RECEIVED

By U.S. Marshals Service Eastern Wisconsin at 3:01 pm, Mar 17, 2022

COMPLAINT

U.S. DISTRICT COURT EASTERN DISTRICT - WI FILED

(for non-prisoner filers without lawyers)

2022 HAR 14 P 3: 23

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF WISCONSIN

CLERK OF COURT

	(Full name of plaintiff(s)) Marvin Ealy Ur	
ogt.	v. (Full name of defendant(s)) Anthony Wagner Badge#119 John Fabrycki Badge#10 Kevyn Mussatti Badge#159 Adam Niemuth Badge#11	Case Number: 22-6-8323 (to be supplied by Clerk of Court) Officer Schultz Badgett 180
	A. PARTIES	· · · · · · · · · · · · · · · · · · ·
	1. Plaintiff is a citizen of(State)	and resides at
	1720 w meinecke Ave Mil (Address)	waveee WI 53206
	(If more than one plaintiff is filing, use another). 2. Defendant Anthony Wagner, John	er piece of paper.) Fabryck ^e , Kevyn Mussatti, Adam Niemutl (Name)

1. Officer Anthony wagner - Pulled me over and unlawfully Detained me and deprived me of my Rights 20 Officer Kevyn Mussatti - unlawfully shattered the Automobile windows to extract me out of the Automobile 3. Sat John Fabrycki ordered officers to break the Autobile window to extract me out of the car 4. Officer Adam Niemoth Forcefully Snatch me out of the Automobile by my shirt and threw me to the ground. Im not sure which offices Searched me I was discriented At that time but I was unlawfully Searched Incident took place on South 110 5 / west National Ave west Allis WI 53227 50 officer Schultz Badge # 180 unlawfully opened My car door without my consent so that other officers could snatch me out of the Automobile

The reason why the west Allis Police officers assaulted me is because they were acting under the color of law.

Case 2:22-cv-00323-LA Filed 03/14/22 Page 2 of 6 Document 1

(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.

1. officers that violated My constitutional rights are Anthony wagner John Fabrycki, Kevyn Mussatti, and Adam Niemuth

2. On March 26 2019 approximately 7:31 pm upon information and belief, despite there being no reasonable suspicion that I had committed a crime, was committing a crime, or would be committing a crime I Marvin Early Ir was detained and arrested, after numerous city of west Allis Police officers broke out my car window dragged me out of the Autobile illegally searched me in a inappropriate, unwarranted, and unconsitutional manner because I refused to provide identification or give them my name. As a direct result of the above-indicated actions of The west Allis police officers I sustained injuries to my shoulders and my neck I Also sustained psychological in wries and has suffered and continues to suffered from feast Allix intervaliables marked and sleep disturbance.

That a proximate cause of the injuries and damages caused by west Allis police officers upon information and belief, was the conduct on the part of the Above-Edent: Fied West Allis police officers All of were acting within the scope of their employment and under the

Color of law. involving the use of negligent and intentional inappropriate unwarranted, excessive, improper and unconstitutional Acts to illegally Break and Damage Property, search me without My consent Detain me and Also Arrest me.

The city of west Allis And the west Allisi police department failed to

adequately train, supervise and control its Police officers by Allowing a Police force atmosphere that Promotes cavalier attitudes in conduct, and leading to a belief that Police action will here be scutinized and/or prosecuted: and by encouraging "misplaced loyalties" and a code of silence among police officers in refusing to report unlawful actions by Police officers and by refusing to Cooperate with officials investigating unlawful actions by police officers

My injuries and damages caused by west fills police officers upon information and Belief, was the negligence on the part of the city of west Alls and the west Alls and the west Alls police department in Allowing some of the above-Identified officers to be originally hired and to Also remain employed as police officers, having actual or constructive knowledge of their conduct and attitudes, and knowing their being hired and Also remaining employed As police officers would involve unreasonable risk of harm to others.

That upon information and belief; in addition to nealigent actions much of the actions and mis conduct described above, was objectively unreasonable and was undertaken intentionally, withmalice, and with willful and reckless indifference to my rights. That upon information and belief the city of west Allis has had Both actual and constructive notice of the prior conduct of the involved police officers the city of west Allis hiring practices; the city of west Allis Police Department training, supervision and control practices; The city of west Allis police bepartment disciplinary practices; Police officers Attivdes and conduct practices; the police officers misplaced loyalties and code of Silvence and the injuries and damages sustained on me and causes there of

That as a result of the aforementioned incident and conduct, upon the information and Belief I marrintally. Ir suffered damage to my property and Psychological injuries as described above I has incurred expenses the repair of my damage of property: I Also have innurred and will continue in the future to incur medical expenses for treatment of my psychological injuries and has endured and will continue in the future to endure emotional distress and other damages as provided by law. I am Marvin tally. I am authorized to give this notice of injury.

Dorted at Milway kee ust this 14th day of March, 2022 Case 2:22-cv-00323-LA Filed 03/14/22 Page 4 of 6 Document 1

C.	JURIS	BDICTION
	X	I am suing for a violation of federal law under 28 U.S.C. § 1331.and 42 U.S.
		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.	RELI	EF WANTED
	inclu	ribe what you want the Court to do if you win your lawsuit. Examples may de an award of money or an order telling defendants to do something or to doing something.
	I was	nt the court to prosecute the defendants to
		est extent of the law. I want the policies officers
		involved to be fired and I want the courts to
au	ard v	ne 1,600,000
		,
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E.	JURY DEMAND
	I want a jury to hear my case.
	YES
I decla	are under penalty of perjury that the foregoing is true and correct.
Comp	laint signed this 14 day of March 20 32.
	Respectfully Submitted, Marrin Coly for Signature of Plaintiff 262 202 9325 Plaintiff's Telephone Number eknolegeel@gmail Plaintiff's Email Address 1720 w Meinecke Milwaykee wf 53266
	(Mailing Address of Plaintiff)
	(If more than one plaintiff, use another piece of paper.)
. •	JEST TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING THE IG 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 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.





WEST ALLIS POLICE DEPARTMENT

Robert Fletcher Deputy Chief of Police

Christopher Marks Deputy Chief of Police

January 26, 2022

Re: Requested records

To Whom It May Concern:

This letter is in response to your request for records for the above listed matter. Since you are making your request under the public records law, my response to your request will be framed under the provisions of those statutes and the case law interpreting them.

I have been mindful in preparing these records for release that the purpose of the Wisconsin public records law is to shed light on the workings of government and the acts of public officers and employees in their official capacities. Wis. Stat. § 19.31 declares: "In recognition of the fact that a representative government is dependent upon an informed electorate, it is declared to be the public policy of this state that all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of those officers and employees who represent them." In addition to Wis. Stat. § 19.31, see Building and Constr. Trades Council v. Waukakee Comm. Sch. Dist., 221 Wis. 2d 575, 582, 585 N.W.2d 726 (Ct. App. 1998).

In considering your request, I initially determined whether there is a statute or case law requiring disclosure or creating a blanket disclosure exception. Thereafter, I performed the balancing test to decide whether the strong presumption favoring disclosure is overcome by some even stronger presumption favoring limited access or non-disclosure. For the reasons set forth below, I have decided to partially deny your request for records, specifically:

Personal identifying information of individuals associated with an incident(s) investigated by law enforcement has been redacted from records.

• In performing the balancing test, I determined that the public interest in disclosure of this information is outweighed by the public interest in the privacy on the part of individuals as well as the public interest in individuals cooperating with authorities. Furthermore, this information has been redacted to protect against identity theft, harassment, or other unauthorized use. Finally, the redacted information sheds little, if any, light on the affairs of the government.

Name and personal identifying information of a juvenile(s) have been redacted from records.

- See Wis. Stat. § 48.396 and 938.396.
- In performing the balancing test, I determined that the public interest in disclosure of this information is outweighed by the public interest in the privacy on the part of juveniles. In addition, I concluded that disclosure of this information sheds very little, if any, light on the workings of government and the acts of public officers and employees in their official capacities in this incident. Furthermore, this information has been redacted to protect against identity theft, harassment, or other unauthorized use.

Personal medical/psychiatric information has been redacted from records.

- In performing the balancing test, I determined that the public interest in disclosure of this in information is outweighed by the public interest in the privacy on the part of individuals as it pertains to their personal medical/psychiatric history, as well as the privacy afforded to individuals by the Health Insurance Portability and Accountability Act (HIPAA).
- See Wis. Stat. § 146.82 Confidentiality of Patient Health Care Records.

Other requested records are being made available.

Wis. Stat. § 19.35(4)(b) requires that you be informed this determination is subject to review under Wis. Stat. § 19.37(1). You may bring an action for mandamus asking for a court to order release of the records or request the District







WEST ALLIS POLICE DEPARTMENT

Robert Fletcher Deputy Chief of Police

Christopher Marks Deputy Chief of Police

Attorney or Attorney General to bring an action for mandamus asking a court to order a release of the records. The Milwaukee County District Attorney's office is located at 949 North 9th Street, Milwaukee, WI, 53233. The Milwaukee County Children's Court Center is located at 10201 West Watertown Plank Road, Wauwatosa, WI, 53226. The State Attorney General's office is located at Wisconsin Department of Justice, 114 East State Capitol, P.O. Box 7857, Madison, WI 53707-7857.

Sincerely,

Steren Bruse

Steven Beyer Captain of Police Administrative Services Bureau

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West Allis Police Department

Continuation

Incident Report Number

Incident Location:

S 110 St/W National Ave, West Allis, WI, 53227

Incident Date: 03/26/2019

NARRATIVE

At the time of this investigation I was wearing my WAPD issued body camera, which was functional and activated. The body worn camera footage was categorized as Misdemeanor. See video recording for precise details as the following is a summary based off little or no review.

INITIAL STOP

On 04/04/19 at approx. 1931hrs, while on patrol in my marked WAPD squad car, I observed a red 2001 Ford Escort WI LIC AAE1555, operating westbound on W National Ave from S 108 St. A DOT query of the vehicle indicated that the registration of the vehicle was currently suspended due to an unpaid parking ticket through the Milwaukee County Sheriffs office. At S 110 St and W National Ave I positioned my squad behind the vehicle and activated my emergency lights to conduct a traffic stop. The vehicle pulled into the McDonalds lot and pulled into a parking space facing east on the west side of the building. In the rear windows of the vehicle I observed several pieces of paper that stated things such as "not for commerce", "Private Property" and "you are being recorded". I know that, based upon my training and experience as a law enforcement officer, signs and statements of this nature are sometimes used by "sovereign citizens", who can sometimes be uncooperative with law enforcement. I waited for my back up officers to arrive before making contact.

CONTACT WITH MARVIN EALY JR - OFFENDER

I approached the drivers side window of the vehicle and spoke with the driver and sole occupant, later identified by WI Fast ID as Marvin Ealy Jr, M/B . I introduced myself and explained the reason for the stop. Marvin told me that the vehicle was not the property of the DMV. He then told me that he was going to call the owner of the vehicle on his phone. Marvin then explained that he was recording me. I informed him that my body camera was also recording.

I then asked Marvin if he had his drivers license or ID card on with him. He told me that he was not driving. I explained to him that he as operating a vehicle on a city street in the city of West Allis. He then told me to read the papers he had on his drivers window. I again explained to him that he was operating a vehicle on a city street and I needed to see his drivers license. He then explained that "this was not a registered vehicle with the DMV so the contract has been expired". He also again explained that he was not a driver. I asked Marvin if he would turn off the vehicle so I could speak with him. He told me that he could hear me and did not turn off the vehicle.

I again asked him for his drivers license and he again told me that he was not

Reporting Officer(s):	Payroll Number :	Pages:
Wagner, Anthony	2570	2 Of 4

West Allis Police Department

Continuation

Incident Report Number 19-011368

Incident Location:

S 110 St/W National Ave, West Allis, WI, 53227

Incident Date: 03/26/2019

driving, he was traveling, and that he was not engaged in commerce. Marvin also told me that he "pleads the fifth" on everything. I explained to him that I was not requesting any statements from him and that I just needed him to produce his drivers license. Marvin continued to show me his papers and claim that he did not have to show me anything.

I asked Marvin if I could know his first name, just so I know what to call him. He refused to tell me even his first name. He then asked for a supervisor. I informed him that my Sergeant was on his way.

As other officers arrived on-scene, they also attempted to speak with Marvin. I went inside of the McDonalds to check if anyone knew Marvin or was waiting for him to arrive at the business. Initially no one inside the business knew who the male was, but a short time later a store manager exited and told me that one of the employees was I spoke with who had come to pick her up. stated she did not live with the male and did not know his actual legal name. She stated that he often acts this way and stated he was "woke".

Officers continued to order Marvin to exit the vehicle and explained to him multiple times that he was now under arrest. For approx. 20 min he was ordered to exit the vehicle and told that he was under arrest.

ARREST OF MARVIN EALY JR

For additional information regarding the arrest of Marvin, See additional officers supplements.

TRANSPORT AND BOOKING

Marvin was secured in a squad car and transported to the WAPD station for booking by Officer Eklund. Once at the WAPD station, he was searched and a WI ID card was located, identifying him as Marvin. His identity was also confirmed by the WI Fast ID system. Marvin claimed that he was a Mooring American and that the name on the ID card was not his real identity and that he did not recognize the state.

I explained to Marvin the booking process and explained that we needed his fingerprints and a photograph. He told me that he did not consent, and that we would have to make him do it. Marvin did not physically resist and would move over to the fingerprint area and photograph area with minimal guidance from officers.

Marvin was found to have a valid body only warrant through the Milwaukee County Sherriff's Office. His drivers license status was also found to be revoked, related to an OWI incident.

Marvin was issued citation AE264096-0 for OAR due to an OWI, and local citation

Reporting Officer(s):	Payroll Number:	Pages:
Wagner, Anthony	2570	3 Of 4

West Allis Police Department Incident Report Number 19-011368 Incident Location: S 110 St/W National Ave, West Allis, WI, 53227 Incident Date: 03/26/2019

AE164098-2 for operating after the suspension of the registration. The OAR citation has a court date set for 04/30/19 and the local citation has a court date set for 04/29/19 at 0830 hrs.

Following the booking he was turned over to MCSO on the warrant.

CASE DISPOSITION

Marvin Ealy JR was arrested for Obstructing, OAR due to an OWI, and a warrant through the sheriffs office

Reporting Officer(s):

Wagner, Anthony

Payroll Number:

2570

4 Of 4

West Allis Police Department Incident Report Number: 19-011368 Style National Ave, West Allis, WI, 53227 Original CFS Code -1: New CFS Code -2: New CFS Code -2:

NARRATIVE

INITIAL RESPONSE

On 03/26/19 at approx. 2200 hrs., I responded to McDonald's, 10915 W. National Ave., to assist with a traffic stop. Officers were already out with a red Ford Escort, WI Reg #AAE1555, and the operator refused to get out of the vehicle. On scene officers advised the operator was argumentative and refusing to roll the window down.

VEHICLE CONTACT

Upon arrival on scene I made contact with Sgt. Fabrycki who advised officers were going to break the windows of the vehicle to take the operator into custody. While speaking with Sgt. Fabrycki I heard contact officers continually tell the operator he was under arrest and to exit the vehicle.

While speaking to Sgt. Fabrycki, it was agreed to break the front passenger window first (for cover/less lethal options), then to move to the front driver side window. Officers decided to remove the operator from the driver side due to another vehicle parked on the passenger side of the offender's vehicle.

EXTRICATION

Once officers were ready, I used my window punch tool and hit the top left corner of the front passenger window. After the window was broken, I used the halogen to rake the glass around the window to avoid any officers getting cut. After the window was cleared, I moved myself to the front driver side window. While there, the operator ultimately advised officers he was coming out. He unlocked the door, and officers took him into custody.

End of Supplemental Report

Reporting Officer(s):	. 1 1/	Payroll Number :			Report Date:
Mussatti, Kevyn	15%	9906			03/26/2019
Reviewed by:	Payroll Number :	, _ , _ , _ , _ , _ , _ , _ , _ , _ , _	Сору То:	Page:	•
Pasdera, Trever	1851			1	Of 1

West Allis Police Department Incident Report Number: 19-011368 New Incident: | Incident Location: | S 110 St/W National Ave, West Allis, WI, 53227 | 03/26/2019 | | New CFS Code - 1: | New CFS Code - 1: | New CFS Code - 2: |

NARRATIVE

Officer Borree reports...

INITIAL CALL FOR SERVICE

On 03/26/19 at approximately 7:31pm, Officer Wagner called out a traffic stop via radio at S 110 St/W National Ave. The vehicle eventually stopped at McDonald's located at 10915 W National Ave., in the City of West Allis, County of Milwaukee, State of Wisconsin. More Officers arrived on the scene as Officers Wagner and Schultz advised via radio that the driver was not cooperative, would not roll down his window, and would not step out of the vehicle.

Eventually, the driver of the vehicle was removed from the vehicle. I assisted in this investigation by taking photographs of the scene.

SCENE PHOTOGRAPHS

I utilized a WAPD Canon digital point-and-shoot camera and my issued media card to take 22 digital photographs of the scene. The following is a summary of those photographs:

- 1-5. Mid-range photographs of offender's vehicle
- 6-7. Damage to front passenger window
- 8. Interior of front passenger area
- 9-13. Signs affixed to inside of windows of offender's vehicle
- 14. Interior of front driver area
- 15. Rear seat
- 16. Camera affixed to dashboard
- 17. Handicapped parking placard hanging from rearview mirror
- 18. Camera affixed to dashboard
- 19. Sign affixed to inside of offender's vehicle
- 20. Vehicle registration plate AAE1555
- 21-22. VIN of offender's vehicle

The photographs were uploaded to the WAPD DIMS system for safekeeping.

This report will be submitted to the Commanding Officer for review.

Reporting Officer(s):	7	Payroll Number:			Report Date:
Borree, Peter	19	9897			03/26/2019
Reviewed by:	Payroll Number :		Сору То:	Page:	
Pasdera, Trever	1851			1	Of 1

West Allis Police Department Incident Report Number: 19-011368 New Incident Original CFS Code - 1: New CFS Code - 2: New CFS Code - 2:

NARRATIVE

At the time of this investigation I was wearing my WAPD issued body camera, which was functional and activated. The body worn camera footage was categorized as misdemeanor arrest. See video recording for precise details as the following is a summary based off little or no review.

Obstructing

When I arrived on scene, PO Wagner and PO Schultz were talking to the driver and lone occupant in a red Ford Escort. The driver, a M/B subject was refusing to identify himself or exit the vehicle after he was stopped for a traffic violation by PO Wagner.

I took over communication with the unidentified driver for PO Wagner and PO Schultz. I spoke with the driver for approx. 25 minutes trying have him exit the vehicle. During the approx. 25 minutes of negotiation with the driver, I informed him he is under arrest for obstructing and needed to exit the vehicle.

During my entire contact with the driver he refused to exit the vehicle after repeated commands and told officers they would need to break his window to get him out of the vehicle.

Due to the driver refusing to exit the vehicle and identify himself after approx. 25 minutes of repeated commands to exit the vehicle, officers broke the passenger side window of the vehicle to take the driver into custody. When the vehicle doors were unlocked, PO Schultz opened the driver's door form the outside. I grabbed the driver by the shirt at his shoulders and directed him to the ground next to the driver's door where he was taken into custody without further incident.

Q&A Tab

The Use of Force Q&A Tab was completed.

End of Supplement

V80

Reporting Officer(s):	1	Payroll Number :		Report Date:
Niemuth, Adam	\	2681		03/26/2019
Reviewed by:	Payroll Number:		Сору То:	Page:
Orlowski, Rick, Jr.	9249			1 Of 1

West Allis Police Department					t Supplementary Repor					
Incident Report Num 19-011368		Incident Locat		National	Δνο	West 101	lis WT	53227	Incider	t Date: 3/26/2019
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Wagner, A		7			2570					03/26/201
Reviewed by:	Jonat	-han		Payroll Number:			C	ору То:	Page 1	Of 1

West Allie	- Police Der	artmant		Samuela mandal D	
	s Police Dep	partment	•	Supplemental R	_ -
Incident Report Number: 19-011368	Incident Location:	W Nationa	l Ave, West All	ia WT 50007	Incident Date:
New Incident:	12 110 20/	w Nationa.	Orlginal CFS Code - 1:	1S, W1, 53227 New CFS Code -1:	03/26/2019 New CFS Code - 2:
			4801	New CFS Code -1 :	New Cr5 Code - 2;
NARRATIVE					
ADA REVIEW 04	-11-19				
Barwick repor	ts:				
ADA Behling i	s assigned t	to this ca	se. The defenda	ant has a	
the existing	aring on 04-	-12-19 for	a different ca	ase. This case m	ay be read in
-					
				-	
Reporting Officer(s):				Payroll Number :	Report Date:
Barwick, Steve	en			SB1805	04/11/2019
Reviewed by:		Payroll Number :	.	Copy To:	Page:
Orlowski, Rick	k, Jr.	RO9249			1 Of 1

West Allis Poli	ce Department			Property Report
Property Number: 19-001549	Case Number 19-011368	Location: S 110 St/W	National Ave	Incident Date: 03/26/2019 19:31:39
Name (Last, First, Middle)	10-011000	0 110 0000	DOB:	Race/Sex:
Ealy, Marvin				Black/African American Male
Address: (Address, City, State,	Zip)			Home Phone Number:
		Dotails	of Recovery	
Recovered Location: (Address,	City, State, Zip)	Details	or recovery	Recovery Date:
				03/26/2019 22:28:56
ound in Possession of:			Address: (Address. City, State, Zip)	
Evidence Place	e Retained:		Sent to Property Room 03/26/2019 22:28:56	☐ Found Property
Item#	Type	Reas	on	
eporling Officer: Wagner, Anthony N	VI Proof of Ownership:	AW2570 Dispositio	Reviewed by: Wagner, Anthony M On of Property Signature of Officer Authorizing Release:	AW2570 Report Date 03/26/2019
Owner - Agent Printed Name:			Owner - Address:	,
Signature of Owner - Agent:			Signature of Officer Releasing Property:	