuries and damages, including but not limited to the loss of liberty, physical sickness and injury, emotional pain and suffering, lost wages from his job, and other grievous and continuing injuries and damages set forth above.

COUNT IX:

CIVIL CONSPIRACY - TENNESSEE LAW CLAIM

160. Each paragraph of this Complaint is incorporated as if fully set forth herein.

161. In the manner described above, Defendants acting in concert with other known and unknown co-conspirators in a malicious combination, conspired by concerted action to accomplish an unlawful purpose by unlawful means.

162. In furtherance of the conspiracy, Defendants committed overt acts and were otherwise willful participants in joint activity including but not limited to the

malicious prosecution of Plaintiff and the intentional infliction of emotional distress upon him.

163. Defendants were acting under color of law and within the scope of their employment when they took these actions.

164. Through the doctrine of *respondeat superior*, Defendant Grundy County is liable as principal for all torts committed by its employees or agents, including the misconduct by Defendant Officers described in this Count.

165. As a direct and proximate result of Defendants' actions, Plaintiff's constitutional rights were violated and he suffered injuries and damages, including but not limited to the loss of liberty, physical sickness and injury, emotional pain and suffering, lost wages from his job, and other grievous and continuing injuries and damages set forth above.

COUNT X:

NEGLIGENCE - TENNESSEE LAW CLAIM

166. Each paragraph of this Complaint is incorporated as if fully set forth herein.

167. Defendants had a duty to disclose favorable evidence to Plaintiff and his counsel.

168. Defendants had a duty to administer a full and complete investigation of the criminal case that was brought against Plaintiff.

169. Defendants failed to disclose favorable evidence to Plaintiff and his counsel.

170. Defendants failed to administer a full and complete investigation of the criminal case that was brought against Plaintiff.

171. Defendants' failures are a breach of their duty owed to Plaintiff and others similarly situated.

172. Defendants' failure to disclose favorable evidence to Plaintiff and failure to administer a full and complete investigation of the criminal case directly and proximately caused Plaintiff to suffer damages.

173. Defendant Grundy County had a duty to promulgate policies that ensured Plaintiff and others similarly situated were guaranteed protections provided for by the United States Constitution.

174. Defendant failed to promulgate such constitutional policies.

175. Defendant's failure to promulgate constitutional policies directly and proximately caused Plaintiff to suffer serious harm.

COUNT XI:

RESPONDEAT SUPERIOR - TENNESSEE LAW CLAIM

176. Each paragraph of this Complaint is incorporated as if fully set forth herein.

177. While committing the acts alleged in the preceding paragraphs, Defendant Officers were employees and agents of Defendant Grundy County, acting at all relevant times within the scope of their employment.

178. While committing the acts alleged in the preceding paragraphs, the behavior of Defendants was calculated to facilitate and/or promote the business for which they were employed by their employer, Defendant Grundy County.

179. Defendant Grundy County is liable as principal for all torts committed by its agents.

COUNT XII:

INDEMNIFICATION - TENNESSEE LAW CLAIM

180. Each paragraph of this Complaint is incorporated as if fully set forth herein.

181. Tennessee law provides that Defendant Grundy County is directed to pay any tort judgment for compensatory damages for which its employees are liable within the scope of their employment activities.

182. Defendant Officers were employees of Defendant Grundy County and acted within the scope of their employment at all times relevant in committing the actions and omissions described herein.

RELIEF REQUESTED

WHEREFORE, the Plaintiff requests relief as follows:

- 1) An award of nominal, punitive, compensatory, and presumed damages for each violation of Plaintiff's constitutional rights;
- 2) Awarding Plaintiff his attorney and expert witness fees and all other costs of litigation pursuant to 42 U.S.C. §1988, and under other applicable law;
- 3) Pre-judgment and post judgment interest;
- 4) The right to conform the pleadings to the proof and evidence presented at trial; and
- 5) Such other relief as the Court deems just and equitable.

JURY DEMAND

Plaintiff hereby demands a trial by jury pursuant to Federal Rule of Civil Procedure 38(b) on all issues so triable.

Respectfully submitted,

s/ Kathleen T. Zellner
Kathleen T. Zellner
One Attorney for Plaintiff
Kathleen T. Zellner & Associates, P.C.
4580 Weaver Parkway, Suite 204
Warrenville, Illinois 60555
Phone: (630) 955-1212
Email: attorneys@zellnerlawoffices.com

Certificate of Service

I hereby certify that on February 13, 2024, I electronically filed this document along with any exhibits with the Clerk of Court using the Court's CM/ECF system which will automatically send email notification of such filing to the following attorneys of record:

B. Thomas Hickey
Spicer Rudstrom, PLLC
537 Market Street, Suite 203
Chattanooga, TN 37402
thickey@spicerfirm.com

Wesley Clark
Brazil Clark, PLLC
2706 Larmon Avenue
Nashville, TN 37204
wesley@brazilclark.com

/s/ Kathleen T. Zellner
Kathleen T. Zellner