

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION

DAVID FULMER,)	
)	
Plaintiff)	
)	
v.)	CASE NO.
)	
CITY OF STEVENSON, ALABAMA;)	
DANIEL WINTERS;)	
DARREN MCCAIMEY;)	
HESTER HOLLIS;)	
VALLEY FUNERAL HOME;)	
BOBBY HICKS;)	
LUKE BALLARD; and)	
DAVID GRIDER,)	
)	
Defendants.)	

COMPLAINT

Plaintiff David Fulmer complains of defendants, stating as follows:

Parties

1. Plaintiff David Fulmer is of legal age and is a U.S. citizen and resident of the state of Alabama.
2. Defendant the City of Stevenson, Alabama is a municipality organized and existing under the laws of the state of Alabama.
3. Defendant Daniel Winters is an individual. At all relevant times, he was employed by Stevenson as its police chief. He is sued in his individual capacity only.

4. Defendant Darren McCaimey is an individual. At all relevant times, he was employed by Stevenson as a police officer. He is sued in his individual capacity only.

5. Defendant Hester Hollis is an individual. At all relevant times, he was employed by Stevenson as a police officer. He is sued in his individual capacity only.

6. Defendant Valley Funeral Home, Inc. is an Alabama corporation.

7. Defendant Bobby Hicks was owner of all or part of Valley Funeral Home and also an employee at all relevant times.

8. Defendant Luke Ballard was employed by Valley Funeral Home at all relevant times.

9. Defendant David Grider was employed by Valley Funeral Home at all relevant times.

Facts

10. On March 22, 2015, plaintiff was staying at his brother's residence. Plaintiff had only been there a week or so.

11. Prior to this date, plaintiff's brother had stolen property from Valley Funeral Home and stored it at his residence in Stevenson.

12. On March 22, 2015, after learning that Valley Funeral Home's stolen property was at the brother's residence, the individual defendants met and agreed to

confront and punish the brother before reporting the matter.

13. On this same date, without a warrant and without permission, the individual defendants and possibly other individuals employed as Stevenson police officers or by Valley Funeral Home, entered the residence and assaulted and arrested plaintiff, assuming he was the person who stole the items.

14. Hicks struck the first blow, hitting plaintiff in the head and knocking him unconscious. Hicks and the other individual defendants then hit and kick plaintiff as he lay on the floor. Plaintiff regained consciousness during the assault but was knocked unconscious again. He regained consciousness in a police car, where one defendant held his head back by the hair and another held a knife to his head.

15. Fulmer never fought back.

16. As a result of the conduct of defendants, plaintiff has been caused to suffer physical and emotional injuries and damages, including embarrassment and humiliation, and has been caused to incur medical bills and other expenses.

17. The individual defendants acted with malice and/or with reckless indifference to plaintiff's constitutional rights.

18. The non-law enforcement defendants conspired with the law enforcement defendants to deprive plaintiff of his civil rights.

Count I - 42 U.S.C. § 1983 - Unlawful Entry

19. On or about March 22, 2015, the individual defendants, acting under color of law within the meaning of 42 U.S.C. § 1983, entered the residence in which plaintiff was staying without a warrant or exigent circumstance. These individual defendants did thereby deprive plaintiff of his rights under the Fourth and Fourteenth Amendments to the Constitution of the United States in violation of 42 U.S.C. § 1983. Specifically, they violated plaintiff's right to be free from unlawful searches and seizures.

20. Winters, as the Chief of Police for defendant Stevenson, acted as a final policymaker for that municipality. Therefore, Stevenson is liable for Winters' conduct.

21. Valley Funeral Home is liable because the individuals associated with it were acting within the line and scope of their employment.

Count II - 42 U.S.C. § 1983 - Excessive Force

22. On or about March 22, 2015, the individual defendants, acting under color of law within the meaning prescribed by 42 U.S.C. § 1983, assaulted and battered plaintiff and/or failed to intervene to protect plaintiff from excessive force by other persons despite an opportunity to do so. Defendants did thereby deprive the plaintiff of his rights under the Fourth and Fourteenth Amendments to the

Constitution of the United States in violation of 42 U.S.C. § 1983. Specifically, they violated plaintiff's right to be free from excessive force.

23. Winters, as the Chief of Police for defendant Stevenson, acted as a final policymaker for that municipality. Therefore, Stevenson is liable for Winters' conduct.

24. Valley Funeral Home is liable because the individuals associated with it were acting within the line and scope of their employment.

Count VIII - State Law - Assault and Battery/Excessive Force

25. On or about March 22, 2015, the individual defendants assaulted and battered plaintiff.

26. The conduct of these defendants was either negligent, wanton, malicious, willful, or in bad faith.

27. Valley Funeral Home is liable because the individuals associated with it were acting within the line and scope of their employment.

28. To the extent the conduct of Stevenson police officers was negligent or careless, Stevenson is liable, as the officers were acting within the line and scope of their employment.

Other Matters

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

30. Specifically, plaintiff filed a timely notice of claim with Stevenson.

Relief Sought

31. As relief, plaintiff seeks the following:

- a. That plaintiff be awarded such compensatory damages as a jury shall determine from the evidence plaintiff is entitled to recover;
- b. That plaintiff be awarded such punitive damages against defendant as a jury shall determine from the evidence plaintiff is entitled to recover;
- c. That plaintiff be awarded prejudgment and postjudgment interest at the highest rates allowed by law;
- d. That plaintiff be awarded the costs of this action, reasonable attorney's fees, and reasonable expert witness fees;
- e. That plaintiff be awarded an amount to compensate plaintiff for any adverse tax consequences as a result of a favorable judgment; and
- f. That plaintiff be awarded such other and further relief to which plaintiff is justly entitled.

Dated: January 27, 2016.

Respectfully submitted,

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

Plaintiff requests a trial by jury.

s/ Henry F. (Hank) Sherrod III