

UNITED STATES DISTRICT COURT

for the
Eastern District of Wisconsin

Melvin Acevedo-Feliciano

Plaintiff

v.

Officer Youngquist et al

Defendant

Civil Action No. 24-CV-1418

WAIVER OF THE SERVICE OF SUMMONS

To: Melvin Acevedo-Feliciano
(Name of the plaintiff's attorney or unrepresented plaintiff)

I have received your request to waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case.

I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, but that I waive any objections to the absence of a summons or of service.

I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within 60 days from 5-15-2025, the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

Date: _____

Signature of the attorney or unrepresented party

Officer Allison Clark

Printed name of party waiving service of summons

Printed name

Address

E-mail address

Telephone number

Duty to Avoid Unnecessary Expenses of Serving a Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. A defendant who is located in the United States and who fails to return a signed waiver of service requested by a plaintiff located in the United States will be required to pay the expenses of service, unless the defendant shows good cause for the failure.

"Good cause" does *not* include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.

UNITED STATES DISTRICT COURT

for the
Eastern District of Wisconsin

Melvin Acevedo-Feliciano

Plaintiff

v.

Officer Youngquist et al

Defendant

Civil Action No. 24-CV-1418

NOTICE OF A LAWSUIT AND REQUEST TO WAIVE SERVICE OF A SUMMONS

To: Officer Allison Clark

(Name of the defendant or - if the defendant is a corporation, partnership, or association - an officer or agent authorized to receive service)

Why are you getting this?

A lawsuit has been filed against you, or the entity you represent, in this court under the number shown above. A copy of the complaint is attached.

This is not a summons, or an official notice from the court. It is a request that, to avoid expenses, you waive formal service of a summons by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within 30 days *(give at least 30 days, or at least 60 days if the defendant is outside any judicial district of the United States)* from the date shown below, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped, self-addressed envelope or other prepaid means for returning one copy. You may keep the other copy.

What happens next?

If you return the signed waiver, I will file it with the court. The action will then proceed as if you had been served on the date the waiver is filed, but no summons will be served on you and you will have 60 days from the date this notice is sent (see the date below) to answer the complaint (or 90 days if this notice is sent to you outside any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will arrange to have the summons and complaint served on you. And I will ask the court to require you, or the entity you represent, to pay the expenses of making service.

Please read the enclosed statement about the duty to avoid unnecessary expenses.

I certify that this request is being sent to you on the date below.

Date:

5-15-2025

Signature of the attorney or unrepresented party

Melvin Acevedo-Feliciano

Printed name

Address

E-mail address

Telephone number

UNITED STATES DISTRICT COURT

for the
Eastern District of Wisconsin

Melvin Acevedo-Feliciano

Plaintiff

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Signature of the attorney or unrepresented party

Officer Allison Clark

Printed name of party waiving service of summons

Printed name

Address

E-mail address

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UNITED STATES DISTRICT COURT

for the
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Melvin Acevedo-Feliciano

Plaintiff

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Civil Action No. 24-CV-1418

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Please read the enclosed statement about the duty to avoid unnecessary expenses.

I certify that this request is being sent to you on the date below.

Date: 05-15-2025

Signature of the attorney or unrepresented party

Melvin Acevedo-Feliciano

Printed name

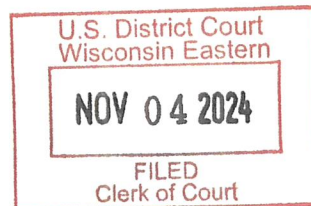
Address

E-mail address

Telephone number

MELVIN ACEVEDO-FELICIANO

v
OFFICER YOUNGQUIST, OFFICER ALLISON CLARK



COMPLAINT

CIVIL ACTION NO: 24-C-1418

I. Jurisdiction & Venue (B)

1. This is a civil action authorized by 42 U.S.C. Section 1983 to redress the deprivation, under the color of state law, of the rights secured by the CONSTITUTION of the United States. The court has jurisdiction under 28 U.S.C. Section 1331 and 1343(a)(3). Plaintiff seeks declaratory relief pursuant to 28 U.S.C. Section 2201 & 2202. Plaintiff claims for injunctive relief are authorized by 28 U.S.C. Section 2283 & 2284 and Rule 65 of the Federal Rules of Civil Procedure.

2. The United States District Court Eastern District of Wisconsin is an appropriate venue under 28 U.S.C. Section 1391(b)(2) because it is where the events giving rise to this claim occurred.

II. Plaintiff(s) (C)

3. Plaintiff Melvin Acevedo-Feliciano is and was at all times mentioned herein a pretrial detainee of the State of Wisconsin Milwaukee County Community Reintegration Center (CRC) located in Franklin Wisconsin Milwaukee County.

III. Defendant(s) (D)

4. Defendant OFFICER YOUNGQUIST and OFFICER ALLISON CLARK

of the West Allis Police department are Peace Officers for the West Allis Police department in the state of Wisconsin City of West Allis. He/she are legally responsible for the safety and Peace keeping for this department under the jurisdiction of Milwaukee County West Allis city.

5. Defendants OFFICER YOUNGQUIST, and OFFICER ALISON CLARK is a West Allis Police OFFICER/Peace OFFICER of the State of Wisconsin who at all times mentioned in this complaint held the rank of police/peace OFFICER and was assigned to patrol/response in West Allis WI.

6. Each defendant is sued individually and in his/her official capacity. At All times mentioned in this complaint, each defendant acted under the color of state law.

IV. Facts

7. Upon the stop and arrest the police/Defendants used excessive force when apprehending Plaintiff putting the handcuffs on Plaintiff wrists extremely tight to cut off circulation and leave bruising to the bone and soft tissue for several days after up until today's date of Oct 31 2024 and incident took place on Oct 11, 2024 almost to the point of making one feel "upon information or belief" that it became personal and crude and unusual punishment.

V. Legal CLAIM(F)

8. The deliberate indifference to medical needs, excessive use of force and disregard for human safety violated plaintiff

Melvin Acevedo-Feliciano's rights and constituted a violation to the United States Constitution Amendments 4th, 5th, and 14th Wisconsin Constitution Section 1, 3, 7 and 8 and Wisconsin Statutes

968.07.

9. ~~PRAYER FOR RELIEF~~ (6)

WHEREFORE, plaintiff respectfully prays that this court enter judgement granting plaintiff:

10. A declaration that the acts and omission described herein violated plaintiff's rights under the Constitution and laws of the United States
11. A preliminary and permanent injunction ordering defendants to take training to stop excessive use of force and deescalation classes so they don't have other episodes of excessive use of force, Defendants OFFICER YOUNGQUEST and OFFICER ALLISON CLARK be suspended for a period of time for there indiscression.
12. Compensatory damages in the amount of \$150,000.⁰⁰ against each defendant, jointly and severally
13. Punitive damages in the amount of \$150,000.⁰⁰ against each defendant OFFICER YOUNGQUEST, and OFFICER ALLISON CLARK and the amount of \$75,000.⁰⁰ against defendants OFFICER Young Quest, and ALLISON CLARK,
14. A jury trial on all Issues triable by jury
15. Plaintiff's costs in this suit.
16. Any additional relief this court deems just, proper and equitable.

Date _____ (n)

Respectfully submitted

Melvin Acevedo-Feliciano

^{CRC}
8885 S 68th St

Franklin WI 53132

Verification (I)

I have read the foregoing complaint and hereby verify that the matters alleged therein are true, except as to matters alleged on information and belief, and, as to those, I believe them to be true. I certify under penalty of perjury that the foregoing is true and correct.

executed at Franklin Wisconsin on Thursday Oct 31 2024

Melvin Acevedo Feliciano

Melvin Acevedo Feliciano

IN THE UNITED STATES DISTRICT COURT FOR EASTERN DISTRICT OF WISCONSIN

Melvin Acevedo - Feliciano

V

Officer Youngquest, and OFFICER ALLESON CLARK

SUMMONS

Civil Action No. _____

TO the ABOVE - NAMED DEFENDANTS:

You are hereby summoned and required to serve upon plaintiffs, whose address is Community Reintegration Center 8885 56th Street Franklin WI 53132 an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service, or 60 days if the US Government or Officer/agent thereof is a defendant. If you fail to do so, judgement by default will be taken against you for the relief demanded in the complaint.

CLERK of the Court

DATE: _____

RECEIVED
DIRECT COMMUNITY REINTEGRATION SERVICES
53132

MILWAUKEE WI 530
1 NOV 2024 PM 4 L



FOREVER / USA

UNITED STATES DISTRICT COURT
OFFICE OF THE CLERK ROOM 302
517 EAST WISCONSIN AVE
MILWAUKEE, WISCONSIN 53202

53202-456259



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

MELVIN ACEVEDO-FELICIANO,

Plaintiff,

v.

Case No. 24-cv-1418-pp

OFFICER YOUNGQUIST
and OFFICER ALLISON CLARK,

Defendants.

**ORDER GRANTING PLAINTIFF'S MOTION FOR LEAVE TO PROCEED
WITHOUT PREPAYING FILING FEE (DKT. NO. 3) AND SCREENING
COMPLAINT UNDER 28 U.S.C. §1915A**

Plaintiff Melvin Acevedo-Feliciano, who previously was incarcerated at the Milwaukee County Community Reintegration Center and is representing himself, filed a complaint under 42 U.S.C. §1983, alleging that the defendants violated his constitutional rights. This decision resolves the plaintiff's motion for leave to proceed without prepaying the filing fee, dkt. no. 3, and screens his complaint, dkt. no. 1.

**I. Motion for Leave to Proceed without Prepaying the Filing Fee
(Dkt. No. 3)**

The Prison Litigation Reform Act (PLRA) applies to this case because the plaintiff was incarcerated when he filed his complaint. See 28 U.S.C. §1915(h). The PLRA lets the court allow an incarcerated plaintiff to proceed with his case without prepaying the civil case filing fee. 28 U.S.C. §1915(a)(2). When funds exist, the plaintiff must pay an initial partial filing fee. 28 U.S.C. §1915(b)(1).

He then must pay the balance of the \$350 filing fee over time, through deductions from his prisoner account. Id.

On November 18, 2024, the court ordered the plaintiff to pay an initial partial filing fee of \$79.97. Dkt. No. 6. The court received \$10 from the plaintiff on December 11, 2024 and \$81 from the plaintiff on December 18, 2024. The court will grant the plaintiff's motion for leave to proceed without prepaying the filing fee and will require him to pay remainder of the filing fee as stated at the end of this order.

II. Screening the Complaint

A. Federal Screening Standard

Under the PLRA, the court must screen complaints brought by incarcerated persons seeking relief from a governmental entity or officer or employee of a governmental entity. 28 U.S.C. §1915A(a). The court must dismiss a complaint if the incarcerated plaintiff 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 it applies when considering whether to dismiss a case 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)). To state a claim, 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 Atlantic 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 liberally complaints filed by plaintiffs who are representing themselves and holds such complaints 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)).

B. The Plaintiff’s Allegations

The plaintiff alleges that the defendants are police officers with the City of West Allis Police Department. Dkt. No. 1 at ¶4. On October 11, 2024, the defendants allegedly arrested the plaintiff and applied handcuffs extremely tightly “to cut off circulation and leave bruising to the bone and soft tissue for several days after up until . . . October 31, 2024.” Id. at ¶7. The plaintiff opines

that this was cruel and unusual punishment. Id. The plaintiff seeks declaratory relief, injunctive relief and compensatory and punitive damages. Id. at ¶¶10-13.

C. Analysis

The court analyzes an arrestee's claim for excessive force under the Fourth Amendment's objective reasonableness standard. Graham v. Connor, 490 U.S. 386, 388 (1989). "An officer's use of force is unreasonable if, judging from the totality of the circumstances at the time of the arrest, the officer uses greater force than was reasonably necessary to effectuate the arrest." Gupta v. Melloh, 19 F.4th 990, 996 (7th Cir. 2021) (quoting Phillips v. Cmty. Ins. Corp., 678 F.3d 513, 519 (7th Cir. 2012)). "A person has the right to be free from an officer's knowing use of handcuffs in a way that would inflict unnecessary pain or injury, if that person presents little or no risk of flight or threat of injury." Rooni v. Biser, 742 F.3d 737, 742 (7th Cir. 2014) (citations omitted). The question "is whether the officer knows that he is inflicting such pain[]" because "[a]n officer cannot be expected to respond to an injury about which he is unaware." Id. "[K]nowledge may be inferred 'from the nature of the act itself.'" Id. (quoting Stainback v. Dixon, 569 F.3d 767, 772 (7th Cir. 2009)).

The plaintiff may proceed on an excessive force claim against the defendants in their individual capacities based on his allegations that they applied handcuffs too tightly which caused injury to the plaintiff.

III. Conclusion

The court **GRANTS** the plaintiff's motion for leave to proceed without prepaying the filing fee. Dkt. No. 3.

The court **ORDERS** the U.S. Marshals Service to serve a copy of the complaint and this order on defendants Youngquist and Clark under Federal Rule of Civil Procedure 4. 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 either the court or the U.S. Marshals Service to waive these fees. 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 the plaintiff information on how to remit payment. The court is not involved in collection of the fee.

The court **ORDERS** the defendants to file a responsive pleading to the complaint.

The court **ORDERS** that the plaintiff must pay the \$239.22 balance of the filing fee to the Clerk of Court as he is able.

The court **ORDERS** that the parties must not begin discovery until after the court enters a scheduling order setting deadlines for completing discovery and filing dispositive motions.

The court **ORDERS** that the plaintiff must submit the original document for each filing to the court to the following address:

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

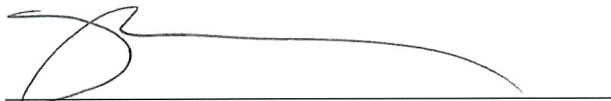
DO NOT MAIL ANYTHING DIRECTLY TO THE JUDGE'S CHAMBERS. It will only delay the processing of the case.

The court advises the plaintiff that if he fails to file documents or take other required actions by the deadlines the court sets, the court may dismiss the case based on his failure to diligently pursue it. The parties must notify the Clerk of Court of any change of address. The plaintiff's failure to keep the court advised of his address may result in the court dismissing this case without further notice.

The court will include a guide prepared by court staff to address common questions that arise in cases filed by prisoners. Entitled "Answers to Prisoner Litigants' Common Questions," this guide contains information that the plaintiff may find useful in prosecuting his case.

Dated in Milwaukee, Wisconsin, this 14th day of May, 2025.

BY THE COURT:

A handwritten signature in black ink, appearing to be 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
Chief United States District Judge