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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

CITY OF WEST ALLIS
CITY CLERK

DARRELL K. HAZE,

Plaintiff,

v.

Case No. 2:13-cv-01448-WEC

TIERANIE MARCHANT,
in her personal capacity and in her official
capacity as a police officer for the City of
West Allis, Wisconsin,

Defendants.

FIRST AMENDED COMPLAINT

COMES NOW Plaintiff Darrell K. Haze, by his attorneys, Peterson, Johnson & Murray, S.C., and files this first amended complaint against Defendant Police Officer Tieranie Marchant, in her personal capacity and in her official capacity as a police officer for the City of West Allis, Wisconsin:

INTRODUCTION

1. This civil action seeks an award of money damages against Police Officer Tieranie Marchant for unlawfully stopping, detaining, searching, arresting, jailing and prosecuting Darrell Haze. This civil action is brought under 42 U.S.C. §§1983 and 1988; and the Fourth, Fifth and Fourteenth Amendments of the U.S. Constitution.

THE PARTIES

2. Darrel Haze (Haze) is the plaintiff in this action. At all relevant times, he has lived in Milwaukee County, Wisconsin.

3. Police Officer Tieranie Marchant (Marchant) is employed by the City of West Allis, Wisconsin (West Allis). At all relevant times, she has worked in Milwaukee County, Wisconsin.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1331 because the claims in this complaint arise under the Constitution and laws of the United States, namely the Fourth, Fifth and Fourteenth Amendments and 42 U.S.C. §§1983 and 1988.

5. This Court also has jurisdiction under 28 U.S.C. §1343(a)(3) because the claims in this complaint seek damages for the deprivation, under color of State law, of rights, privileges and immunities secured by the Constitution and laws of the United States.

6. This Court also has jurisdiction under 28 U.S.C. §1343(a)(4) because the claims in this complaint seeks damages under Acts of Congress.

7. Venue in this Court is proper under 28 U.S.C. §1391(b)(1) because the defendant resides within the Eastern District of Wisconsin.

8. Venue in this Court is also proper under 28 U.S.C. §1391(b)(2) because the events giving rise to this action occurred in the Eastern District of Wisconsin.

FACTUAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

9. During all relevant times, Officer Marchant acted under color of State law in her capacity as a police officer employed by the City of West Allis.

10. On or about August 8, 2013, Mr. Haze was listening to a live music performance on a public street located at or near 7909 West Greenfield Avenue in West Allis.

11. Officer Marchant stopped and detained Mr. Haze. The stop and detention were unreasonable.

12. At the time Officer Marchant stopped and detained Mr. Haze, she knew that she did not have reason to suspect that Mr. Haze had committed a punishable offense or was about to commit a punishable offense.

13. A reasonable officer in Officer Marchant's place would not have stopped or detained Mr. Haze.

14. Officer Marchant began interrogating Mr. Haze about ticket sales to the Wisconsin State Fair. The interrogation was unreasonable.
15. A reasonable officer would not have interrogated Mr. Haze.
16. At no point in time during the interrogation did Officer Marchant obtain facts supporting a reasonable suspicion that Mr. Haze had committed a punishable offense or was about to commit a punishable offense.
17. A reasonable officer in Officer Marchant's place would have ended the stop, detention and interrogation.
18. Officer Marchant then searched Mr. Haze's person. The search was unreasonable.
19. At the time that Officer Marchant searched Mr. Haze's person, she knew that she did not have reason to suspect that Mr. Haze had committed a punishable offense or was about to commit a punishable offense.
20. At the time that Officer Marchant searched Mr. Haze's person, she knew that she did not have reason to suspect that she would find evidence of a punishable offense.
21. A reasonable officer in Officer Marchant's place would not have searched Mr. Haze.
22. Officer Marchant then arrested Mr. Haze. The arrest was unreasonable.
23. At the time Officer Marchant arrested Mr. Haze, she did not have probable cause that Mr. Haze had committed a punishable offense.
24. A reasonable officer in Officer Marchant's place would not have arrested Mr. Haze.
25. Officer Marchant then jailed Mr. Haze. The jailing was unreasonable.
26. At the time Officer Marchant jailed Mr. Haze, she did not have probable cause that Mr. Haze had committed a punishable offense.
27. A reasonable officer in Officer Marchant's place would not have jailed Mr. Haze.

28. Officer Marchant later issued citations to Mr. Haze for theft in violation of Ordinance 943.20(1) and selling tickets above face value in violation of Ordinance 9.18(7)(t).

29. At the time that Officer Marchant issued the citation to Mr. Haze for theft in violation of Ordinance 943.20(1), she knew that her allegations were false and unsupported by her investigation.

a. In the alternative, Officer Marchant acted in reckless disregard or deliberate indifference of Mr. Haze's rights when she falsely accused Mr. Haze of theft.

30. At the time that Officer Marchant issued the citation to Mr. Haze for selling tickets above face value in violation of Ordinance 9.18(7)(t), she knew that her allegations were false and unsupported by her investigation.

a. In the alternative, Officer Marchant acted with reckless disregard or deliberate indifference to Mr. Haze's rights when she falsely accused Mr. Haze of selling tickets over face value.

31. A reasonable officer in Officer Marchant's place would not have issued citations to Mr. Haze for theft or selling tickets over face value.

32. A trial was held before the Municipal Court for the City of West Allis (Municipal Court) on or about November 5, 2013.

33. The Municipal Court found in favor of Mr. Haze and dismissed the citations.

34. At the time that Officer Marchant continued to prosecute Mr. Haze for theft and selling tickets over face value, she knew that her allegations were false and unsupported by her investigation.

a. In the alternative, Officer Marchant acted with reckless disregard or deliberate indifference to Mr. Haze's rights when she continued to prosecute Mr. Haze for selling tickets over face value.

35. A reasonable officer in Officer Marchant's place would not have continued to prosecute Mr. Haze.

36. Officer Marchant knew Mr. Haze before she stopped, detained, interrogated, arrested, jailed and issued the citations to him.

37. Officer Marchant singled Mr. Haze out for punishment because she did not like him.

38. Officer Marchant's decisions to single Mr. Haze out for punishment were arbitrary and irrational, and deprived Mr. Haze of due process and equal protection of the laws.

**FIRST CAUSE OF ACTION: DEPRIVATION OF
FOURTH AMENDMENT RIGHTS**

39. Mr. Haze incorporates here all previous paragraphs.

40. The Fourth Amendment to U.S. Constitution prohibits Officer Marchant from stopping or detaining Mr. Haze without reasonable suspicion.

41. Officer Marchant knowingly stopped and detained Mr. Haze without reasonable suspicion; or acted in reckless disregard or deliberate indifference to Mr. Haze's rights.

42. The Fourth Amendment to the U.S. Constitution prohibits Officer Marchant from unreasonably extending a stop or detention.

43. Officer Marchant knowingly extended the stop and detention of Mr. Haze; or acted in reckless disregard or deliberate indifference to Mr. Haze's rights.

44. The Fourth Amendment to the U.S. Constitution prohibits Officer Marchant from searching Mr. Haze without reasonable suspicion

45. Officer Marchant knowingly searched Mr. Haze without reasonable suspicion; or acted in reckless disregard or deliberate indifference to Mr. Haze's rights.

46. The Fourth Amendment to the U.S. Constitution prohibits Officer Marchant from arresting Mr. Haze without probable cause.

47. Officer Marchant knowingly arrested Mr. Haze without probable cause; or acted in reckless disregard or deliberate indifference to Mr. Haze's rights.

48. The Fourth Amendment to the U.S. Constitution prohibits Officer Marchant from jailing Mr. Haze without probable cause.

49. Officer Marchant knowingly jailed Mr. Haze without probable cause; or acted in reckless disregard or deliberate indifference to Mr. Haze's rights.

50. As a direct and foreseeable result of Officer Marchant's aforementioned unlawful conduct, Mr. Haze has suffered damages, without limitation to lost wages, emotional distress and costs associated with defending Officer Marchant's false allegations.

51. Mr. Haze requests relief as hereinafter provided.

**SECOND CAUSE OF ACTION: DEPRIVATION OF
FIFTH AMENDMENT RIGHTS**

52. Mr. Haze incorporates here all previous paragraphs.

53. The Fifth Amendment to the U.S. Constitution prohibits Officer Marchant from arresting Mr. Haze without probable cause.

54. Officer Marchant knowingly arrested Mr. Haze without probable cause; or acted in reckless disregard or deliberate indifference to Mr. Haze's rights to due process.

55. The Fifth Amendment to the U.S. Constitution prohibits Officer Marchant from jailing Mr. Haze without probable cause.

56. Officer Marchant knowingly jailed Mr. Haze without probable cause; or acted in reckless disregard or deliberate indifference to Mr. Haze's rights to due process.

57. The Fifth Amendment to the U.S. Constitution prohibits Officer Marchant from prosecuting Mr. Haze under false pretenses.

58. Officer Marchant abusively and maliciously prosecuted Mr. Haze for offenses that she knew he did not commit; or acted in reckless disregard or deliberate indifference to Mr. Haze's rights to due process.

59. As a direct and foreseeable result of Officer Marchant's aforementioned unlawful conduct, Mr. Haze has suffered damages, without limitation to lost wages, emotional distress and costs associated with defending Officer Marchant's false allegations.

60. Mr. Haze requests relief as hereinafter provided.

**THIRD CAUSE OF ACTION: DEPRIVATION OF
FOURTEENTH AMENDMENT RIGHTS**

61. Mr. Haze incorporates here all previous paragraphs.

62. The Fourteenth Amendment to the U.S. Constitution prohibits Officer Marchant from singling out Mr. Haze for punishment.

63. Officer Marchant's decisions to stop, detain, interrogate, arrest, jail and prosecute Mr. Haze were arbitrary and irrational.

64. Officer Marchant's decision to stop, detain, interrogate, arrest, jail and prosecute Mr. Haze lacked a rational basis in fact or law.

65. Officer Marchant intentionally treated Mr. Haze differently from others similarly situated and there is no rational basis for the difference in treatment.

66. Officer Marchant singled Mr. Haze out for punishment because she did not like him and in retaliation for Mr. Haze's previous complaints against her.

67. As a direct and foreseeable result of Officer Marchant's aforementioned unlawful conduct, Mr. Haze has suffered damages, without limitation to lost wages, emotional distress and costs associated with defending Officer Marchant's false allegations.

68. Mr. Haze requests relief as hereinafter provided.

RELIEF REQUESTED

Wherefore, Mr. Haze respectfully requests that this Honorable Court enter judgment for him on his complaint against Officer Marchant and West Allis and provide the following relief:

- A. An order declaring that Officer Marchant violated Mr. Haze's rights guaranteed under the Fourth, Fifth and Fourteenth Amendments to the U.S. Constitution.
- B. An order awarding Mr. Haze damages for lost wages, emotional distress and other compensatory damages.
- C. An order awarding Mr. Haze's attorneys' fees, expert fees, taxable costs and disbursements, and punitive damages under 42 U.S.C. §1988 and other applicable law.
- D. An order awarding such other and further relief as determined by the Court.

DEMAND FOR TRIAL BY JURY

Pursuant to Fed.R.Civ.P. 38(b), Mr. Haze hereby demands a trial by jury on all issues so triable.

Respectfully submitted this 16th day of June, 2014.

PETERSON, JOHNSON & MURRAY, S.C.
Attorneys for Plaintiff

/s/ William F. Sulton

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 16, 2014, I served a true and correct copy of the above *First Amended Complaint*, via Court's CM/ECF System, to:

Attorney for Defendants:

Jeffery J. Warchol
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