

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE

REGINALD ARRINGTON, JR.,)
)
 Plaintiff,)
)
 v.)
)
 HAMILTON COUNTY,)
 SHERIFF JIM HAMMOND,)
 SERGEANT MICKEY ROUNTREE,)
 CPL. BRIAN KILLINGSWORTH,)
 DEPUTY NICK DEWEY,)
 DEPUTY TODD COOK,)
 DEPUTY LORI CHOATE,)
)
 Defendants.)
)

JURY TRIAL DEMANDED

“I’ve got no weapons. I don’t want to get shot.”

— Plaintiff Reginald Arrington, Jr., May 23, 2020

*“You’re a piece of sh**. A piece of f***king sh**.”*

— HCSO Sheriff’s Deputy, also May 23, 2020.

COMPLAINT FOR DAMAGES

COMES NOW, Plaintiff Reginald Arrington, Jr., by and through undersigned counsel and files this Complaint alleging claims pursuant to 42 U.S.C. § 1983 and §1988, and pendent claims under Tennessee common law of negligence, gross negligence, assault and battery and malicious prosecution against the Defendants Hamilton County, Sherriff Jim Hammond, Sergeant Mickey Roundtree, Cpl. Brian Killingsworth, and Hamilton County Sheriff’s Deputies Nick Dewey, Todd Cook, and Lori Choate, as follows:

PARTIES

1. At all times material hereto, the Plaintiff Reginald Arrington, Jr. was a resident of Toledo, Ohio. Arrington was passing through Hamilton County on his way to Atlanta, Georgia to meet with prospective business contacts regarding his music career when his car broke down.

2. At all times material hereto, Sheriff Jim Hammond was the duly elected Sheriff of Hamilton County acting under color of law who was statutorily responsible for the hiring, firing, training and supervision of his deputies. Hammond owed a duty to Plaintiff under the Fourth and Fourteenth Amendments to take the necessary actions to ensure the Plaintiff's rights were upheld while being stopped, seized, and placed under arrest by Hamilton County Sheriff's Office deputies.

3. The Hamilton County Sheriff's Office (HCSO) is a department and/or division of Hamilton County with its principal place of business located at 600 Market Street, Chattanooga, TN 37402. Hamilton County is also legally liable for the negligence of those employed by the County, including Sherriff Hammond and his sworn deputies under T.C.A. § 29-20-205. Hamilton County is legally liable for non-negligent acts or failures to act of its Sheriff's deputies under T.C.A. § 8-8-302, including instances of *gross* negligence. The County has waived its immunity pursuant to T.C.A. § 8-8-302, § 29-20-205. Furthermore, Sherriff Hammond is civilly responsible to Reginald Arrington for the acts and failures to act of his deputies. In addition, Sheriff Hammond is civilly liable for the actions of his deputies performing the tasks and duties that he was statutorily responsible for performing. *See* T.C.A. § 41-4-101.

4. Defendants Sgt. Mickey Rountree, Cpl. Brian Killingsworth, and Deputies Nick Dewey, Todd Cook, and Lori Choate are the duly sworn law enforcement officers involved in the unlawful seizure, arrest and use of excessive force on Mr. Arrington on or about May 23, 2020. At

all times material hereto, Defendants were working for the Hamilton County Sherriff's Office and were acting under color of state law. They are being sued in their individual and official capacities.

VENUE AND JURISDICTION

5. This is an action for relief for violations of the Fourth and Fourteenth Amendments to the United States Constitution, *see* 42 U.S.C. § 1983 and pendent claims under state law.

6. This Court has original federal question jurisdiction over Plaintiff's claims under 42 U.S.C. § 1983 pursuant to 28 U.S.C. §§ 1331, 1343 and jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367(a).

7. At all times material hereto, the constitutional violations that resulted in the injuries to Plaintiff Reginald Arrington, Jr., occurred in Hamilton County, Tennessee, making venue in the Eastern District of Tennessee proper under 28 U.S.C. § 1391(b).

8. Plaintiff is entitled to reasonable attorneys' fees and costs of this actions pursuant to 42 U.S.C. § 1988.

9. Plaintiff is also entitled to punitive damages with respect to his claims under state law and against Sheriff Hammond and the Defendant Officers under 42 U.S.C. § 1983 for conduct that is so malicious, willful, wanton and/or criminal as to warrant the imposition of such damages.

GENERAL ALLEGATIONS

10. **Mr. Arrington's Unlawful Arrest.** On May 23, 2020, at approximately 9:45 A.M., Plaintiff Reginald Arrington, Jr., was walking in and around the area of Waverly Court and Old Lee Highway in Ooltewah, TN. Mr. Arrington had been on his way from Ohio to Atlanta to meet with business contacts regarding his music career. He left the local Super 8 Motel on foot after discovering that his car was broken down. Mr. Arrington began walking with the idea of catching

an Uber ride share to the nearest bus station. Plaintiff was unfamiliar with the neighborhood, so he stopped several individuals jogging/walking along Waverly Court and asked for directions. On information and belief, one of the individuals with whom he spoke contacted 911 and reported a “suspicious black man in a blue jumpsuit asking females for directions.”

11. Plaintiff then left Waverly Court and began walking south along Old Lee Highway. A few minutes later, Deputy Cook and the other Defendant officers pulled up in an HCSO cruiser, approached Plaintiff and abruptly informed him that he was in violation of Tennessee’s “pedestrian on roadway” law by not walking on the left side of the road.¹

12. It was a sunny Saturday morning, and Mr. Arrington had done nothing “wrong,” aside from acting contrary to a public-safety traffic law flouted by countless weekend joggers.² However, Mr. Arrington was afraid. Tamir Rice was shot and killed by law enforcement in broad daylight on a public playground, a few hours from Toledo, Ohio, where Arrington lived. Two months prior to the Plaintiff’s arrest, Breonna Taylor was shot and killed in her home, in her own bed. **Sandra Bland. Philando Castile. Corey Jones. Eric Garner.** These are the names, the collective experiences, that caused the Plaintiff’s pulse to quicken and for him to fear for his own safety in the presence of the Defendant Officers.

13. When Deputy Cook exited his cruiser, Mr. Arrington immediately put his hands into the air. Mr. Arrington gave his name as Reggie Davis. Mr. Arrington is a musician, and this is his “stage name” he goes by in daily life. Davis is also his mother and his sister’s last name. As

¹ Under the laws of Ohio (Plaintiff’s home state), pedestrians may walk on the right side of the road so long as a shoulder is available. *See* Ohio Rev. Code. § 4511.50.

² Apparently, even the State’s public safety officers are often unfamiliar with this law. At 10:13 A.M., one of the deputies can be heard stating “Have you ever used the pedestrian-on-roadway statute?” When his fellow officer responds “no,” the first officer explains that pedestrians are required to walk on the left side of a roadway pursuant to Tenn. Code. Ann. § 55-8-138 and instructs his officers to cite this statute “when he [Arrington] gets there and says he was pulled over for no reason.” Of note, Section 55-8-138(b) requires pedestrians to walk on the left side of the roadway “when practicable.”

shown by the dash came footage, Arrington was calm and compliant in interacting with the HCSO deputies. He explained that his car had broken down and he was walking along Old Lee Highway “trying to get an Uber [ride share].” At 9:58 A.M., Arrington is seen carefully removing everything from his pockets and slowly lowering his body to the ground. Arrington told the officers “I’ve got no weapons. I don’t want to get shot.” When a deputy told him it was not necessary to lay down, Arrington got to his feet. At 10:04 A.M., he calmly allowed himself to be placed into handcuffs—purportedly for his violation of the pedestrian law. He was not provided with a *Miranda* warning.

14. Mr. Arrington stood in front of Deputy Cook’s cruiser for another ten minutes while the deputies checked his person for weapons (he was not armed) and combed through his personal belongings. The deputies reviewed Plaintiff’s identification and performed an NCIC check. In the dash camera footage, the following conversation can be heard:

- First Officer: “Whatever he’s got going on must not have been reported yet ... He’s not popping anything on NCIC.”
- Other Officer: “He was just walking out here?”
- First Officer: “Apparently he was approaching women in the neighborhood over there and they thought he was armed.”

15. Even though, at most, the deputies should have issued a citation, *see* T.C.A. §§ 55-10-207(a)(2), 40-1-188(b), rather than effect a custodial arrest, at 10:14 A.M. Mr. Arrington (still handcuffed in back) was escorted to a second police cruiser. When Mr. Arrington asked that he be placed into the cruiser containing his personal belongings, an officer shouted “I don’t care which one you want to get into, you’re getting into the [cruiser] I tell you to.”

16. The dash cam footage shows as follows: as the deputies walk Mr. Arrington to the second cruiser, Arrington turns to look back at the first vehicle carrying his belongings. Arrington turns a second time, and Deputy Dewey suddenly and forcefully strikes him using several closed-

fist punches to the torso and the back of the head. Arrington is shoved to the ground, and Sgt. Roundtree uses his police baton to issue repeated painful lashes to Mr. Arrington's torso, stomach, and shins. Deputy Cook, also armed with a police baton, joins in on the onslaught and assists Cpl. Killingsworth and the other officers in performing a body weight restraint measure which restricted Arrington's airway and—through use of a baton against his back—dislocated his shoulders.

17. For five and a half minutes, Mr. Arrington writhed in a prone position on the ground as Defendants Rountree, Killingsworth, Dewey and Cook brutally beat him. He was repeatedly struck on his shins, legs, and upper body. The combination of the bodyweight restraint measures, being cuffed in back, and having a baton twisted between his shoulder blades caused his arms to pop out of their sockets. All the while, Arrington repeatedly shouted "I didn't do nothing! Please stop!" The HCSO deputies told him to "relax" while beating him. At 10:16 A.M., Mr. Arrington was gratuitously struck in the groin with a baton. Deputy Choate arrived a few seconds later and placed restraints on Arrington's feet as the other four officers pressed down on his chest. At several points in the dash cam footage, Arrington can be heard exclaiming "I can't breathe," "You're about to kill me," and "Stop, stop, stop, stop! No! Ma, they're cutting my air off!" Several officers at the scene repeatedly call him "a piece of f**king sh**." Having secured the leg restraints around Mr. Arrington, Deputy Choate then pulled out a baton and landed a final, gratuitous strike to his shin.

18. Arrington's limp body—with both his hands and feet restrained—was placed into a third cruiser operated by Deputy Choate. At 10:26 A.M., clearly traumatized by his treatment at the hands of law enforcement, hyperventilating and anxious, Mr. Arrington begged Deputy Choate to drive away before the other officers returned, stating "y'all trying to kill me . . . y'all just had me choked." In response, Deputy Choate told Mr. Arrington to "shut the [expletive] up." He was later evaluated by EMS and taken to the hospital.

19. The Affidavit of Complaint authored by Deputy Dewey contained numerous false statements, to wit—that Plaintiff “pulled away” from the officers, “grabbed” Cpl. Killingsworth’s gun and made “several attempts” to remove the gun from its holster, used his shoulder to “knock Cpl. Killingsworth to the ground, and repeatedly kicked the officers while he was on the ground. The affidavit also erroneously stated that “Arrington displayed superhuman strength and a limited pain response”—representations belied by the video footage and Plaintiff’s screams of pain.³

20. Mr. Arrington was arrested on charges of resisting arrest, simple assault on police, criminal impersonation, pedestrian in roadway and four counts of aggravated assault on police.

21. The Plaintiff was incarcerated on these charges at Silverdale Correctional Facility. On or about June 19, Arrington was released. On June 23, Hamilton County District Attorney Neal Pinkston dropped all charges against him. Citing the “troubling” dash cam footage depicting the Defendant Officers’ actions, D.A. Pinkston asked the Tennessee Bureau of Investigation (TBI) to investigate whether the officers used excessive force. Pinkston released key portions of the footage publicly on June 23; he also has referred the matter for investigation by the Department of Justice.⁴

22. **Plaintiff’s Injuries.** As a result of the beating at the hands of these Defendants, Plaintiff suffered severe emotional harm (including lasting anxiety and panic attacks) and serious physical injuries, including contusions, cuts and bruises to his torso and shins, cuts to his wrists from the handcuffs, dislocated shoulders and a permanent disfigurement of one shin bone. Further, by the time Plaintiff was released from Silverdale Detention Center, he had spent four weeks in

³ See, e.g., *Hamilton County D.A. Investigating Use of Force Allegations of White Officers on Black Man*, NewsChannel9.com, available at <https://newschannel9.com/news/local/hamilton-county-da-investigating-use-of-force-allegations-of-white-officers-on-black-man> (attaching a copy of the Affidavit of Complaint) (accessed June 30, 2020).

⁴ See, e.g., *Hamilton County Sheriff Doubles Down Defending Officers Under Investigation for Use of Force*, NEWSCHANNEL9.COM, June 29, 2020, available at <https://newschannel9.com/news/local/hamilton-co-sheriff-doubles-down-defending-officers-under-investigation-for-use-of-force> (accessed June 30, 2020).

custody. As a result of his being confined to an overcrowded facility during a global pandemic, Plaintiff contracted COVID-19 and became ill. Accordingly, Plaintiff not only suffered the mental and physical anguish associated with unlawful deprivation of his liberty, he contracted a serious and potentially deadly virus. Plaintiff suffered lung and kidney damage as a result of his COVID diagnosis; his treatment and evaluation of the lasting damage to his health is ongoing.

23. **Hamilton County Sheriff's Office: Policies/Customs.** On information and belief, Mr. Arrington's unlawful treatment at the hands of these five HCSO deputies was not unique, but rather a part of a policy and/or custom in place that encouraged, condoned and/or ratified the use of excessive force. Under Sheriff Hammond's administration, other "controversial" videos have come to light regarding instances of police brutality by HCSO deputies.⁵

24. On information and belief, in the weeks following the assault on Plaintiff, Sheriff Hammond and/or supervisory deputies in his employ reviewed the dash cam footage but conducted no further investigation, and did not place any of the five deputies involved in Plaintiff's arrest on administrative leave.⁶ In a press release dated June 23, 2020, the same day D.A. Pinkston released the dash cam footage, Hammond stated that Arrington became "combative"—in contravention to Pinkston's findings and the footage itself—and further asserted that the deputies used appropriate "compliance techniques." *See id.* Even after Pinkston referred the matter to the TBI, Hammond refused to place the deputies on administrative leave. *Id.* Hammond's refusal to acknowledge the clearly "troubling" aspects of the dash cam footage is representative of a general policy and custom of failing to investigate and/or punish instances of excessive force within the HCSO. Because of

⁵ *See* Several County Commissioners Hit Arrington Arrest by County Deputies, CHATTANOOGAN.COM, <https://www.chattanooga.com/2020/6/24/411028/Several-County-Commissioners-Hit.aspx> (noting that a report was promised by Hammond regarding a past "controversial videoed arrest," but was never provided).

⁶ *See* Sheriff Jim Hammond Releases Statement Regarding Reginald Arrington Arrest, June 23, 2020, available at <http://www.hcsheriff.gov/pressreleases/display.php?releaseid=1203> (accessed June 30, 2020).

this policy and/or custom, the Defendant officers knew that they could act with impunity in beating Mr. Arrington, without fear of reprisal or punishment. This was the institutional atmosphere that encouraged and/or sanctioned Arrington's assault before it even occurred.

25. On information and belief, HCSO deputies have an unofficial policy and/or custom of protecting "their own"—even when it comes to reporting misleading or incomplete information in official documents. For example, following a February 2018 incident in which a Chattanooga Police officer was reportedly intoxicated and found "stumbling out of his city-owned vehicle," Deputy Choate and another responding officer "chose not to charge him."⁷ In her initial report, Deputy Choate did not mention the officer by name or the fact that he was employed by and driving a CPD vehicle; she later told Internal Affairs officials she was instructed by a HCSO supervisor (Lt. Rick Jones) to keep her initial report "generic." *Id.*

26. As reported in a recent news article⁸, Deputies Cook, Choate and Sgt. Roundtree were all involved in the death of 76-year-old James Hilton Glaze in September 2019. Mr. Glaze (who had a history of strokes) was shot fourteen (14) times and killed after his son called in a well-being check, in the hopes that the deputies would de-escalate the situation and disarm Glaze before he hurt himself. *See id.* In March 2017, Deputy Cook was also present "when a vehicle pursuit took a violent turn, leading to a beating so severe the fleeing man's testicle was ruptured." *Id.* Finally, the article reports that Sgt. Killingsworth was accused in November 2014 of beating his own coworker, who was mistaken for a suspect and who "refused to get on the ground." *See id.*

⁷ Former Chattanooga Police Officer Sues the Chattanooga Fire and Police Pension Fund, WRCBtv.com, available at <https://www.wrcbtv.com/story/38416945/update-former-chattanooga-police-officer-sues-the-chattanooga-fire-and-police-pension-fund-for-denying-benefits> (accessed June 30, 2020).

⁸ A Mother Searches for Answers about Hamilton County Deputy Involved in Second Pursuit After Allegedly Killing Her Son, CHATTANOOGA TIMES FREE PRESS, June 10, 2020, available at <https://www.timesfreepress.com/news/local/story/2020/jun/10/hamilton-county-deputy/525041/>.

27. A review of news media coverage and lawsuits against Hamilton County reveals other “troubling” reports strongly suggestive of a HCSO policy or custom condoning gratuitous violence and the failure to investigate and/or punish offending officers. For example:

- On May 18, 2020, Tyler Hays was shot and killed by a HCSO deputy following a brief pursuit. The deputy involved was back on duty in less than a week. That same officer was involved in another pursuit in which he fired his weapon on June 3, 2020. Prior to being hired by the HCSO, the officer was accused in a lawsuit of unlawfully assaulting a man during a traffic stop while he was a Collegedale police officer.
- On April 19, 2020, HCSO deputies fatally shot Charles Bradley Payne outside his home. In a lawsuit filed in Hamilton County Circuit Court, the decedent’s mother (who was at the scene) refutes the deputies’ claim that he was brandishing a knife and attacked the officers.
- In March 2015, HCSO corrections officer Rodney Terrell unlawfully tased Nancy Mason and used force that fractured her arm while she was in the Sheriff’s custody. Despite the fact that an administrative review concluded the officer used excessive force, the County did not suspend or terminate Terrell. Rather, he was later promoted to Lieutenant.
- In August 2015, HCSO deputy Daniel Hendrix assaulted a handcuffed and shackled inmate Leslie Hayes at the Silverdale Complex. Although criminal charges were brought against Hendrix, they were eventually dropped based upon a false claim that County authorities did not know Hayes’ whereabouts (she was being held in Sequatchie County Jail). Hendrix returned to full duties as a deputy. In March 2017, Deputy Hendrix was himself killed after he became violent at his own birthday party and threatened two female Chattanooga Police officers with his County-issued gun.
- Six HCSO deputies (one now a Detective with the HCSO) were alleged to have unlawfully killed Christopher Sexton in February 2017, *see Sexton v. Hamilton County*, No. 1:18-cv-18 (E.D. Tenn.). According to the federal Complaint, Sexton did not pose a threat and had his back to the officers when they fatally shot him 15 times.
- HCSO Deputy Kilpatrick was also accused of brutally beating a handcuffed Charles Toney, Jr. (a black man) in December 2018 without justification. Video of the Toney assault went viral on YouTube.⁹ Although the video footage clearly showed gratuitous violence, Sheriff Hammond did not act to suspend Kilpatrick until weeks after the video was made public, amidst growing pressure from the County Commission to act.

⁹ *Charles Toney suing Hamilton County Sheriff’s Office Over Viral Video*, WRCBTV.COM, available at <https://www.wrcbtv.com/story/39665159/update-charles-toney-suing-hamilton-county-sheriffs-office-over-viral-video> (accessed June 30, 2020).

28. As alleged in the pending *Payne* litigation, Sherriff Hammond has made a number of concerning statements regarding the use of force by his deputies. In response to a video-recorded beating and strip / body cavity search on a handcuffed James Mitchell (a black man) that occurred in July 2019, Hammond referred to the deputies involved as “good” and “seasoned” officers who acted according to their training.¹⁰ One of the officers involved in the assault on Mitchell, Deputy Daniel Wilkey, was hired in 2017 by Sheriff Hammond despite a pending wrongful lawsuit that had been filed against him in a neighboring county. In a short time, Wilkey racked up at least eight internal affairs complaints; he has since been indicted by a grand jury on 44 counts including rape, stalking, sexual battery and reckless endangerment. Wilkey was cleared on two IA complaints, but there is no record of the results of the other six. On June 29, 2020, D.A. Pinkston accused the Sheriff’s office of “a deliberate attempt to slow down [the] investigation” into Deputy Wilkey’s crimes.¹¹ On information and belief, the Mitchell assault is the “controversial videoed arrest” for which Hammond promised, but failed to provide, a report to the County Commission. *See* FN 4.

29. Sherriff Hammond has also made concerning public statements regarding race and race relations in his tenure. In 2012, when addressing civil leaders about black “gang members,” Hammond said the following “[w]e need to run them out of town, put them in jail or send them to

¹⁰ Following the incident, Sheriff Hammond stated that he didn’t think the incident “warrants [a DOJ] investigation.” *See Hamilton County Sheriff Jim Hammond Says He Doesn’t Think Alleged Excessive Force Incident Warrants U.S. Department of Justice Investigation*, CHATTANOOGA TIMES FREE PRESS, July 22, 2019, available at <https://www.chattanooga.com/2020/6/1/409874/Sheriff-s-Office-Says-Tear-Gas-Was-Used.aspx> (accessed June 30, 2020).

¹¹ *Sherriff on DA: ‘We are at War’ After Accusation of HCSO ‘Slowing Down’ Wilkey Investigation*, NEWSCHANNEL9.COM, June 29, 2020, available at <https://newschannel9.com/news/local/hamilton-co-da-pinkston-files-brief-in-hamilton-co-deputys-federal-lawsuit> (accessed June 20, 2020). Notably, most of the dash camera footage from the “98 questionable Wilkey stops” were allegedly lost in a “catastrophic failure” of the HCSO’s servers. *Id. See also Riley v. Hamilton County*, Case No. 1:19-cv-00304 (E.D. Tenn.), Doc No. 176 (Affidavit of D.A. Neal Pinkston).

the funeral home.”¹² Speaking of the election of the Barak Obama, Hammond stated to the press “[w]e may dance around it but a lot of people are fearful of ‘Ah, this is gonna ruin our country . . .’ Fear and uncertainty. Part of is the first black president. I mean, we all see that.”¹³ And in July 2015, Hammond falsely stereotyped Tennessee Muslims, warning local Republicans of a “Muslim takeover.” See Cook, David, *‘Intolerable, Brutal, Immoral’ – It is Time for Jim Hammond to Resign as Hamilton County Sheriff*, CHATTANOOGA TIMES FREE PRESS, June 27, 2020.¹⁴ In an videoed interview published October 29, 2019, Hammond suggested that racism in Hamilton County merely a problem of “perception” and suggested that members of the black community are more likely to fight officers: “[y]ou’re always going to have perceived racism. People make their reality based on how they perceive they are treated . . . Add that today to that people are less likely to submit to the rule of law. They want to fight; they want to argue . . . there’s no such thing as your daddy used to tell you ‘just say yes sir no sir to the police officer.’ **They all want to fight with the police officer.**”¹⁵ More recently, Hammond has defended the use of tear gas on Black Lives

¹² See *Comment About Gants earns Hamilton County Sherriff Jim Hammond Praise, Flak*, CHATTANOOGA TIMES FREE PRESS (Jan. 7, 2012), available at <https://www.timesfreepress.com/news/news/story/2012/jan/17/comment-about-gangs-earns-sheriff-praise-flak-jim/68395/> (accessed June 30, 2020).

¹³ *Hamilton County Sheriff Jim Hammond: Black President Fuels Insecurity*, CHATTANOOGA TIMES FREE PRESS, Feb. 23, 2013, available at <https://www.timesfreepress.com/news/local/story/2013/feb/28/sheriff-black-president-fuels-insecurity/101032/> (accessed June 30, 2020).

¹⁴ available at <https://www.timesfreepress.com/news/opinion/columns/story/2020/jun/27/intolerable-brutal-immoral-it-time-jim-hamm/526387/> (accessed June 30, 2020). An Op Ed by Jewish leaders in Chattanooga reported that Hammond further described secret networks of Muslim Americans “plotting to overthrow the United States government” and spoke positively of governmental policies that would “not allow Muslims to build mosques [or] own property and practice their faith . . .” *Opinion: Sheriff’s Words on Muslims Hateful, Hurtful*, Sept. 11, 2015, available at <https://www.timesfreepress.com/news/opinion/times-commentary/story/2015/sep/11/sheriffs-words-muslims-hateful-hurtful/324507/> (accessed June 30, 2020).

¹⁵ See *Hamilton Flourishing: Sheriff Jim Hammond*, FACEBOOK.COM, available at <https://www.facebook.com/watch/?v=2499067360140683> (accessed June 30, 2020).

Matters demonstrations to disperse crowds of “unruly protestors.”¹⁶ Unsurprisingly, Hammond flatly rejected efforts to revisit and improve policing policies and procedures in Hamilton County in the wake of highly publicized deaths such as Breonna Taylor and George Floyd, emphasizing, for example, his continued support of no-knock warrants.¹⁷ The culture of insidious racism within the Sheriff’s Office is further evinced by incidents such as the January 2017 complaint filed by Deputy Jessica White (a black officer) after a Sergeant *twice* “joked” in front of other deputies that he had insurance on his personal vehicle “**just in case a n***** like [her] hit his car and had no insurance.**” The Sergeant was suspended without pay for three days after White’s complaint was filed; in an official statement, Hammond noted that he did not feel a more severe punishment was necessary, but that “[h]e carried it to a point where she got offended, so we had to discipline him.”¹⁸

30. Based on the foregoing and on information and belief, there is a pervasive custom of violence, particularly violence against African Americans, and a lack of accountability within the Sheriff’s Office. Sherriff Hammond and the County knew from past litigation, complaints, and incidents that HCSO deputies negligently and routinely used unnecessary force in apprehending or taking into custody suspects and frequently engaged in the gratuitous infliction of pain and punishment, as well as the filing of false reports to protect their own. Not only did Hammond not discourage such gratuitous violence, he has championed such officers as “good” and “seasoned”

¹⁶ *Sheriff’s Office Says Tear Gas Was Used Against Protestors When They Tried to Pull Deputy Into Crowd*, June 1, 2020, CHATTANOOGAN.COM, available at <https://www.chattanooga.com/2020/6/1/409874/Sheriff-s-Office-Says-Tear-Gas-Was-Used.aspx>

¹⁷ *Hamilton County Sheriff: ‘Policies Staying the Same Following Demands for Better Policing’*, WRCBTV.COM, June 15, 2020, available at <https://www.wrcbtv.com/story/42251162/hamilton-co-sheriff-policies-staying-the-same-following-demands-for-better-policing> (accessed June 30, 2020).

¹⁸ *Sheriff’s Office Suspends Sergeant for Twice Using a Racial Slur*, CHATTANOOGA TIMES FREE PRESS, Jan. 17, 2017, available at <https://www.timesfreepress.com/news/local/story/2017/jan/17/hamiltcounty-sheriffs-sergeant-suspended-twice/407859/> (accessed June 30, 2020).

deputies acting according to their training; such officers were even promoted. Hammond thus sent the message to his deputies that such conduct would not only go unpunished and was acceptable, it was expected, encouraged, and at times rewarded.

CLAIMS UNDER THE U.S. CONSTITUTION
AND 42 U.S.C. § 1983

COUNT I
UNLAWFUL SEIZURE AND FALSE ARREST
AGAINST THE DEFENDANT OFFICERS AND HAMILTON COUNTY

31. Plaintiff hereby incorporates paragraphs 1 through 30 as if set forth herein.

32. Plaintiff had a right under the Fourth and Fourteenth Amendments to the United States Constitution to be free from unlawful seizure / false arrest on other than probable cause. This right was clearly established as of May 23, 2020.

33. The Defendant Officers had no probable cause to arrest Plaintiff on the morning in question. They likewise had no articulable suspicion that Arrington was engaged, or about to be in engaged, in any criminal conduct at the time that they detained him.

34. Plaintiff was placed into handcuffs, without first being read his Miranda rights, on no more than a “suspicious persons” call and a purported violation of a “pedestrian on roadway” statute.¹⁹ Although Plaintiff initially provided his “stage” name / nickname, Reggie Davis, he also gave up his wallet containing identification and the deputies were able to confirm that he had no outstanding arrest warrants, *etc.* Pursuant to T.C.A. § 40-1-188, Mr. Arrington should have been given a citation, rather than being placed into custody. This statute provides, in relevant part:

A peace officer who has arrested a person for the commission of a misdemeanor in the peace officer’s presence . . . **shall** issue a citation to the arrested person to appear

¹⁹ Although the Affidavit of Complaint reports that the 911 caller believed the “suspicious person” may be armed, Plaintiff emptied his pockets and made clear he had no weapon prior to being placed into handcuffs. In any event, Mr. Arrington should have—at the **least**—been unhandcuffed after he was frisked/patted down by a deputy at the scene to confirm he had no weapons.

in court in lieu of the continued custody and the taking of an arrested person before a magistrate.

Id. § 40-1-188(b)(1) (emphasis added); *see also* § 55-10-207(a) (mandating issuance of citations in lieu of an in-custody arrest for misdemeanor traffic violations). A violation of the “pedestrian on roadway” law is a Class C misdemeanor. *Id.* § 55-8-138(d). Even assuming the deputies had probable cause to believe Arrington had the requisite intent (“to injure or defraud”) for a violation of the criminal impersonation statute, *id.* § 39-16-301(a), this would be a Class B misdemeanor, *id.* § 39-16-301(c)(1). Accordingly, the moment the deputies obtained his photo identification and completed the NCIC check, Plaintiff should have been released and a citation issued. Instead of releasing Plaintiff and removing his handcuffs, he was escorted to a cruiser (and then assaulted).

35. Any member of law enforcement would have known on May 23, 2020 that arresting Mr. Arrington on less than probable cause or detaining him without any reasonable suspicion of criminal wrongdoing, would be a violation of his constitutional rights. Defendants were on fair notice this conduct would be unconstitutional at the time they engaged in this conduct.

36. Defendants knew that the arrest was unconstitutional because they kept Arrington under arrest after they determined that he had no warrants, *etc.*, by performing a National Crime Information Center (NCIC) check of his full and true name and birthdate.

37. As a result of the unconstitutional seizure/detention and/or arrest, Mr. Arrington was inexcusably injured, handcuffed, beaten and struggled to breathe while lying a prone position with the Defendant Officers restraining and striking him repeatedly with a police baton.

38. The actions of the Defendant Officers proximately caused Arrington’s injuries and were criminal, wanton and/or done in deliberate indifference to Arrington’s constitutional rights.

WHEREFORE, Plaintiff demands Judgment against these Defendant in the amount of ten million dollars and no cents (\$10,000,000.00) in compensatory and punitive damages, all costs of this action, pre- and post-judgment interest, and reasonable attorneys' fees under 42 U.S.C. § 1988.

COUNT II
EXCESSIVE FORCE AND FAILURE TO PROTECT
AGAINST THE DEFENDANT OFFICERS

39. Plaintiff hereby incorporates the preceding paragraphs as if set forth herein.

40. Plaintiff had a right under the Fourth and Fourteenth Amendments to the United States Constitution not to be assaulted or have excessive force used against him. This right was firmly established and well-known by Defendants prior to Mr. Arrington's arrest.

41. During Plaintiff's arrest, Defendants Rountree, Killingsworth, Dewey, and Cook used excessive force against him, to wit—a brutal beating in which he was punched and repeatedly struck with a 4lb baton across his legs and torso, and purported “compliance” measures in which a baton was painfully lodged against his back and twisted (dislocating his shoulders). Additionally, the deputies used their body weight in an unnecessary measure to hold Plaintiff down, restricting his breathing. Deputy Choate also struck him once, gratuitously, and is complicit in the unlawful beating by virtue of her failure to intervene after she arrived at the scene. At different times during Mr. Arrington's arrest, the Defendant Officers had the opportunity to stop and prevent Arrington from being continually assaulted for five and a half minutes, and yet they failed to act. Notably, Defendants Rountree and Killingsworth are supervisory officers, presumably with many years of training in the appropriate use of force who could have—but did not—order the others to use de-escalation measures and halt the beating.

42. There was no legal or justifiable cause for these Defendants to use the degree of force that was employed against Mr. Arrington, who was compliant or, at the least, only passively

resistant in twisting his body somewhat to look at the police cruiser containing his belongings. The Defendants also knew that the purported crimes Mr. Arrington had committed—walking along the wrong side of the road and providing a “false” name were not serious crimes, which would directly impact the degree of force they were entitled to use. In other words, the officer’s actions in beating and excessively restraining Arrington were not objectively reasonable under the circumstances.

43. Defendant Officers acted in deliberate indifference to the constitutional rights of Plaintiff. For example, their repeated shouts that Arrington was “a piece of f***ing sh**” while striking him show that these Defendants acted in bad faith rather than any legitimate effort aimed at de-escalation or encouraging compliance.

44. Due to Defendants’ actions and omissions described above, Mr. Arrington suffered severe emotional harm and physical injuries, including, but not limited to, dislocated shoulders and severe contusions and bruises to his torso and shins. As a result of this beating, one of the Plaintiff’s shin bones has been permanently disfigured / “flattened”.

WHEREFORE, Plaintiff demands Judgment against the Defendant Officers in the amount of fifty million dollars and no cents (50,000,000.00) in compensatory and punitive damages, costs of this action, pre- and post-judgment interest, and attorneys’ fees under 42 U.S.C. § 1988.

COUNT III
EXCESSIVE FORCE – CUSTOM / POLICY; FAILURE TO TRAIN / INVESTIGATE
AGAINST SHERIFF HAMMOND AND HAMILTON COUNTY (MONELL LIABILITY)

45. Plaintiff hereby incorporates the preceding paragraphs as if set forth herein.

46. Plaintiff had a right under the Fourth and/or Fourteenth Amendments to the United States Constitution not to be assaulted or have excessive force used against him. This right was firmly established and well-known by the County prior to Plaintiff’s arrest on May 23, 2020.

47. On information and belief, including past news reports and lawsuits detailing other alleged instances of excessive force by HCSO deputies, Sheriff Hammond and Hamilton County had an unofficial policy of encouraging and/or tolerating the use of excessive force on compliant or only passively resistant arrestees, particularly African Americans and other minorities.

48. Sheriff Hammond and Hamilton County also had a policy and/or custom of failing to adequately review dash camera footage following the filing of significant use of force reports, investigate potential instances of excessive force, and punish those deputies who were involved. As a foreseeable result of this policy and/or custom, the Defendant Officers knew that they could act with impunity in beating Plaintiff, without fear of reprisal or punishment.

49. As a result of Sheriff Hammond and the County's policy or custom encouraging or failing to punish instances of excessive force, the Plaintiff was brutally beaten. Unsurprisingly, all officers involved remain on full paid duty with the Sheriff's Office.

50. On information and belief, Sheriff Hammond and the County also failed to train its officers in the appropriate use of force, including the use of police batons and body weight restraint measures (which can restrict an individual's airflow).

51. The foreseeable result of these official or unofficial policies and customs was the excessive or inappropriate use of force, causing injury and death to citizens such as Mr. Arrington.

52. Due to these Defendants' actions and omissions described above, Plaintiff suffered severe emotional harm and physical injuries, including, but not limited to, dislocated shoulders, contusions/bruises to his torso and shins, and a permanent disfigurement to one of his shin bones.

WHEREFORE, the Plaintiff demands Judgment against Sheriff Hammond and Hamilton County in the amount of ten million dollars and no cents (10,000,000.00), all costs of this action, pre-judgment and post-judgment interest, and reasonable attorneys' fees under 42 U.S.C. § 1988.

**COUNT IV
MALICIOUS PROSECUTION – 42 U.S.C. § 1983**

AGAINST THE DEFENDANT OFFICERS AND HAMILTON COUNTY

53. Plaintiff hereby incorporates the preceding paragraphs as if set forth herein.

54. Plaintiff has a right under the Fourth and Fourteenth Amendments to the United States Constitution to be free from malicious prosecution, which is part and parcel of the right to be free from unlawful seizure and the protections of due process of law. These rights were clearly established as of May 23, 2020. *See Manuel v. City of Joliet, Ill.*, 137 S.Ct. 911, 915 (2017) (noting a constitutional violation can occur “when, for example, a judge’s probable cause determination is predicated solely on a police officer’s false statements”).

55. Deputy Dewey, in drafting and affixing his signature to the Affidavit of Complaint which supported the charges against Plaintiff and his pre-trial detention at Silverdale Correctional, contained numerous and blatant false statements. Specifically, the Affidavit of Complaint falsely asserts Plaintiff resisted arrest, attempted to remove a deputy’s gun from its holster, and repeatedly kicked and otherwise assaulted the deputies. On information and belief, the Affidavit of Complaint signed by Deputy Dewey was reviewed and approved and/or sanctioned by the other Defendant Officers, and other Hamilton County officials in supervisory roles.

56. These Defendants violated Mr. Arrington’s rights under the Fourth and Fourteenth Amendments by signing or otherwise supporting an Affidavit of Complaint that falsely indicated there was probable cause for the charges of resisting arrest and aggravated assault on police, and which omitted and misstated key facts.

57. This unconstitutional and misleading Affidavit resulted in the Plaintiff’s continued unlawful arrest, prosecution, and detention. Plaintiff was incarcerated at Silverdale until June 19, 2020 on these false charges. Plaintiff was then released, and D.A. Pinkston officially dismissed all

charges against him on or about June 23, 2020. Pinkston dismissed these charges, in part, based upon his review of the dash camera footage which showed no attempt by Plaintiff to take Deputy Killingsworth's weapon, and no assault (aggravated or otherwise) by Plaintiff on the deputies. These Defendants supported the prosecution against Plaintiff in bad faith and/or with malice.

58. By the time Plaintiff was released from Silverdale Detention Center, he had spent four weeks in custody. As a result of his being confined to an overcrowded facility during a global pandemic, Plaintiff contracted COVID-19 and became ill. Accordingly, Plaintiff not only suffered the mental and physical anguish associated with unlawful deprivation of his liberty, he contracted a serious and potentially deadly virus. Plaintiff suffered kidney and lung damage as a result of the COVID diagnosis; his treatment and evaluation of the lasting damage to his health is ongoing. The Plaintiff's COVID diagnosis was a foreseeable and proximate result of his unlawful arrest and continued prosecution during a global pandemic.

WHEREFORE, Plaintiff demands Judgment against these Defendants in the amount of fifty million dollars and no cents (\$50,000,000.00) in punitive and compensatory damages, costs of this action, pre- and post-judgment interest.

COUNT V
CONSPIRACY – 42 U.S.C. § 1985
Against the Defendant Officers and Hamilton County

59. Plaintiff hereby incorporates the preceding paragraphs as if set forth in full herein.

60. As alleged above and on information and belief, the Defendant Officers acted in concert to submit an Affidavit of Complaint that levied and supported criminal charges against the Plaintiff, despite knowing full well that there was no probable cause for those charges.

61. On information and belief, Defendants acted in part to cover up their own unlawful acts in using excessive force because they knew more serious charges would increase the degree

of force they were privileged to use upon Plaintiff. On information and belief, these Defendants were **also** motivated by insidious racial animus—bolstered by a pervasive culture of racist attitudes against black Americans that existed within the Hamilton County Sheriff’s Office.

62. The intent and result of Defendants’ conspiratorial acts was to deprive Plaintiff of due process of law and his constitutional right to be detained and incarcerated only on probable cause. As a proximate and foreseeable result of their actions in filing a misleading and blatantly false Affidavit of Complaint, the Plaintiff was erroneously and cruelly deprived of his liberty, incarcerated in an overcrowded detention facility for four weeks during a global pandemic, and contracted COVID-19 with many deleterious and ongoing health effects.

WHEREFORE, Plaintiff demands Judgment against these Defendants in the amount of five million dollars (\$5,000,000.00) in punitive and compensatory damages, costs of this action, pre- and post-judgment interest.

CLAIMS UNDER THE LAWS OF TENNESSEE

**COUNT VI
ASSAULT AND BATTERY
*AGAINST THE DEFENDANT OFFICERS***

63. Plaintiff hereby incorporates the preceding paragraphs as if set forth herein.

64. On May 23, 2020, these Defendants assaulted Mr. Arrington through a prolonged and repeated beating using police batons and bodyweight restraint measures which restricted his breathing, when this degree of force was not warranted by the situation presented and by virtue of Defendants’ status as HCSO deputies, *i.e.*, Arrington was not violent or a danger to himself or others and at most passively resisted in turning to look at the cruiser containing his belongings.

65. The assault and battery upon Mr. Arrington’s person by these Defendants resulted in and/or contributed to serious emotional harm and physical injuries, including, but not limited

to, dislocated shoulders and severe contusions and bruises to his torso and shins, and a permanent disfigurement to one of his shin bones.

66. The Defendant Officers' and Hamilton County's conduct and gross negligence is so malicious, willful, wanton and/or criminal as to warrant the imposition of punitive damages.

WHEREFORE, Plaintiff demands Judgment against these Defendants in the amount of fifty million dollars and no cents (\$50,000,000.00) in punitive and compensatory damages, costs of this action, pre- and post-judgment interest.

COUNT VII
NEGLIGENCE / GROSS NEGLIGENCE
AGAINST THE DEFENDANT OFFICERS, SHERIFF HAMMOND AND HAMILTON COUNTY

67. Plaintiff hereby incorporates paragraphs 1 through 30 as if set forth herein.

68. As sworn deputies, the Defendant Officers owed a duty of care to Plaintiff (and all citizens in their custody) not to use excessive force. In addition, Sheriff Hammond and Hamilton County owed a duty of care to adequately train their sworn deputies in the appropriate use of force.

69. The Defendant Officers breached this duty of care by negligently and/or recklessly beating Plaintiff when he was compliant or only passively resistant during his arrest. The County breached this duty by offering insufficient or woefully inadequate training to its sworn deputies in the proper use of force, including, inter alia, the use of batons and bodyweight restraint measures.

70. Sherriff Hammond and Hamilton County knew from past litigation, complaints and incidents that HCSO deputies negligently and routinely used unnecessary force in apprehending and/or taking into custody suspects and frequently engaged in the gratuitous infliction of pain and punishment. Not only did Hammond not discourage such gratuitous violence, he championed such officers as "good" and "seasoned" deputies and even promoted them, thus sending the message to all deputies that such conduct would go unpunished, and was not only acceptable, but encouraged.

71. A foreseeable result of the Defendant Officers' reckless behavior and the County's grossly negligent and woefully insufficient training was that citizens like Mr. Arrington would be graciously beaten and/or have their airflow unnecessarily restricted during an arrest.

72. As a direct result of these actions or omissions, Plaintiff suffered serious emotional harm and physical injuries, including, *inter alia*, dislocated shoulders and severe contusions and bruises to his torso and shins, and a permanent disfigurement to one of his shin bones.

73. The Defendant Officers' and Hamilton County's conduct and gross negligence is so malicious, willful, wanton and/or criminal as to warrant the imposition of punitive damages.

WHEREFORE, Plaintiff demands Judgment against these Defendants in the amount of fifty million dollars (\$50,000,000.00) in punitive and compensatory damages, costs of this action, pre- and post-judgment interest.

COUNT VIII
MALICIOUS PROSECUTION
AGAINST THE DEFENDANT DEWEY, SHERIFF HAMMOND AND HAMILTON COUNTY

74. Plaintiff hereby incorporates the preceding paragraphs as if set forth herein.

75. As stated above, the Defendant Officers and supervisory County officials, drafted, supported or otherwise approved/condoned the filing of an Affidavit which contained material misstatements or omissions. This false and unconstitutional Affidavit caused Plaintiff to continue to be detained and prosecuted on charges for which there was no probable cause. These Defendants continued the prosecution against Plaintiff in bad faith and/or with malice.

76. On or about June 23, 2020, D.A. Pinkston dismissed all charges against Plaintiff, in recognition of the clear dash camera footage showing that Plaintiff did not resist arrest, reach for Deputy Killingsworth's gun or assault the officers.

77. As a proximate and foreseeable result of the Plaintiff's unlawful detention for four weeks during a global pandemic, the Plaintiff not only lost his liberty, he contracted COVID-19, a serious and potentially deadly virus with lasting health implications.

78. The Defendant Officers' and Hamilton County's conduct is so malicious, willful, wanton and/or criminal as to warrant the imposition of punitive damages.

WHEREFORE, Plaintiff demands Judgment against these Defendants in the amount of ten million dollars (\$10,000,000.00) in punitive and compensatory damages, costs of this action, pre- and post-judgment interest.


DEMAND FOR TRIAL BY JURY

Plaintiff demands a trial by jury pursuant to their Constitutional right to a trial by jury and Federal Rule 38 (b), *Federal Rules of Civil Procedure*.

RESPECTFULLY SUBMITTED, this the 8th day of **July, 2020**.

BOWLIN STEPHENS, PLLC

By:



for The Firm

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