

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

IN THE COURT OF COMMON PLEAS

CASE NO. 2022-CP-02-_____

Allen Michael Johnson,

Plaintiff,

vs.

North Augusta Department of Public
Safety, City of North Augusta, Aiken
County, Luke L. Sherman, Chris F.
Toole, George A. Shaw, Jonathan L.
Nelson, and John C. Thomas,

Defendants.

SUMMONS

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your answer to the said Complaint upon the subscriber, at his office, P. O. Box 50143, Columbia, South Carolina 29250, within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to answer the Complaint in the time aforesaid, a judgment by default will be rendered against you for the relief demanded in the Complaint.

Respectfully submitted,

/s/ Andrew S. Radeker

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May 18, 2022

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CASE NO. 2022-CP-02-_____

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vs.

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County, Luke L. Sherman, Chris F.
Toole, George A. Shaw, Jonathan L.
Nelson, and John C. Thomas,**

Defendants.

COMPLAINT

The Plaintiff, complaining of the Defendants herein, alleges as follows:

1. The Plaintiff, Allen Michael Johnson, (hereinafter “Allen”) is a citizen and resident the State of South Carolina.
2. All or the most substantial part of the acts committed by the Defendants in this case were done in Aiken County, South Carolina.
3. Defendant City of North Augusta is a municipality within the State of South Carolina, located in Aiken County, South Carolina.
4. Defendant North Augusta Department of Public Safety is a public body operated by the City of North Augusta. Defendant North Augusta Department of Public Safety provides law enforcement services for the City of North Augusta and the people in that city.
5. Defendant Aiken County is a governmental subdivision of the State of South Carolina.
6. Defendant Luke L. Sherman is, upon information and belief, a citizen and resident of Aiken County, South Carolina.

7. Defendant Chris F. Toole is, upon information and belief, a citizen and resident of Aiken County, South Carolina.

8. Defendant George A. Shaw is, upon information and belief, a citizen and resident of Aiken County, South Carolina.

9. Defendant Jonathan L. Nelson is, upon information and belief, a citizen and resident of Aiken County, South Carolina.

10. Defendants Sherman, Toole, Shaw, and Nelson were police officers with the North Augusta Department of Public Safety at all times material to this case.

11. Defendant John C. Thomas is, upon information and belief, a citizen and resident of Aiken County, South Carolina.

12. Defendant Thomas is and was at all times material to this case the chief of the North Augusta Department of Public Safety and bore and bears ultimate responsibility for the decisions made by that department's officers while those officers were working during the time involved in this case.

13. Defendants Sherman, Toole, Shaw, Nelson, and Thomas were acting as agents and servants of Defendants North Augusta Department of Public Safety and the City of North Augusta at times material hereto, and they are hereinafter referred to as "the North Augusta Officers."

14. Defendants North Augusta Department of Public Safety, the City of North Augusta, and the North Augusta Officers and are hereinafter referred to collectively as "the North Augusta Defendants."

15. This court has subject matter jurisdiction of this action and personal jurisdiction over the parties hereto.

16. The acts and omissions subject of this case occurred in Aiken County, South Carolina.

17. This action is brought pursuant to the South Carolina Tort Claims Act, pursuant to 42 U.S.C. § 1983, *et seq.*, and pursuant to all other applicable law.

18. The North Augusta Defendants arrested Allen and charged him with murder, placing him in jail.

19. Allen did not commit this murder.

20. At least within a very few days of Allen's arrest for the murder, the North Augusta Defendants came to have information that showed it was not possible for Allen to have been the person who committed the murder.

21. Rather than take any steps to get Allen released from jail, and rather than taking any steps to get the charges against Allen dropped, the North Augusta Defendants continued to prosecute the charges against Allen and had him held in jail for nearly two years on the murder charge they knew was false.

22. Each day that Allen was held in jail, the North Augusta Defendants violated his rights through new occurrences of unlawful conduct.

23. Not long before Allen was released from jail, the North Augusta Officers, who knew Allen was in a private, privileged, confidential conversation with his attorney, secretly and surreptitiously listened in Allen's conversation with his lawyer.

24. This, too, violated Allen's rights.

25. If the North Augusta Defendants had properly trained, supervised, and taken reasonable steps to get the North Augusta Officers to do their jobs lawfully and reasonably, or if any of the North Augusta Defendants had stepped in to do their duty and take reasonable steps to get Allen released, violations of Allen's rights subject of this case would not have happened.

26. The North Augusta Defendants were grossly negligent in the way they trained, supervised, and oversaw the North Augusta Officers with regard to the matters subject of this case, and they were grossly negligent in the way they did their jobs.

27. The North Augusta Defendants did not take even slight care to guard against the violations of Allen's rights subject of this case.

28. The North Augusta Defendants committed the violations of Allen's rights subject of this case with malicious intent toward Allen.

29. The acts and omissions of the North Augusta Defendants have caused Allen to sustain damages and entitle Allen to recover damages from the Defendants.

30. Allen has suffered damages, including, but not limited to, mental anguish and lack of freedom, as a result of his detention, prosecution, and other violations of his rights by the North Augusta Defendants.

31. The conduct of the North Augusta Defendants and their agents and servants toward Allen was grossly negligent and violated state and federal law.

32. The conduct of the North Augusta Defendants violated Allen's right to be free from unreasonable seizure and infringed upon his right to counsel under the constitutions of the State of South Carolina and of the United States of America.

33. The North Augusta Officers had a sworn duty to preserve, protect, and defend the constitutions of South Carolina and of the United States of America and were required by the laws of South Carolina and the United States of America to refrain from violating Allen's constitutional rights.

34. The North Augusta Defendants' behavior subject of this case was part of a pattern of behavior in which they have consistently ignored the constitutions of this state and of the United States and have violated the constitutional rights of many people.

35. Much of this behavior has been known to authority figures within or among the North Augusta Defendants for several years. The North Augusta Defendants have had multiple opportunities to take reasonable steps to stop, lessen, or mitigate this pattern of behavior, yet they did not do so.

36. After the circumstances of Allen being held on the false murder charge and prosecuted on it were made known to the circuit solicitor's office, the charges against Allen were dismissed, and he was, at last, released from jail.

FOR A FIRST CAUSE OF ACTION
(42 U.S.C. § 1983)

37. Each assertion set forth in this pleading that is consistent with the following is incorporated herein by reference as if here set forth verbatim.

38. As discussed above, North Augusta Defendants violated Allen's civil rights.

39. The North Augusta Defendants acted under color of state law in so doing.

40. The North Augusta Defendants' conduct violated 42 U.S.C. § 1983, and Allen is entitled to a judgment against them for relief available for that violation, including actual and punitive damages, attorney's fees, and costs.

FOR A SECOND CAUSE OF ACTION
(Malicious Prosecution)

41. Each assertion set forth in this pleading that is consistent with the following is incorporated herein by reference as if here set forth verbatim.

42. The North Augusta Defendants caused judicial proceedings to be instituted and prosecuted against Allen as described above.

43. The charges that were brought against Allen were finally terminated in favor of Allen.

44. The North Augusta Defendants acted with malice toward Allen in causing the institution of the proceedings against Allen.

45. The North Augusta Defendants lacked probable cause to institute and continue those proceedings.

46. Allen has been damaged as a result of North Augusta Defendants' actions.

FOR A THIRD CAUSE OF ACTION
(Abuse of Process)

47. Each assertion set forth in this pleading that is consistent with the following is incorporated herein by reference as if here set forth verbatim.

48. The North Augusta Defendants acted with an ulterior purpose in having judicial proceedings instituted and continued against Allen. This includes, but is not limited to, the institution and continuation of the criminal proceedings against Allen for the purpose of trying to "get" Allen, even though they knew that Allen was not the perpetrator of the murder.

49. The collateral objective of attempting to keep Allen from suing North Augusta Defendants was one of the objectives of prosecuting Allen on the criminal charges subject of this action.

50. Allen sustained damage as a result of these actions and is entitled to judgment.

FOR A FOURTH CAUSE OF ACTION
(False Imprisonment)

51. Each assertion set forth in this pleading that is consistent with the following is incorporated herein by reference as if here set forth verbatim.

52. The North Augusta Defendants falsely imprisoned Allen.

53. The North Augusta Defendants, without cause or legal justification, caused Allen to be restrained and confined within fixed boundaries.

54. The restraint was intentional and unlawful and was against Allen's will.

55. As a result, Allen was confined in police custody and in a jail.

56. Allen suffered embarrassment, humiliation, emotional distress, and other damages and was placed in confinement for no legal cause.

57. As a direct and proximate result, Allen is entitled to recover actual damages, punitive damages, and the costs of this action.

FOR A FIFTH CAUSE OF ACTION
(Gross Negligence)

58. Each assertion set forth in this pleading that is consistent with the following is incorporated herein by reference as if here set forth verbatim.

59. The North Augusta Defendants failed to properly train and supervise their officers.

60. The North Augusta Defendants were grossly negligent in training and supervising its staff and officers, including, but not necessarily limited to, the North Augusta Officers.

61. The North Augusta Defendants owed Allen a duty to properly train and supervise its personnel and to refrain from arresting Allen without probable cause, as well as to refrain from prosecuting a baseless criminal charge against him.

62. The North Augusta Defendants and their agents and servants, including, but not necessarily limited to, the North Augusta Officers, breached this duty and were grossly negligent.

63. As a proximate result, Allen sustained damages, and he entitled to judgment in his favor.

FOR A SIXTH CAUSE OF ACTION
(S.C. Code Ann. § 16-5-60)

64. Each assertion set forth in this pleading that is consistent with the following is incorporated herein by reference as if here set forth verbatim.

65. In S.C. Code Ann. § 16-5-60, South Carolina law provides, in pertinent part:

Any citizen who shall be hindered, prevented or obstructed in the exercise of the rights and privileges secured to him by the Constitution and laws of the United States or by the Constitution and laws of this State or shall be injured in his person or property

because of his exercise of the same may claim and prosecute the county in which the offense shall be committed for any damages he shall sustain thereby, and the county shall be responsible for the payment of such damages as the court may award, which shall be paid by the county treasurer of such county on a warrant drawn by the governing body thereof. Such warrant shall be drawn by the governing body as soon as a certified copy of the judgment roll is delivered to them for file in their office.

66. Allen was hindered, prevented and obstructed in the exercise of the rights and privileges secured to him by the South Carolina Constitution and the laws of the State of South Carolina. Allen was deprived of his rights through arrest and detention for his exercise of her constitutional right to free speech, and he was embarrassed, humiliated, and put in fear by improper government action. Further, Allen was also deprived of his right to be free from unreasonable seizure.

67. These deprivations of Allen's constitutional rights occurred in Aiken County, South Carolina.

68. Pursuant to S.C. Code Ann. § 16-5-60, Defendant Aiken County is responsible for damages caused to Allen for the violation of his civil rights, protected by state law, in Lexington County. Allen's exercise of his rights was hindered, prevented, or obstructed.

FOR A SEVENTH CAUSE OF ACTION
(Invasion of Attorney-Client Privilege)

69. Each assertion set forth in this pleading that is consistent with the following is incorporated herein by reference as if here set forth verbatim.

70. The North Augusta Defendants invaded Allen's attorney-client privilege as noted above.

71. This proximately caused Allen to sustain damages.

72. Allen is entitled to judgment for actual and punitive damages.

FOR AN EIGHTH CAUSE OF ACTION
(Civil Conspiracy)

73. Each assertion set forth in this pleading that is consistent with the following is incorporated herein by reference as if here set forth verbatim.

74. The North Augusta Defendants conspired to violate Allen's rights and did so.

75. This conspiracy proximately caused Allen to sustain damages.

76. Allen is entitled to judgment for actual and punitive damages.

WHEREFORE, the Plaintiff prays:

- a) For judgment against the Defendants for the Plaintiff's general and actual compensatory damages;
- b) For judgment against the Defendants for punitive damages;
- c) For judgment against the Defendants for reasonable attorney's fees the costs of this action; and
- d) For such other and further relief as the court may deem just and proper.

Respectfully submitted,

/s/ Andrew S. Radeker

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