

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

BRIAN BURNSIDE,

Plaintiff,

v.

Case No: 2:25-cv-195

MARQUETTE COUNTY &
BRENDAN CUTRELL,

Defendants.

COMPLAINT

Plaintiff Brian Burnside, by his attorneys, Strang Bradley, LLC, for his complaint against Defendants, states:

JURISDICTION AND VENUE

1. This lawsuit is brought pursuant to 42 U.S.C. § 1983 to redress the deprivation under color of law of Plaintiff's rights as secured by the United States Constitution.

2. This Court has jurisdiction over federal claims pursuant to 28 U.S.C. § 1331.

3. Venue is proper under 28 U.S.C. § 1391(b)(2). Defendant Marquette County is a political subdivision of the state of Wisconsin located within this judicial district. Additionally, the events giving rise to the claims asserted herein occurred within the judicial district.

PARTIES

4. Plaintiff Brian Burnside is a resident of the State of Wisconsin.

5. Defendant Marquette County is a political subdivision of the state of Wisconsin and was the employer of Defendant Cutrell and is required to pay any tort judgment for damages for which its employees are liable for acts within the scope of their employment.

6. Defendant Brendan Cutrell was, at the time of this occurrence, employed as a deputy in the Marquette County Sheriff's Office. Defendant Cutrell engaged in the conduct complained of while he was on duty, acting under color of state law, ordinance, and/or regulation, and in the course and scope of his employment with Marquette County. He is sued in his individual capacity.

FACTS

7. On December 9, 2023, Brian Burnside was driving with a friend to the Wisconsin Dells when he was pulled over by Marquette County Sheriff's Deputy Brendan Cutrell for speeding.

8. Cutrell approached the passenger-side window.

9. Burnside and his friend identified themselves.

10. Burnside produced a valid driver's license.

11. Burnside's friend, the car's owner, showed Cutrell valid registration and insurance.

12. Cutrell asked the two where they were coming from and going to, and they replied they were coming from Wausau and going to the Dells.

13. Cutrell took Burnside's license back to his squad.
14. Cutrell then requested a K9 officer.
15. Dispatch confirmed that Burnside and his passenger had no outstanding warrants, that the car was registered, and that Burnside's license was active.
16. Cutrell issued Burnside a citation for speeding and a warning for overly tinted windows.
17. Cutrell then told Burnside he was not free to leave because he was waiting for a K9 officer.
18. Cutrell told Burnside and Burnside's friend he was extending the stop because Burnside was deviating lanes, Burnside pulled over too slowly, and Cutrell could smell cologne.
19. The K9 officer arrived, and the deputies claimed that K9 alerted on the car.
20. A search of the car revealed marijuana and a firearm.
21. The Marquette County District Attorney's Office filed charges against Burnside.
22. Burnside moved to suppress because Cutrell unreasonably prolonged the traffic stop.
23. Cutrell testified in the suppression hearing.
24. The Marquette County Circuit Court granted Burnside's motion, and the case was dismissed.

COUNT 1:
42 U.S.C. § 1983 Claim for Unlawful Seizure

25. Plaintiff realleges the above paragraphs.

26. Defendant Cutrell illegally prolonged the detention of Burnside, resulting in an unjustified, unreasonable, and illegal seizure. This violated Burnside's rights under the Fourth Amendment to be free from unreasonable searches, arrests, and seizures.

27. After Cutrell finished issuing citations and warnings to Burnside, there was no longer any reasonable suspicion of wrongdoing to prolong the seizure.

28. The aforementioned actions of Cutrell were the direct and proximate cause of the constitutional violation set forth above and of Burnside's resulting injuries: mental suffering, anguish, fear, humiliation, loss of personal freedom, and expenses.

WHEREFORE, pursuant to 42 U.S.C. § 1983, Plaintiff demands actual or compensatory damages against Cutrell and because he acted maliciously, wantonly, or oppressively, punitive damages, plus the costs of this actions, attorney's fees, and such other and further relief that the Court deems just and equitable. Additionally, Plaintiff asks this Court to find Marquette County is liable to defend this action against the individual defendants and is required to satisfy any judgment against their employees by virtue of WIS. STAT. § 895.46.

JURY DEMAND

Plaintiff hereby demands a trial by jury, pursuant to FED. R. CIV. PRO. 38(b), on all issues so triable.

Respectfully submitted,

Dated: 7 February 2025,

/s/ R. Rick Resch
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