

UNITED STATES DISTRICT COURT

for the
Eastern District of Wisconsin

Devin D. Williams

Plaintiff(s)

v.

Cooper et al.

Defendant(s)

Civil Action No. 24-cv-768

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Officer Schenk
West Allis Police Dept.
11301 W Lincoln Ave
West Allis, WI 53227

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you receive it) - or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12(a)(2) or (3) - you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or the plaintiff's attorney, whose name and address are:

Devin D Williams
668652
Milwaukee Secure Detention Facility
1015 N 10th St
PO Box 05911
Milwaukee, WI 53205-0911

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.



GINA M. COLLETTI, CLERK OF COURT

M. Wunsch

Signature of Clerk or Deputy Clerk

Date: 11/20/2024

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

Devin D. Williams

Plaintiff(s),

v.

Case No. 24-cv-768

Officer Lazaris

Defendant(s).

CONSENT TO PROCEED BEFORE A MAGISTRATE JUDGE

This form must be filed with the Clerk of Court within 21 days of receipt. Although choosing to have your case decided by a magistrate judge is optional and refusal will not have adverse substantive consequences, the timely return of this completed form is mandatory.

If you do not consent to a magistrate judge hearing your case, a district judge will hear your case. Aside from cases subject to the Prison Litigation Reform Act, magistrate judges in this district generally play no further role in civil cases pending before district judges and do not issue reports and recommendations.

Magistrate judges do not conduct felony trials, and therefore felony trials do not interfere with scheduling and processing of cases before magistrate judges.

Check one:

The undersigned attorney of record or pro se litigant **consents** to have Magistrate Judge Nancy Joseph conduct all proceedings in this case, including a bench or jury trial, and enter final judgment in accordance with 28 U.S.C. § 636(c) and Federal Rule of Civil Procedure 73(b).

The undersigned attorney of record or pro se litigant **refuses** to have a magistrate judge enter final judgment in this matter.

Signed this ____ day of _____, _____.
(date) (month) (year)

Signature of counsel of record or pro se litigant

- Plaintiff / petitioner (attorney or pro se litigant)
- Defendant / respondent (attorney or pro se litigant)
- Other party

ASSIGNMENT OF CIVIL CASES
EASTERN DISTRICT OF WISCONSIN

At the time a new civil action is filed, it is assigned by random selection to either a district judge or a magistrate judge in accordance with the local rules. Pursuant to the provisions of 28 U.S.C. §636(c) and Rule 73 of the Federal Rules of Civil Procedure, a United States Magistrate Judge may, with the consent of the parties, conduct all proceedings in this civil action, including a bench or jury trial and order the entry of judgment. The statute provides for direct appeal to the U.S. Court of Appeals for the Seventh Circuit.

Once the assigned district or magistrate judge has been selected, the local rules of this district require that each party to the action receive a copy of the "consent form." Each party shall complete the form and file it with the Clerk of Court **within 21 days** after its receipt.

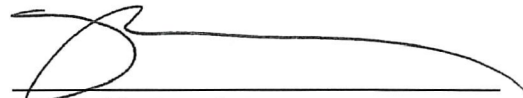
If this case has been randomly assigned to a **district judge** and all parties consent to have the magistrate judge conduct all proceedings in the case, the district judge may enter an order transferring the case to the magistrate judge.

If this case has been randomly assigned to a **magistrate judge** and not all parties consent, then the case will be reassigned by random selection to a district judge. If all parties consent, the magistrate judge will conduct all proceedings in the action.

While the decision to consent or not to consent to the exercise of jurisdiction by the magistrate judge is entirely voluntary, the duty to respond to this order is **mandatory**. Your response shall be made to the Clerk of Court only on the form on the reverse side of this notice.

IT IS THEREFORE ORDERED, that you complete this form and file it with the Clerk of Court within **twenty-one (21) days** from receipt.

UNITED STATES DISTRICT COURT



Honorable Pamela Pepper,
Chief Judge

COMPLAINT

(for filers who are prisoners without lawyers) 2024 JUN 20 PM 2:04

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF WISCONSIN

(Full name of plaintiff)

Devin D. Williams

v.

Case Number:

(Full name of defendant(s))

24CV768

(to be supplied by Clerk of Court)

Officer Jordan Cooper,

Officer Lazaris and Officer

Schenk of the West Allis Police Dept. et al.

A. PARTIES

1. Plaintiff is a citizen of WISCONSIN, and is located at
(State)

M.S.D.F.; 1015 N 10th Street; Milwaukee, WI 53233
(Address of prison or jail)

2. Defendant P.O. [REDACTED] Jordan Cooper, Lazaris,
and Schenk
(Name)

is (if a person or private corporation) a citizen of WISCONSIN
(State, if known)

and (if a person) resides at The West Allis Police Department
(Address, if known)

and (if the defendant harmed you while doing the defendant's job)

worked for WAPD; 11301 N. Lincoln Ave.; West Allis 53227
(Employer's name and address, if known)

(If you need to list more defendants, use another piece of paper.)

B. STATEMENT OF CLAIM

On the space provided on the following pages, tell:

1. Who violated your rights;
2. What each defendant did;
3. When they did it;
4. Where it happened; and
5. Why they did it, if you know.

On 2/4/2024 officer Jordan Cooper of the WAPD.
pulls me over after parking at a resident in west Allis.
P.O. Cooper state that I was avoiding him by pulling
over my friend that was in the car stayed at the exact
address where I pulled over at. P.O. Cooper sees a
small bag of marijuana and asked to see my drivers
license. I show him, he sees my hand shaking but
doesn't ask why. P.O. Cooper assumes I am afraid and
may be hiding something. I have a medical condition
dealing with tremors and epilepsy dating back to 2012.
My body shakes 365 days 24/7. P.O. wants to do a
strip search with no probable cause to arrest me.

I was arrested as well as two other occupants in the car. I was the only one subjected to a strip search. I refused but stripped. Officers Lazaris and Schenk assisted P.O. Cooper to do a body cavity search of my anal I refused. One of the officers opens the door so that others could look in to see me naked. This was done to humiliate me. Officer states that he did crack open the door but gives no valid reason. Since marijuana is decriminalized I should have received a ticket. I am now suing for false arrest, false imprisonment, illegal search and seizure, misconduct, and cruel and unusual punishment. Body cavity searches must be done by a physician or a licensed nurse in this state. I am also suing for pain and suffering. I have medical records showing my medical condition. I did not give officers consent to strip search me. The police report shows officers were in flagrant disregard of any rule, law and/or policies. These can also be considered sexual assault by all parties involved.

C. JURISDICTION

I am suing for a violation of federal law under 28 U.S.C. § 1331.

OR

I am suing under state law. The state citizenship of the plaintiff(s) is (are) different from the state citizenship of every defendant, and the amount of money at stake in this case (not counting interest and costs) is \$_____.

D. RELIEF WANTED

Describe what you want the Court to do if you win your lawsuit. Examples may include an award of money or an order telling defendants to do something or to stop doing something.

I am asking the court to grant a judgment in the amount of \$200,000.00. I am also asking the court to apply the law 90 days in jail and/or \$1,000.00 fine. I am asking for both. see § 895.535(4)

E. JURY DEMAND

I want a jury to hear my case.

- YES

- NO

I declare under penalty of perjury that the foregoing is true and correct.

Complaint signed this 13th day of June 2024.

Respectfully Submitted,

Domin Williams
Signature of Plaintiff

668652
Plaintiff's Prisoner ID Number

Milwaukee Secure Detention Facility;
1015 N 10th Street; Milwaukee, WI 53233
(Mailing Address of Plaintiff)

REQUEST TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING THE FULL FILING FEE

I DO request that I be allowed to file this complaint without paying the filing fee. I have completed a Request to Proceed in District Court without Prepaying the Full Filing Fee form and have attached it to the complaint.

I DO NOT request that I be allowed to file this complaint without prepaying the filing fee under 28 U.S.C. § 1915, and I have included the full filing fee with this complaint.

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

DEVIN D. WILLIAMS,

Plaintiff,

v.

Case No. 24-CV-768-JPS

JORDAN COOPER, OFFICER
LAZARIS, and OFFICER SCHENK,

ORDER

Defendants.

Plaintiff Devin D. Williams, an inmate confined at the Milwaukee Secure Detention Facility (“MSDF”), filed a pro se complaint under 42 U.S.C. § 1983 alleging that Defendants violated his constitutional rights. ECF No. 1. This Order resolves Plaintiff’s motion for leave to proceed without prepaying the filing fee and screens his complaint.

1. MOTION FOR LEAVE TO PROCEED WITHOUT PREPAYING THE FILING FEE

The Prison Litigation Reform Act (“PLRA”) applies to this case because Plaintiff was a prisoner when he filed his complaint. *See* 28 U.S.C. § 1915(h). The PLRA allows the Court to give a prisoner plaintiff the ability to proceed with his case without prepaying the civil case filing fee. *Id.* § 1915(a)(2). When funds exist, the prisoner must pay an initial partial filing fee. 28 U.S.C. § 1915(b)(1). He must then pay the balance of the \$350 filing fee over time, through deductions from his prisoner account. *Id.*

On July 24, 2024, the Court ordered Plaintiff to pay an initial partial filing fee of \$79.82. ECF No. 6. Plaintiff paid that fee on August 6, 2024. The Court will grant Plaintiff’s motion for leave to proceed without prepaying

the filing fee. ECF No. 2. He must pay the remainder of the filing fee over time in the manner explained at the end of this Order.

2. SCREENING THE COMPLAINT

2.1 Federal Screening Standard

Under the PLRA, the Court must screen complaints brought by prisoners seeking relief from a governmental entity or an officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The Court must dismiss a complaint if the prisoner raises claims that are legally “frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b).

In determining whether the complaint states a claim, the Court applies the same standard that applies to dismissals under Federal Rule of Civil Procedure 12(b)(6). *See Cesal v. Moats*, 851 F.3d 714, 720 (7th Cir. 2017) (citing *Booker-El v. Superintendent, Ind. State Prison*, 668 F.3d 896, 899 (7th Cir. 2012)). A complaint must include “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). The complaint must contain enough facts, accepted as true, to “state a claim for relief that is plausible on its face.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). “A claim has facial plausibility when the plaintiff pleads factual content that allows a court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* (citing *Twombly*, 550 U.S. at 556).

To state a claim for relief under 42 U.S.C. § 1983, a plaintiff must allege that someone deprived him of a right secured by the Constitution or the laws of the United States and that whoever deprived him of this right was acting under the color of state law. *D.S. v. E. Porter Cnty. Sch. Corp.*, 799

F.3d 793, 798 (7th Cir. 2015) (citing *Buchanan–Moore v. County of Milwaukee*, 570 F.3d 824, 827 (7th Cir. 2009)). The Court construes pro se complaints liberally and holds them to a less stringent standard than pleadings drafted by lawyers. *Cesal*, 851 F.3d at 720 (citing *Perez v. Fenoglio*, 792 F.3d 768, 776 (7th Cir. 2015)).

2.2 Plaintiff's Allegations

On February 2, 2024, Defendant Officer Jordan Cooper (“Cooper”) of the West Allis Police Department pulled Plaintiff over after parking at a residence in West Allis. ECF No. 1 at 2. Cooper said that Plaintiff was avoiding him by pulling over. *Id.* Plaintiff’s friend stayed at the address where Cooper pulled him over. *Id.* During the stop, Cooper saw a bag of marijuana and asked to see Plaintiff’s driver’s license. *Id.* Cooper saw Plaintiff’s hand shaking but he did not ask why. *Id.* Cooper assumed that Plaintiff was afraid or hiding something, but Plaintiff has a medical condition that makes his body shake constantly. *Id.* Cooper wanted to do a strip search with no probable cause to arrest Plaintiff.

Plaintiff was arrested along with two other occupants in the car. *Id.* at 3. However, Plaintiff was the only one subjected to a strip search. *Id.* Plaintiff initially refused the strip search, but at some point, complied. Defendant Officers Lazaris (“Lazaris”) and Schenk (“Schenk”) assisted Cooper with a body cavity search of Plaintiff’s anus. *Id.* Plaintiff again refused. *Id.* One of the officers opened the door so that the others could look at Plaintiff naked. *Id.* This action was done to humiliate Plaintiff. *Id.* The officer stated that he cracked open the door, but he gave no valid reason. *Id.*

Plaintiff believes that because marijuana is decriminalized, he should only have been given a ticket. *Id.* Plaintiff maintains that the officers’ actions during the strip search could be considered sexual assault. *Id.*

2.3 Analysis

First, the Court will allow Plaintiff to proceed on a Fourth Amendment claim for his illegal seizure. The Fourth Amendment prohibits “unreasonable searches and seizures.” U.S. Const. amend IV. Temporary detention of individuals during the stop of an automobile by the police, even if only for a brief period and for a limited purpose, constitutes a seizure under the Fourth Amendment. *Whren v. United States*, 517 U.S. 806, 809–10 (1996). The Fourth Amendment permits brief traffic stops if an officer has a “reasonable suspicion” of a traffic violation. *United States v. Cole*, 21 F.4th 421, 427 (7th Cir. 2021). “A detour that prolongs the stop violates the Fourth Amendment unless the officer has reasonable suspicion of other criminal activity to independently justify prolonging the stop.” *Id.* at 428.

Here, Plaintiff alleges that Cooper pulled him over in his vehicle for simply parking on the street near a friend’s residence. At the screening stage, the Court finds that Plaintiff has sufficiently stated a Fourth Amendment claim against Cooper for illegal seizure.

Second, the Court will not allow Plaintiff to proceed on a claim for his subsequent arrest. Plaintiff alleges that Cooper saw a bag of marijuana in plain view during the stop. “A warrantless arrest is constitutionally permissible if supported by probable cause.” *United States v. Sands*, 815 F.3d 1057, 1061–62 (7th Cir. 2015). Probable cause for an arrest exists if the totality of the “facts and circumstances within the officer's knowledge ... are sufficient to warrant a prudent person, or one of reasonable caution, [to] believ[e], in the circumstances shown, that the suspect has committed, is committing, or is about to commit an offense.” *Michigan v. DeFillippo*, 443 U.S. 31, 37 (1979). Plaintiff believes marijuana is legal in the state of

Wisconsin; however, he is incorrect. *See United States v. Paige*, 870 F.3d 693, 700 (7th Cir. 2017). The Seventh Circuit has clarified that, despite its evolving legal status, it was “undisputed that marijuana possession remains a crime in Wisconsin.” *Id.* (citing Wis. Stat. § 961.41(3g)(e)). Given Plaintiff’s admission that the marijuana was in plain view during the stop, the Court concludes that Cooper had probable cause to arrest Plaintiff for marijuana possession. *See id.*

Third, the Court will allow Plaintiff to proceed on his illegal strip search claim. If an officer has probable cause to arrest, he or she also may conduct a search incident to that lawful arrest without any additional justification. *Id.* (citing *United States v. Robinson*, 414 U.S. 218, 235 (1973)). However, an otherwise permissible search may still violate the constitution when it is performed unreasonably. *See Henry v. Hulett*, 969 F.3d 769, 781 (7th Cir. 2020). “The Fourth Amendment thus protects prisoners from searches that may be related to or serve some institutional objective, but where guards nevertheless perform the searches in an unreasonable manner, in an unreasonable place, or for an unreasonable purpose.” *Id.* When evaluating a prisoner’s claim involving a strip search under the Fourth Amendment, a court “must assess that search for its reasonableness, considering ‘the scope of the particular intrusion, the manner in which it is conducted, the justification for initiating it, and the place in which it is conducted.’” *Id.* at 779 (quoting *Bell v. Wolfish*, 441 U.S. 520, 559 (1979)).

Applying that standard here, the Court will allow Plaintiff to proceed on a Fourth Amendment illegal strip search claim against Cooper, Lazaris, and Schenk. Plaintiff alleges that these defendants conducted a strip search that included a body cavity search of Plaintiff’s anus. Plaintiff further alleges that they held the door open to allow others to see his naked

body for the purpose of humiliating him. As such, the Court will allow Plaintiff to proceed on a Fourth Amendment illegal strip search claim against Cooper, Lazaris, and Schenk.

3. CONCLUSION

In light of the foregoing, the Court finds that Plaintiff may proceed on the following claims pursuant to 28 U.S.C. § 1915A(b):

Claim One: Fourth Amendment illegal seizure claim against Cooper.

Claim Two: Fourth Amendment illegal strip search claim against Cooper, Lazaris, and Schenk.

The Court has enclosed with this Order guides prepared by court staff to address common questions that arise in cases filed by prisoners. These guides are entitled, "Answers to Prisoner Litigants' Common Questions" and "Answers to Pro Se Litigants' Common Questions." They contain information that Plaintiff may find useful in prosecuting his case.

Accordingly,

IT IS ORDERED that Plaintiff's motion for leave to proceed without prepaying the filing fee, ECF No. 2, be and the same is hereby **GRANTED**;

IT IS FURTHER ORDERED that the U.S. Marshals Service shall serve a copy of the complaint and this order upon Defendants **Cooper, Lazaris, and Schenk** pursuant to Federal Rule of Civil Procedure 4. Plaintiff is advised that Congress requires the U.S. Marshals Service to charge for making or attempting such service. 28 U.S.C. § 1921(a). Although Congress requires the Court to order service by the U.S. Marshals Service, it has not made any provision for these fees to be waived either by the Court or by the U.S. Marshals Service. The current fee for waiver-of-service packages is \$8.00 per item mailed. The full fee schedule is provided at 28 C.F.R.

§§ 0.114(a)(2), (a)(3). The U.S. Marshals Service will give Plaintiff information on how to remit payment. The Court is not involved in collection of the fee;

IT IS FURTHER ORDERED that Defendants **Cooper, Lazaris, and Schenk** shall file a responsive pleading to the complaint;

IT IS FURTHER ORDERED if Defendants contemplate a motion to dismiss, the parties must meet and confer before the motion is filed. Defendants should take care to explain the reasons why they intend to move to dismiss the complaint, and Plaintiff should strongly consider filing an amended complaint. The Court expects this exercise in efficiency will obviate the need to file most motions to dismiss. Indeed, when the Court grants a motion to dismiss, it typically grants leave to amend unless it is "certain from the face of the complaint that any amendment would be futile or otherwise unwarranted." *Harris v. Meisner*, No. 20-2650, 2021 WL 5563942, at *2 (7th Cir. Nov. 29, 2021) (quoting *Runnion ex rel. Runnion v. Girl Scouts of Greater Chi. & Nw. Ind.*, 786 F.3d 510, 524 (7th Cir. 2015)). Therefore, it is in both parties' interest to discuss the matter prior to motion submissions. Briefs in support of, or opposition to, motions to dismiss should cite no more than ten (10) cases per claim. No string citations will be accepted. If Defendants file a motion to dismiss, Plaintiff is hereby warned that he must file a response, in accordance with Civil Local Rule 7 (E.D. Wis.), or he may be deemed to have waived any argument against dismissal and face dismissal of this matter with prejudice;

IT IS FURTHER ORDERED that the agency having custody of Plaintiff shall collect from his institution trust account the \$270.18 balance of the filing fee by collecting monthly payments from Plaintiff's prison trust account in an amount equal to 20% of the preceding month's income

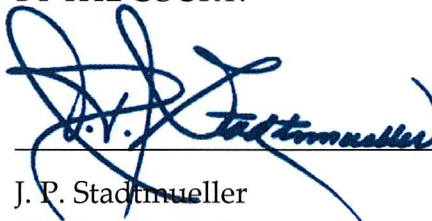
credited to Plaintiff's trust account and forwarding payments to the Clerk of Court each time the amount in the account exceeds \$10 in accordance with 28 U.S.C. § 1915(b)(2). The payments shall be clearly identified by the case name and number assigned to this case. If Plaintiff is transferred to another county, state, or federal institution, the transferring institution shall forward a copy of this Order along with his remaining balance to the receiving institution;

IT IS FURTHER ORDERED that a copy of this Order be sent to the officer in charge of the agency where Plaintiff is confined; and

IT IS FURTHER ORDERED that the Clerk's Office mail Plaintiff a copy of the guides entitled "Answers to Prisoner Litigants' Common Questions" and "Answers to Pro Se Litigants' Common Questions," along with this Order.

Dated at Milwaukee, Wisconsin, this 17th day of October, 2024.

BY THE COURT:

A handwritten signature in blue ink, appearing to read "J.P. Stadmueller", is written over a horizontal line. The signature is stylized and somewhat cursive.

J. P. Stadmueller
U.S. District Judge

Plaintiffs who are inmates at Prisoner E-Filing Program institutions shall submit all correspondence and case filings to institution staff, who will scan and e-mail documents to the Court. Prisoner E-Filing is mandatory for all inmates at Columbia Correctional Institution, Dodge Correctional Institution, Green Bay Correctional Institution, Oshkosh Correctional Institution, Waupun Correctional Institution, and Wisconsin Secure Program Facility.

Plaintiffs who are inmates at all other prison facilities, or who have been released from custody, will be required to submit all correspondence and legal material to:

Office of the Clerk
United States District Court
Eastern District of Wisconsin
362 United States Courthouse
517 E. Wisconsin Avenue
Milwaukee, Wisconsin 53202

DO NOT MAIL ANYTHING DIRECTLY TO THE COURT'S CHAMBERS. If mail is received directly to the Court's chambers, **IT WILL BE RETURNED TO SENDER AND WILL NOT BE FILED IN THE CASE.**

Plaintiff is further advised that failure to timely file any brief, motion, response, or reply may result in the dismissal of this action for failure to prosecute. In addition, the parties must notify the Clerk of Court of any change of address. **IF PLAINTIFF FAILS TO PROVIDE AN UPDATED ADDRESS TO THE COURT AND MAIL IS RETURNED TO THE COURT AS UNDELIVERABLE, THE COURT WILL DISMISS THIS ACTION WITHOUT PREJUDICE.**