

STATE OF SOUTH CAROLINA)
COUNTY OF DORCHESTER)
)
)
NOAH WEST AND JAMICA WEST,)
)
Plaintiffs,)
)
v.)
)
TOWN OF SUMMERVILLE AND)
SUMMERVILLE POLICE)
DEPARTMENT.)
)
)
Defendants.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT

**SUMMONS
(JURY TRIAL DEMANDED)**

TO: THE ABOVE-NAMED DEFENDANTS,

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is served upon you, and to serve a copy of your Answer to this Complaint upon counsel for the Plaintiff, Marvin R. Pendarvis, at 548 Savannah Highway, Charleston, SC 29407, within thirty (30) days after service hereof, exclusive of the day of service. If you fail to answer this Complaint within the aforesaid time, judgment by default shall be rendered against you for the relief demanded in the Complaint.

THE PEPER LAW FIRM, PA

s/ Marvin R. Pendarvis
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This 5th day of April, 2021
Charleston, South Carolina

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF DORCHESTER)	FOR THE FIRST JUDICIAL CIRCUIT
)	
)	
NOAH WEST AND JAMICA WEST,)	
)	
Plaintiffs,)	
)	
v.)	COMPLAINT
)	(JURY TRIAL DEMANDED)
)	
TOWN OF SUMMERVILLE AND)	
SUMMERVILLE POLICE)	
DEPARTMENT)	
)	
)	
Defendants.)	
_____)	

COMES NOW the Plaintiffs, Noah West and Jamica West, (hereinafter, “Plaintiff Noah” and “Plaintiff Jamica”), by and through their undersigned counsel of record, and files this Complaint against the above-named Defendants, and allege as follows:

PREFACE

The Plaintiffs, Noah and Jamica, bring claims of gross negligence, negligence, negligent training, negligent supervision, intentional and negligent infliction of emotional distress, civil assault and battery, and false imprisonment pursuant to the South Carolina Tort Claims Act against the Town of Summerville and Summerville Police Department based on the acts and omissions of their employees and officers in the detainment of Plaintiff Noah on March 21, 2021.

1. Plaintiff Noah is a citizen and resident of Dorchester County, State of South Carolina.
2. Plaintiff Jamica is a citizen and resident of Dorchester County, State of South Carolina.
3. Defendant Town of Summerville is political subdivision, department, or agency of the state of South Carolina within the meaning of S.C. Code Ann. § 15-78-30(a). At all times herein, Defendant Town of Summerville acted through its employees. Defendant

Town of Summerville maintains a police department whose officers are employees and/or agents of the Town and for whose conduct the Town is responsible.

4. Defendant Summerville Police Department is political subdivision, department, or agency of the state of South Carolina within the meaning of S.C. Code Ann. § 15-78-30(a). At all times herein, Defendant Summerville Police Department acted through its employees.
5. Upon information and belief, the incident that is the subject matter of this Complaint took place in Dorchester County, South Carolina, therefore jurisdiction and venue are proper before this Court.

FACTS

6. On or about March 21, 2021 Plaintiff Noah was traveling on North Main Street in Summerville, South Carolina to Checkers, a fast-food restaurant where his mother, Plaintiff Jamica, worked.
7. As Plaintiff Noah pulled into the restaurant an officer of the Defendant Town of Summerville and Defendant Summerville Police Department (hereinafter collectively known as “Defendants”).
8. Defendants initiated a traffic stop and yelled for him to get out of the car.
9. Plaintiff Noah complied and slowly exited his vehicle as he was directed by an officer, who had his gun drawn and aimed at Plaintiff Noah, to turn around and put his hands on his head.
10. After putting his hands on his head Plaintiff Noah was directed to back up slowly, and after a few steps, he was directed to get on his knees.
11. Plaintiff Noah’s back was toward the officer who was giving the commands.

12. At the same time two other officers were on the scene and hand their guns drawn in the direction of Plaintiff Noah, who still had his back turned.
13. Plaintiff Noah was confused about the stop, not believing he had committed a traffic violation.
14. The officer issuing commands, and still brandishing his gun, approached Plaintiff Noah and placed him in handcuffs, while the two other officers searched his vehicle.
15. Plaintiff Noah was eventually released after being detained for nearly forty minutes.
16. At no point did Defendants issue Plaintiff Noah a citation for allegedly driving without headlights or any other traffic infraction.
17. Plaintiff Jamica watched the entire traffic stop unfold from the Checkers restaurant, yelling in fear and pleading for his life as she witnessed three officers, all with guns drawn in the direction of her son.
18. Defendants did not intend to conduct a lawful traffic stop, or one that was in bounds of state and local law.
19. As a direct and proximate result of the Defendants' negligent, reckless and unlawful conduct, described above, the Plaintiff suffered damages including, but not limited to pecuniary loss, pain and suffering, medical expenses, mileage incurred in traveling to medical appointments, and such additional damages as may be revealed during the trial of this matter.

FOR A FIRST CAUSE OF ACTION

As to Plaintiff Noah

(Negligence/Gross Negligence/Negligent Training/Negligent Supervision)

20. Plaintiff Noah realleges the preceding paragraphs as though set forth verbatim herein.

21. The actions of the Defendants, as described above, were taken pursuant to their policies and practices.
22. As a matter of both policy and practice, Defendants encourage, and are the moving force behind, its officers' objectively unreasonable use of force against Plaintiff Noah by hiring and retaining unqualified officers, and by failing to adequately train, supervise, and control its officers.
23. By failing to adequately investigate and discipline officers who have engaged in previous instances of excessive force against citizens, Defendants manifest a complete, total, and reckless disregard for the rights of its citizens.
24. Defendants' actions show that use of excessive force is encouraged because its officers believe that their actions will never be scrutinized, and that they will never be investigated or punished for doing do.
25. As a direct and proximate result of Defendants' negligent, reckless and unlawful conduct, described above, Plaintiff Noah suffered damages including, but not limited to pecuniary loss, pain and suffering, medical expenses, mileage incurred in traveling to medical appointments, and such additional damages as may be revealed during the trial of this matter.

FOR A SECOND CAUSE OF ACTION

As to Plaintiff Noah
(Civil Assault and Battery)

26. Plaintiff Noah realleges the preceding paragraphs as though set forth verbatim herein.
27. The actions the Defendants created a reasonable apprehension of imminent harm and constituted harmful or offensive contact with Plaintiff Noah.

28. The actions of the Defendants were objectively unreasonable under the circumstances and were undertaken intentionally with malice, willfulness, and reckless indifference to the rights and safety of Plaintiff Noah.
29. The Defendants' actions were undertaken within the scope of their employment.
30. Defendants are liable as principal for all torts committed by its agents.
31. As a direct and proximate result of the Defendants' negligent, reckless and unlawful conduct, described above, Plaintiff Noah suffered damages including, but not limited to pecuniary loss, pain and suffering, medical expenses, mileage incurred in traveling to medical appointments, and such additional damages as may be revealed during the trial of this matter.

FOR A THIRD CAUSE OF ACTION

As to Plaintiff Noah
(False Arrest/False Imprisonment)

32. Plaintiff Noah realleges the preceding paragraphs as though set forth verbatim herein.
33. Defendants did not have probable cause to believe that Plaintiff Noah was committing or had committed any crime.
34. Defendants caused Plaintiff Noah to be detained and imprisoned him without probable cause or legal justification.
35. Defendants caused Plaintiff Noah to be detained and imprisoned for an unreasonable amount of time and in an unreasonable manner.
36. The actions of the Defendants were objectively unreasonable under the circumstances and were undertaken intentionally with malice, willfulness, and reckless indifference to the rights of Plaintiff Noah.
37. The actions of the Defendants were undertaken within their scope of employment.

38. Defendants are liable as principal for all torts committed by its agents.
39. As a direct and proximate result of the Defendants' negligent, reckless and unlawful conduct, described above, Plaintiff Noah suffered damages including, but not limited to pecuniary loss, pain and suffering, medical expenses, mileage incurred in traveling to medical appointments, and such additional damages as may be revealed during the trial of this matter.

FOR A FOURTH CAUSE OF ACTION

(As to Plaintiff Noah)

(Intentional Infliction of Emotional Distress)

40. Plaintiff Noah realleges the preceding paragraphs as though set forth verbatim herein.
41. That the aforesaid torts of Assault and Battery were being performed by the Defendants upon the person of Plaintiff Noah without his consent constituted intentional conduct that was extreme and outrageous, exceeding all bounds of decency, atrocity, and was utterly intolerable and amounted to the tort of outrage.
42. That as a direct and proximate result and consequence of the commission of said outrageous acts upon Plaintiff Noah, he suffered physical injury to his person, past and present embarrassment, shock, humiliation, emotional distress and trauma, invasion of Plaintiff Noah's peace of mind, psychological injury and damage, mental disturbance as a result of the Defendants' intrusion into Plaintiff Noah's right to physical integrity and personal dignity, loss of enjoyment of life, and has incurred or will incur medical and counseling expenses related thereto; and, said damages are permanent and will continue into the future.

FOR A FIFTH CAUSE OF ACTION

As to Plaintiff Jamica

(Negligent Infliction of Emotional Distress)

43. Plaintiff Noah realleges the preceding paragraphs as though set forth verbatim herein.

44. The aforesaid incident and the resulting damages inflicted severe emotional distress upon Plaintiff Jamica. Plaintiff Jamica's emotional distress was directly caused by negligent actions of the Defendants without any regards to her emotional suffering. The Defendants intentionally harmed Plaintiff Jamica when they knew or should have known their acts would cause severe emotional distress to Plaintiff Jamica when they heard her pleading for her son's life.

45. The grossly negligent acts of the Defendants resulted in damages to Plaintiff Jamica and she will likely continue to suffer from those damages now and in the future.

FOR A SIXTH CAUSE OF ACTION
(South Carolina State Constitutional Violations)

46. Plaintiff realleges the preceding paragraphs as though set forth verbatim herein.

47. By the acts and omissions described more fully above, the Defendants named in this cause of action violated the South Carolina State Constitution by depriving Plaintiff of the following clearly-established and well-settled constitutional rights protected by the South Carolina State Constitution:

- i. The right to be free from unreasonable and illegal searches and seizures;
- ii. The right to be free from excessive and unreasonable force;
- iii. The right to be free from unlawful force;
- iv. The right to be free of unlawful, reckless, wanton, and conscience shocking deadly and/or excessive force;
- v. The right to be free from deprivation of liberty and injury without substantive due process and state created/enhanced danger;
- vi. And in such other particulars as may be learned through discovery.

Prayer for Relief

WHEREFORE, the Plaintiff prays that this Court issue an order in favor of Plaintiff and against the Defendants, awarding to plaintiff actual, special, and/or consequential damages, and for such other relief in law or equity as this court deems just and proper, including but not limited to any costs resulting from this action.

THE PEPPER LAW FIRM, PA

s/ Marvin R. Pendarvis

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This 5th day of April, 2021
Charleston, South Carolina