

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WISCONSIN

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DARRICK T. JOHNSON,

*Plaintiff,*

Case No. 18-CV-940

*v.*

CHRISTOPHER WEAVER, ADAM PERKINS  
AND CITY OF TOMAH,

*Defendants.*

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**COMPLAINT**

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Plaintiff Darrick T. Johnson, by his attorneys, Strang Bradley, LLC and Nelson Defense Group, LLC, for his complaint against Defendants, state as follows:

**Introduction**

1. This is a lawsuit brought pursuant to 42 U.S.C. § 1983 to redress the deprivation under color of law of Darrick Johnson's constitutional right to be free from excessive force, failure to intervene and unlawful arrest in violation of the Fourth and Fourteenth Amendment of the United States Constitution.

2. On March 4, 2018, City of Tomah Police Department Sergeant Christopher Weaver and Officer Adam Perkins forcibly beat and arrested Darrick Johnson without probable cause and without a warrant.

3. Plaintiff seeks actual or compensatory damages against Defendants, and because they acted recklessly and/or with callous indifference to the federally protected

rights of Plaintiff, punitive damages, plus the costs of this action, attorneys' fees, and such other and further relief that the Court deems just and equitable.

### **Jurisdiction and Venue**

4. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question jurisdiction), and § 1343(a)(3) (42 U.S.C. §1983 jurisdiction).

5. Venue is proper under 28 U.S.C. § 1391(b)(2). A substantial part of the events or omissions giving rise to the claims asserted herein occurred within this judicial district.

### **Parties**

6. Plaintiff Darrick Johnson is an adult who resides in Tomah, Wisconsin.

7. Defendant City of Tomah is a Wisconsin municipal corporation and is and/or was the employer of the individual police officer Defendants and is required to pay any tort judgment for damages for which its employees are liable for acts within the scope of their employment pursuant to WIS. STAT. § 895.46.

8. Defendants Weaver and Perkins were, at the time of this occurrence, employed as a police officers in the City of Tomah Police Department. At all times relevant to this action, Defendants Weaver and Perkins were engaged in the conduct complained of while they were on duty and in the course and scope of their employment with the City of Tomah and were acting under color of state law, ordinance, and/or regulation. Defendants Weaver and Perkins are sued in their individual capacities.

### Facts

9. On March 4, 2018, Tomah Police Department Sergeant Weaver and Officer Perkins responded to a complaint regarding a fight at The Crow Bar.

10. Darrick Johnson was exiting the bar and leaving the scene when he made statements expressing his displeasure with the situation and with the police.

11. As Johnson was walking away from the scene, Defendants Weaver and Perkins responded by chasing after him, arresting him, and beating him.

12. Johnson was subsequently taken to the hospital for the injuries he sustained from being beaten by Defendant Weaver and Perkins. Medical staff at the hospital sewed the skin surrounding Johnson's eye together with stitches.

13. Defendants Weaver and Perkins made out and otherwise gave false and incomplete official reports and gave a false and incomplete version of the events to their superiors and prosecutors in order to cover up their own misconduct and procure the prosecution of Johnson.

14. As a direct consequence of the above conduct of the Defendants, a criminal prosecution was commenced against Johnson in Monroe County Circuit Court Case No. 2018CM000142. Johnson was required to retain an attorney to defend himself. The prosecution terminated in Johnson's favor.

15. On September 24, 2018, Monroe County Circuit Court Judge Mark L. Goodman granted Johnson's motion to dismiss, holding that City of Tomah Police Department Sergeant "Weaver unreasonably retaliated against Johnson by unlawfully

arresting him for disorderly conduct,” and that “Weaver deliberately provoked Johnson and then created a disturbance by briskly arresting him.”

16. As a direct and proximate result of the above conduct of Defendants, Plaintiff suffered bodily pain and injury, mental distress, anguish and humiliation, loss of freedom, and incurred expenses, including, but not limited to, those set forth above.

**COUNT I**  
**42 U.S.C. § 1983 Claim for Excessive Force / Failure to Intervene**

17. Plaintiff realleges and incorporate by reference all of the allegations in all of the preceding paragraphs.

18. The intentional actions of Defendants Weaver and Perkins in beating Mr. Johnson, using excessive, unjustifiable and unnecessary force against Plaintiff and/or intentionally failing to prevent said abuse, despite having the opportunity and duty to do so, violated Plaintiff’s Fourth Amendment right to be free from unreasonable arrest and seizure, and his right to due process under the Fourteenth Amendment to the United States Constitution, and thus violated 42 U.S.C. § 1983.

19. Defendants acted recklessly and/or with callous indifference to the federally protected rights of Plaintiff.

20. As a direct and proximate result of these Defendants’ unlawful action, Plaintiff has suffered, and will continue to suffer damages.

WHEREFORE, pursuant to 42 U.S.C. § 1983, Plaintiff demands actual or compensatory damages against Defendants Weaver and Perkins and because they acted maliciously, wantonly, or oppressively, punitive damages, plus the costs of this action, attorneys’ fees, and such other and further relief that the Court deems just and

equitable. Additionally, Plaintiff asks this Court to find that the City of Tomah is liable to defend this action against Defendants Weaver and Perkins, and to satisfy any judgment entered against them, by virtue of WIS. STAT. § 895.46.

**COUNT II**  
**42 U.S.C. § 1983 Claim for Unlawful Arrest and Detention**

21. Plaintiff reallege and incorporate by reference all of the allegations in all of the preceding paragraphs.

22. The intentional actions of Defendants Weaver and Perkins in falsely arresting and/or detaining Plaintiff, without probable cause and without a warrant, violated his Fourth Amendment right to be free from unreasonable search and seizure, and thus violated 42. U.S.C. § 1983.

23. Defendants acted recklessly and/or with callous indifference to the federally protected rights of Plaintiff.

24. As a direct and proximate result of these Defendants' unlawful action, Plaintiff has suffered, and will continue to suffer damages.

WHEREFORE, pursuant to 42 U.S.C. § 1983, Plaintiff demands actual or compensatory damages against Defendants Weaver and Perkins, and because they acted maliciously, wantonly, or oppressively, punitive damages, plus the costs of this action, attorneys' fees, and such other and further relief that the Court deems just and equitable. Additionally, Plaintiff asks this Court to find that the City of Tomah is liable to defend this action against Defendants Weaver and Perkins, and to satisfy any judgment entered against them, by virtue of WIS. STAT. § 895.46.

**Jury Demand**

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

Respectfully submitted,

Dated: November 15, 2018

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