

**IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT
OF WEST VIRGINIA AT CHARLESTON**

**DREW WILLIAMS,
JASON PRICE,
COURTNEY SHANNON**

Plaintiffs,

vs.

**CITY OF CHARLESTON, JAY
GOLDMAN, in his individual and official
capacity as the Mayor of the City of
Charleston, JERRY RIFFE, in his
individual and official capacity as the
Chief of Police for the City of Charleston,
Officers John Doe #1 through 9 in their
individual and official capacities as police
officers for the City of Charleston,**

Defendants.

Case No.:

**COMPLAINT FOR DECLARATORY
RELIEF, PERMANENT INJUNCTION
AND DAMAGES FOR VIOLATION
OF CIVIL RIGHTS PURSUANT TO 42
U.S.C.A. §§,1983, 1985 AND PENDENT
STATE LAW CLAIMS**

JURY TRIAL DEMANDED

INTRODUCTION

1. This is a lawsuit seeking declaratory, injunctive and monetary relief against the City of Charleston, Police Chief Jerry Riffe and Officers Does 1 through 9 for an unconstitutional and racially-based stop, detention, seizure and search. Upon information and belief which will likely have support after a reasonable opportunity for discovery, the City of Charleston Police Department has a policy and practice of targeting certain individuals based principally on their perceived race or ethnicity, stopping and detaining these certain individuals for frivolous or non-existing causes, and then subjecting them to unlawful detentions and searches.

2. As a consequence, numerous law-abiding citizens, including Plaintiffs, have been unlawfully stopped, incarcerated and searched, leaving them intimidated and humiliated

when they have done nothing to warrant such treatment. By this complaint, Plaintiffs seek judicial redress for violations of their civil rights due to Defendants' policy and practice. They also seek equitable relief so that people of color may walk, drive and congregate in the City of Charleston without having to suffer the indignities of discriminatory treatment by government officials.

3. In the manner described herein, Defendants, acting under color of state law, targeted, stopped, detained, seized and searched Plaintiffs, without reasonable suspicion or probable cause and under circumstances where no reasonable police officer would have believed that the plaintiffs had engaged in any unlawful conduct. Defendants' actions were intentional and violated the Fourth and Fourteenth Amendments to the United States Constitution, 42 U.S.C. §§1981, 1983, and 1985 as well as violating the West Virginia Constitution and common law protections afforded to all of its citizens regardless of race. In addition to seeking compensatory and punitive damages, Plaintiffs seek declaratory and injunctive relief requiring Defendants to desist from and remedy their illegal race-based practices.

JURISDICTION

4. This Court has concurrent jurisdiction over Plaintiffs' claims for violation of Civil Rights pursuant to 42 U.S.C. §§ 1983 and 1985, and raises federal questions applicable to the states under the Fourth and Fourteenth Amendments of the United States Constitution and under the constitutional and common law of the state of West Virginia.

PARTIES

5. The true names and capacities of the defendants sued as "Does" are unknown to the plaintiffs. Plaintiffs are informed and believe and thereon allege that such defendants

are in some manner legally responsible for each of the acts and/or omissions causing the claimed damages. The identities of the John Doe defendants will be determined after a reasonable opportunity for discovery. At all times relevant to this Complaint said defendants were acting under color of law and in their official capacities as police officers for the City of Charleston Police Department. Said defendants are sued in their individual and official capacities.

6. Plaintiff Drew Williams is an African-American male who at all times relevant to this Complaint was a resident of Grayson, Georgia and was a student at West Virginia State College.

7. Plaintiff Jason Price is an African-American male who at all times relevant to this Complaint was a resident of Kimball, West Virginia and was a student at West Virginia State College.

8. Plaintiff Courtney Shannon is an African-American male who at all times relevant to this Complaint was a resident of South Holland, Illinois and was a student at West Virginia State College.

9. The defendant officers Does 1 through 9 were at all times relevant to this complaint, employed, duly appointed, and acting as sworn police officers for the City of Charleston, and were at all time acting under the color of law and pursuant to the policies, customs and/or usages of the City of Charleston. Said defendants are sued individually and/or in their official capacity.

10. Jerry Riffe was at all relevant times the Chief of Police of the City of Charleston acting within the scope of his employment as Police Chief and responsible for, among other things, the implementation of the policies and/or practices of the City of

Charleston Police Department, including but not limited to, the control, supervision, operation and administration of the department and for observing, administering and enforcing the provisions of all laws regulating the City of Charleston Police Department. Defendant Riffe was the final policy maker for the City of Charleston regarding the appointment and training of police officers, and/or oversees the supervision, disciplining, training, hiring of employees as may be necessary to implement the provisions of the law, and/or for the oversight of improper conduct of employees.

11. Defendant Jay Goldman was at all times relevant to this Complaint the Mayor for the City of Charleston and was its final policy maker in respect to law enforcement matters.

Factual Allegations

12. The allegations stated herein in any one section are incorporated, reiterated and re-alleged in every other section.

13. On or about the evening of April 30, 2002, the plaintiffs were at Trey's Barber shop on the East End of Charleston. The plaintiffs were there as part of the West Virginia College Student Leadership Program ("Leadership Program"). The Leadership Program is a nationally recognized program for honor students. As part of the Leadership Program students are taught a variety of skills necessary for personal and professional success.

14. The purpose of the visit to Trey's Barbershop was two-fold. First, the Leadership Program exposes students to minority entrepreneurs as role models for success. In addition, the students were receiving instruction on the importance of personal appearance in respect to professional success.

15. At the conclusion of the meeting, the plaintiffs walked out of the barber shop

and got into Plaintiff Shannon's vehicle which has out-of-state license plates. The plaintiffs then drove from the East End toward the interstate 64 exchange on the West Side via Washington Street.

16. As the plaintiffs approached the vicinity of the Charleston Town Center mall, defendant Doe #1, a Charleston City Police officer, initiated a traffic stop. However, rather than simply asking Plaintiff Shannon for the appropriate information, defendant Doe #1 initiated felony stop procedures.

17. Defendant Doe #1 stayed in or near his cruiser and through the use of a loudspeaker ordered Plaintiff Shannon to turn the engine off and throw his keys out the window. Plaintiff Shannon complied. Defendant Doe #1 then ordered Plaintiff Shannon to come out of the vehicle with his hands in the air and to turn around. Plaintiff Shannon again complied. When Plaintiff Shannon did so, he saw several marked police cars and two unmarked vehicles believed to be City of Charleston Police Department vehicles. In addition, he observed Defendants Does 1 through 9, many if not all of whom had their weapons drawn and pointed at Plaintiff Shannon.

18. Defendant Doe #1 ordered the plaintiff to face away from the officers, walk backwards towards the cruiser and get on his knees. Plaintiff Shannon again complied. Defendant Doe#1 handcuffed the plaintiff and left him kneeling.

19. One or more of Defendants Doe #1 through 9 then ordered the passenger, Plaintiff Jason Price, out of the vehicle. Upon exiting the vehicle, Plaintiff Price also noticed that many if not all of Defendants Doe #1 through 9 had their weapons pointed at him. He likewise was ordered to walk backwards and get on his knees, and was handcuffed.

20. Plaintiff Williams was in the rear seat of the vehicle and was the last person

whom one or more of Defendants Doe #1 through 9 ordered out of the vehicle. Plaintiff Williams, like Plaintiffs Price and Shannon, noticed that the Defendants Does' weapons were pointed at him and was likewise forced to walk backwards, placed on his knees, and handcuffed.

21. Defendants Doe #1 through 9 individually interrogated and searched the plaintiffs, as well as searched Plaintiff Shannon's vehicle. The search and seizure lasted approximately one hour. Defendants Doe found absolutely no evidence of criminal conduct in the vehicle or on the plaintiffs' persons.

22. During this time, at least one Defendant Doe told Plaintiff Williams that he saw someone approach the car and hand an item to one of the occupants while they were leaving Trey's Barber Shop. Plaintiff Williams denied this as no person ever approached or handed anything to anyone inside the car. In response to Plaintiff Williams' truthful statement, Defendant Doe #1 called him a liar.

23. After having forced the plaintiffs out of their vehicle at gunpoint and after having conducted searches of their persons and vehicle which produced absolutely no evidence of criminal misconduct, the defendant officers removed the plaintiffs' handcuffs. At this point, one officer stated to Plaintiff Price that he looked like Ray Lewis; that same officer also claimed that he knew there were drugs in the car.

24. As a result of the above described events, the plaintiffs suffered severe emotional distress, annoyance, aggravation, embarrassment, inconvenience, and the constitutional and common law violations described herein. Because, upon information and belief, the defendant City of Charleston maintains an unlawful and discriminatory racial profiling policy and because the plaintiffs will return to school in the fall, there is a substantial

likelihood that they will again be subjected to an unlawful detention and search based solely upon their race.

25. The above described deprivation of the plaintiffs' constitutional rights were caused by implementation of customs, policies or official acts of defendants Goldman, Riffe and the City of Charleston, to wit: the failure of said defendants to adequately train, supervise, and discipline its police officers regarding the circumstances which constitute probable cause or reasonable suspicion for search and seizure, and the failure of said defendants to adequately train, supervise, and discipline its police officers regarding unconstitutional racial profiling practices. The allegations in this paragraph are likely to have evidentiary support after a reasonable opportunity for discovery.

26. Defendants Goldman, Riffe and City of Charleston had and have specific knowledge of said policy, practice, or custom and exhibited a deliberate indifference to the unreasonable risk of serious injury which said policy posed. Said policy violates the Fourth and Fourteenth Amendments to the United States Constitution and Article III Section 6 and Section 10 of the West Virginia Constitution. Said policy, practice or custom was the direct and proximate cause of the injuries and Constitutional violations which the plaintiffs suffered. The allegations in this paragraph are likely to have support after a reasonable opportunity for discovery.

27. Defendants Goldman and Riffe had constructive or actual knowledge of the above mentioned policy and/or custom which posed a pervasive and unreasonable risk of constitutional injury. Despite this knowledge, their responses were so inadequate as to show a deliberate indifference to or tacit authorization of the offensive policy and/or custom and

said inaction was the direct and proximate cause of the plaintiffs' injuries. The allegations in this paragraph are likely to have support after a reasonable opportunity for discovery.

FIRST CAUSE OF ACTION

Fourteenth Amendment Violation of Equal Protection

28. Plaintiffs repeat and reallege paragraphs 1 through 27 as if set forth fully.

29. Defendants, acting under color of law and in concert with one another, engaged in intentional race discrimination. In so doing, defendants have caused the plaintiffs to suffer deprivations of their fundamental rights to liberty and to be free from unlawful searches and seizures on account of their race. These actions violated Plaintiffs' rights to equal protection of the laws, in violation of the Fourteenth Amendment to the Constitution of the United States, its counterpart in the West Virginia Constitution, and 42 U.S.C. 1983.

30. Upon information and belief, and after a reasonable opportunity for discovery, the plaintiffs will establish that the defendants stopped the plaintiffs, forced them to their knees at gun-point, and searched them without reasonable articulable suspicion, based solely on the plaintiffs' race and no other fact or circumstance which would have otherwise justified their actions.

31. The acts of the defendants caused injury to Plaintiffs. They were intentional and done in knowing violation of Plaintiffs' legal and constitutional rights, without good faith, and with reckless disregard and/or callous indifference to Plaintiffs' civil rights.

SECOND CAUSE OF ACTION:

Fourth Amendment Violation of Unreasonable Search and Seizure

32. Plaintiffs repeat and reallege paragraphs 1 through 31 as if set forth fully.

33. Defendants, acting under color of law and in concert with one another,

stopped, seized and searched Plaintiffs without reasonable suspicion that any violation or crime had been committed or was likely to be committed, in violation of the Fourth Amendment guarantee against unreasonable searches and seizures. The nature of the traffic stop as described above was objectively unreasonable. Those actions give rise to Plaintiffs' claims pursuant to the Fourth applicable to the states through the Fourteenth Amendment to the Constitution of the United States, and 42 U.S.C. §1983, and their counterparts in the West Virginia Constitution.

34. Defendants' acts were the direct and proximate cause of injury to Plaintiffs. They were intentional and done in knowing violation of Plaintiffs' legal and constitutional rights, without good faith, and with reckless disregard and/or callous indifference to Plaintiff's civil rights.

THIRD CAUSE OF ACTION

Assault and Battery

35. Plaintiffs repeat and reallege paragraphs 1 through 34 as if set forth fully.

36. The defendant officers' actions constituted an unlawful touching of the plaintiffs and caused the plaintiffs to be in imminent fear of bodily injury.

37. As a result of this assault and battery, the plaintiffs were damaged according to proof.

FOURTH CAUSE OF ACTION

False Arrest and Illegal Detention

38. Plaintiffs repeat and reallege paragraphs 1 through 37 as if set forth fully.

39. The plaintiffs were illegally detained by the defendant officers.

40. As a result of this false arrest and detention, the plaintiffs were damaged according to proof.

FIFTH CAUSE OF ACTION

Intentional Outrageous Conduct

41. Plaintiffs repeat and reallege paragraphs 1 through 40 as if set forth fully.

42. The plaintiffs were subjected to outrageous conduct intentionally imposed upon them by the defendant officers to humiliate and embarrass them.

43. As a result, the plaintiffs suffered shock, embarrassment and severe mental distress.

SIXTH CAUSE OF ACTION

Title VI

44. Plaintiffs repeat and reallege paragraphs 1 through 43 as if set forth fully.

45. Defendant City of Charleston is a political subdivision of the state of West Virginia and, as a recipient of federal funds, is required to conduct its activities in a racially non-discriminatory manner, pursuant to Title VI of the Civil Rights Act of 1964.

PRAYER FOR RELIEF:

WHEREFORE, Plaintiffs request monetary damages and injunctive and/or other equitable relief against defendants and each of them as follows:

1. For a Declaratory Judgment that the official policy and/or custom of the defendant City of Charleston which City of Charleston Police Officers, at their individual discretion and without reasonable articulable suspicion of criminal activity, to stop and detain persons for the purpose of conducting a search, is unconstitutional on its face and as applied

has resulted in unjustified detentions and searches, including those of the plaintiffs, in violation of the Fourth and Fourteenth Amendments to the Constitution of the United States and their counterparts in the West Virginia Constitution.

2. For a Declaratory Judgment that the defendants have engaged in racial discrimination and have denied Plaintiffs the equal protection of the law, with respect to the stop, detention and search of the plaintiffs in violation of the Fourteenth Amendment to the Constitution of the United States and its counterpart in the West Virginia Constitution.

3. For a Declaratory Judgment that Defendants' stop, detention and search of plaintiffs without probable cause or reasonable articulable suspicion to believe a crime has been committed or was imminent, violated the Fourth Amendment's guarantee against unreasonable searches and seizures, the Fourteenth Amendment's protection from unlawful race-based law enforcement activity and their counterparts in the West Virginia Constitution.

4. For a Declaratory Judgment that the defendants have engaged in racial discrimination, with respect to the stop, detention, and search of Plaintiffs described herein in violation of Title VI of the Civil Rights Act of 1964.

5. For a permanent injunction enjoining Defendants from continuing such race-based discrimination as described herein, and to put into place safeguards, including maintenance of records for every stop conducted by the City of Charleston Police Department containing information about the stop, including, but not limited to, the name and race of the person stopped, the reason for the stop, and whether or not a search was conducted and on what basis, the name of the officer(s) involved, nature of contraband seized if any and additional information sufficient to ensure that such discrimination does not continue in the future.

6. For a permanent injunction, enjoining defendants from continuing such race-based discrimination as described herein from their continuing unconstitutional custom, policy or practice allowing City of Charleston Police Officers to stop and detain individuals and conduct searches without reasonable, articulable suspicion of criminal activity.

7. For compensatory damages, in an amount to be determined at trial, against the all defendants.

8. For punitive damages in an amount to be determined at trial, against the individual defendants.

9. For costs and attorneys' fees incurred in pursuing this action, as provided in 42 U.S.C. §1988.

10. For such other and further relief as the Court may deem just and proper.

11. Plaintiffs demand a trial by Jury.

**DREW WILLIAMS,
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