

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

CHRISTOPHER MEYERS,

Plaintiff,

v.

CITY OF MADISON,
JAVIER LOREDO, JACK SERGENIAN,
STEVEN CLENNON, GALEN WIERING,
AND ISAAC SCHAEFER,

Case No: 3:22-cv-266

Defendants.

COMPLAINT

Plaintiff Christopher Meyers, by his attorneys, Strang Bradley, LLC, for his complaint against Defendants City of Madison, Javier Loredó, Jack Sergenian, Steven Clennon, Galen Wiering, and Isaac Schaefer, states:

INTRODUCTION

1. Plaintiff Christopher Meyers moved to Wisconsin in June of 2021 to start a new job, one in his field that put his master's degree to use.

2. On 13 August 2021, while Meyers was walking home to his apartment from a bar, a person attempted to rob him and slashed Meyers's hand with a knife.

3. A City of Madison Police Department officer came to speak with Meyers, but Meyers refused emergency medical services because he did not yet have health insurance.

4. A neighbor then reported that he had heard a gunshot and thought it came from Meyers's apartment

5. A friend of Meyers, with whom he had had a verbal argument over the phone, also reported to police that Meyers was suicidal.

6. City of Madison Police Department officers then arrived again at Meyers's apartment.

7. Meyers denied shooting a gun; Meyers showed officers his only gun, an antique revolver, so the officers could inspect it, and, after inspection, it was obvious that it had not been fired; Meyers denied being suicidal; and the officers saw no signs of a gunshot, even though they searched Meyers's home top to bottom.

8. The City of Madison Police Department officers and a sergeant detained Meyers; handcuffed him behind his back; searched his apartment; seized the antique gun; took him to a hospital against his will; searched his apartment again, including his dresser drawers and his medicine cabinet; and forced him into an alcohol detoxification center ("detox") against his will. The City of Madison would go on to refuse to return the antique revolver to Meyers, despite his requests for its return. It was finally returned to him in April of 2022.

9. This lawsuit seeks to vindicate Meyers's constitutional rights. It seeks to effect change through punitive damages by punishing the defendants for their reckless conduct. It seeks to establish that even when police officers are performing a mental health detention, a person maintains his rights to not be unlawfully seized; to not have his property unlawfully taken from him; to not have his apartment unlawfully searched, top to bottom; to not be subjected to unwanted healthcare without a reason; and to not be forced into detox

without a reason. The defendants' actions here improved no one's mental health. Their actions violated the constitution. And their actions violated state law.

JURISDICTION AND VENUE

10. Plaintiff realleges the above facts.

11. Counts 1, 2, and 4 are 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.

12. Counts 3 and 5 are brought under Wisconsin state law.

13. This Court has jurisdiction over federal claims pursuant to 28 U.S.C. § 1331 and the state law claims pursuant to 28 U.S.C. § 1367(a).

14. Venue is proper under 28 U.S.C. § 1391(b). Defendant City of Madison 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 entirely within this judicial district. Finally, upon information and belief, all person-parties reside in Wisconsin, in this judicial district.

PARTIES

15. Plaintiff realleges the above facts.

16. Plaintiff Christopher Meyers is a resident of the state of Wisconsin and the County of Dane.

17. Defendant City of Madison is a political subdivision of the state of Wisconsin and is and/or was the employer of the individual police officer Defendants Lored, Serghian, Clennon, Wiering, and Schaefer.

18. Defendant Javier Loredó was, at the time of this occurrence, employed as a sergeant in the City of Madison's Police Department. Defendant Loredó engaged in the conduct complained of while he was on duty and in the course and scope of his employment with the City of Madison.

19. Defendant Jack Sergenian was, at the time of this occurrence, employed as an officer in the City of Madison's Police Department. He engaged in the conduct complained of while he was on duty and in the course and scope of his employment with the City of Madison.

20. Defendant Steven Clennon was, at the time of this occurrence, employed as an officer in the City of Madison's Police Department. He engaged in the conduct complained of while he was on duty and in the course and scope of his employment with the City of Madison.

21. Defendant Galen Wiering was, at the time of this occurrence, employed as an officer in the City of Madison's Police Department. He engaged in the conduct complained of while he was on duty and in the course and scope of his employment with the City of Madison.

22. Defendant Isaac Schaefer was, at the time of this occurrence, employed as an officer in the City of Madison's Police Department. He engaged in the conduct complained of while he was on duty and in the course and scope of his employment with the City of Madison.

23. At all times relevant to this action, Defendants Lored, Serenian, Clennon, Wiering, and Schaefer were acting under color of state law, ordinance, and/or regulation. These Defendants are sued in their individual capacities.

FACTS

24. Plaintiff realleges the above facts.

25. Meyers moved to Madison in the summer of 2021. He moved here for a job that put his master's degree to use. He found a nice apartment in a remodeled school.

26. On 13 August 2021, Meyers was attacked on his way home from a bar. The attacker tried to rob him and slashed Meyers's hand with a knife. After Meyers was attacked, he ran home and called 911.

27. An officer, Defendant City of Madison Police Officer Jack Serenian, responded to Meyers's apartment on Gorham Street in Madison, WI.

28. Serenian noticed that Meyers was bleeding and offered him emergency medical services.

29. Meyers explained that because he had just started his job, he did not have healthcare and could not afford an ambulance ride. Serenian then left.

30. Meyers's apartment was not as nice as he had thought. It had black mold growing in it, and part of the apartment was walled off with plastic sheeting. Behind the sheeting were some tools, supplies, and a ladder, which were used to treat the mold.

31. Shortly after Serenian left, just before 8:30pm, Meyers's neighbor called 911 to report that he had heard a gunshot and thought that it came from Meyers's apartment.

No other neighbors called 911. The caller initially gave his name, but then decided he wished to remain anonymous.

32. Upon information and belief, the noise the neighbor heard was probably the ladder falling behind the plastic sheeting.

33. Defendant Madison Police Department Officer Jacob Wiering was dispatched to Meyers's apartment.

34. Wiering arrived at the apartment complex with Defendant Madison Police Department Sergeant Javier Loreda. The two called for more officers to arrive.

35. Defendant Officer Sergenian showed up again and covered a back entrance to the apartment complex.

36. Defendant Madison Police Department Isaac Schaefer then arrived on scene.

37. Defendant Wiering brought a ram for Meyers's door with him into the complex.

38. Wiering knocked on Meyers's apartment door, and Meyers answered.

39. By now, Defendant Madison Police Department Officer Steven Clennon had arrived, too.

40. Wiering told Meyers that there was a call reporting a gunshot. He grabbed Meyers and pulled him into the hallway.

41. Defendants Loreda, Schaefer, and Clennon entered Meyers's apartment and performed a protective sweep.

42. Loreda, Schaefer and Clennon found no other people and no signs of a gunshot.

43. Wiering and Sergenian then brought Meyers back into the apartment.

44. Around this time, a friend of Meyers, with whom he had had a verbal phone argument earlier, called 911 to report that he thought Meyers was suicidal. That information was passed along to the officers and sergeant.

45. Schaefer called the friend and spoke with him while Wiering and Sergenian questioned Meyers about the reported-gunshot and while Clennon and Loredó continued searching Meyers's apartment.

46. Meyers told the officers that he had a gun, which was an antique revolver, but that he had not shot it. Meyers offered to show the officers the gun so they could inspect it.

47. Meyers grabbed the antique revolver out of a cupboard and gave it to the officers to inspect.

48. Sergenian and Wiering took the gun and could tell that it had not been fired.

49. They then handcuffed Meyers behind his back.

50. Meyers did not want to be handcuffed.

51. Sergenian then told Meyers that he was placing him in protective custody.

52. Meyers did not want to go into protective custody.

53. The defendants told Meyers that they would be taking him to a hospital.

54. Meyers again explained that he did not have healthcare, could not afford an ambulance, and did not want to go to the hospital.

55. Sergenian claimed that Meyers told him he had *three* guns.

56. Meyers explained, over and over, that he had *a* gun, they already saw it, and it had never been fired.

57. Meyers repeatedly told the officers that he was not suicidal.

58. The defendants found no other guns and no signs of a gunshot.

59. Defendants Sergenian and Wiering then took Meyers out of his apartment to take him to the hospital.

60. Defendants Loredó, Schaefer, and Clennon continued searching Meyers's apartment without consent and without a warrant, even though Meyers was now handcuffed and on his way to the hospital.

61. Loredó and Schaefer looked through Meyers's home office, opening all containers and searching all shelves.

62. Loredó and Schaefer searched Meyers's bathroom, including his medicine cabinet.

63. Loredó and Schaefer searched Meyers's bedroom, opening all of his drawers, including those in his dresser. They lifted and looked under his bed.

64. Loredó and Schaefer, again, found no guns and no signs of gunshots.

65. At some point, Wiering or Sergenian had given the antique revolver to Schaefer. Schaefer took the firearm back to the police station even though Meyers was handcuffed and on his way to the hospital.

66. On the way to the ambulance, Meyers explained to Wiering and Sergenian that he was having trouble breathing because he was handcuffed behind his back.

67. Wiering later claimed in his police report that he did not want to remove the handcuffs or handcuff Meyers in the front because of the "weapons offense and nature of the call."

68. Meyers was taken to Meriter Hospital in Madison, WI.

69. Defendant Wiering or Sergenian handcuffed Meyers to a hospital bed. Wiering searched Meyers's wallet.

70. Meyers asked repeatedly to call his lawyer. Wiering told him he was not allowed to talk to his lawyer.

71. Defendants Wiering and Sergenian told Meyers that if he did not calm down, they would take him to "Winnebago."

72. Upon information and belief, they presumably meant the Winnebago Mental Health Institute, which is located near Oshkosh, WI.

73. Meyers, who had just recently moved to Wisconsin, did not know what they meant by "Winnebago."

74. Despite there being no evidence of a gunshot after several searches, after Meyers denied shooting a gun, and after Meyers showed the officers that his only gun had not been shot, Wiering told multiple people, including hospital staff and at least two mental health facility staff members that there had been a report of a gunshot and that Meyers had a gun but didn't tell them that they found no evidence of a gunshot and that officers had seized Meyers's only gun.

75. At least one of the mental health facility staff members told Wiering that they were particularly worried about the gun.

76. Meyers told the hospital staff that he did not have healthcare, he was not suicidal, and he did not want any treatment.

77. The hospital staff told the officers that they were going to medically clear Meyers and that they were not going to seek a state-law emergency detention.

78. Meyers then repeated his request to call his lawyer.

79. Finally, the officers allowed Meyers to call his lawyer.

80. Wiering and Sergenian then demanded that Meyers submit to a blood test.

81. Meyers refused. After talking with his lawyer, however, he agreed to submit to a preliminary breath test.

82. The breath test showed that Meyers had alcohol in his system. He had told the officers several times earlier that he had been drinking that night.

83. Wiering then took Meyers to detox at Tellurian in Madison, WI, and admitted him there against his will.

84. Tellurian did not release Meyers until the morning.

85. Meyers was billed for the emergency medical services and his stay at Tellurian.

86. The Madison Police Department refused to return Meyers's antique revolver unless he submitted to a mental health evaluation.

87. Eventually, in April of 2022, the Madison Police Department allowed Meyers to retrieve his revolver without a mental health evaluation.

88. No one was ever arrested for slashing Meyers with a knife.

COUNT 1:
42 U.S.C. § 1983 Claim for Unlawful Search and Seizure/Failure to Intervene

89. Plaintiff realleges the above paragraphs.

90. After Meyers was handcuffed and taken into custody, Defendants Lored, Serenian, Clennon, Wiering, and Schaefer searched Meyers's apartment repeatedly without consent, without a warrant, and without a valid exception to the warrant requirement. Defendants Lored, Serenian, Clennon, Wiering, and Schaefer then unlawfully seized Meyers's antique revolver.

91. Both the searches and the seizure violated Meyers's Fourth Amendment right to be free from unreasonable search and seizure.

92. Defendants Lored, Serenian, Clennon, Wiering, and Schaefer either participated directly in the searches and seizure or failed to intervene in the searches and seizure.

93. The actions of Defendants Lored, Serenian, Clennon, Wiering, and Schaefer were the direct and proximate cause of the constitutional violations set forth above and of Plaintiff's injuries and damages set forth above.

94. The City of Madison is required to pay any tort or judgment for damages for which its employees are liable, for acts within the scope of their employment, under Wis. Stat. § 895.46.

WHEREFORE, pursuant to 42 U.S.C. § 1983, Plaintiff demands actual or compensatory damages against Defendants Lored, Serenian, Clennon, Wiering, and Schaefer. Because they acted maliciously, wantonly, or oppressively, Plaintiff demands

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

COUNT 2:
42 U.S.C § 1983 Claim for False Arrest and Detention/Failure to Intervene

95. Plaintiff realleges the above paragraphs.

96. After Defendants Loredó, Sergenian, Clennon, Wiering, and Schaefer searched Meyers's apartment and found only one gun that had never been shot, after they saw no signs of a gun being shot, after Meyers denied being suicidal, and after Meyers explained that he had not fired a gun, Defendants Loredó, Sergenian, Clennon, Wiering and Schaefer refused to release Meyers from custody and handcuffs even though there was no probable cause to arrest or detain him.

97. In the alternative, Defendants Loredó, Sergenian, Wiering, and Schaefer refused to release Meyers from unlawful custody at the hospital even though probable cause had dissipated, assuming probable cause ever existed. Further, Defendant Wiering told hospital and mental health staff about the reported gunshot but omitted that the officers had found no evidence of a gunshot and had seized Meyers's only gun.

98. In the alternative Defendants Loredó, Sergenian, Wiering and Schaefer unlawfully caused Meyers to be forced into detox against his will even though probable cause had dissipated, assuming probable cause ever existed.

99. Defendants Loredó, Sergenian, Wiering, and Schaefer either participated directly in the unlawful arrest and detention or failed to intervene to stop the unlawful arrest and detention.

100. The actions of Defendants Lored, Serenian, Clennon, Wiering, and Schaefer were the direct and proximate cause of the constitutional violations set forth above and of Plaintiff's injuries and damages set forth above.

101. The City of Madison is required to pay any tort or judgment for damages for which its employees are liable, for acts within the scope of their employment, under Wis. Stat. § 895.46.

WHEREFORE, pursuant to 42 U.S.C. § 1983, Plaintiff demands actual or compensatory damages against Defendants Lored, Serenian, Clennon, Wiering, and Schaefer. Because they acted maliciously, wantonly, or oppressively, Plaintiff demands punitive damages. Plaintiff also demands the costs of this action, attorneys' fees, and such other and further relief that the Court deems just and equitable.

COUNT 3:
Wisconsin State Law Claims for False Arrest and Imprisonment

102. Plaintiff realleges the above paragraphs.

103. After Defendants Lored, Serenian, Clennon, Wiering, and Schaefer searched Meyers's apartment and found only one gun that had never been shot, no signs of a gun being shot, after Meyers denied being suicidal, and after Meyers explained that he had not fired a gun, Defendants Lored, Serenian, Clennon, Wiering and Schaefer refused to release Meyers from custody and handcuffs even though there was not a substantial probability that Meyers was a risk of harm to himself other ("substantial risk"), sufficient to arrest or detain him. Meyers did not consent to being detained, arrested, or handcuffed.

104. In the alternative, Defendants Lored, Serenian, Wiering, and Schaefer refused to release Meyers from unlawful custody at the hospital even though any

substantial risk had dissipated (assuming it ever existed), and state and local law did not allow for the Defendant's continued detention of Meyers. Meyers did not consent to being detained, arrested, or handcuffed at the hospital.

105. Upon information and belief, the City of Madison Police Department's policy regarding intoxication detentions reflects state law. *See* Wis. Stat. § 51.45. The City of Madison's standard operating and procedure for intoxicated and incapacitated persons explains that "[o]nce admitted to the emergency medical facility, the role of law enforcement has been completed. . . Hence an officer's protective custody status does not transfer to the emergency room or hospital . . ."

106. Wisconsin state law requires a "substantial probability" of physical harm to himself or others for an emergency mental health detention. Wis. Stat. § 51.15(ar)1.-4. And Wisconsin state law, Section 51.15(2)(b), does not give an officer the authority to remove a person from a hospital emergency room unless the hospital staff concludes that emergency detention is medically appropriate.

107. In the alternative Defendants Loredó, Serghian, Wiering, and Schaefer unlawfully caused Meyers to be forced into detox against his will even though any substantial risk had dissipated (assuming it ever existed), and state and local law did not allow for forced admission into detox. Meyers did not consent to being detained or held in detox.

108. The City of Madison is required to pay any tort or judgment for damages for which its employees are liable, for acts within the scope of their employment, under Wis. Stat. § 895.46.

109. The City of Madison is responsible for the actions of its officers, under state law *respondeat superior*.

110. The actions of Defendants Lored, Serenian, Clennon, Wiering, and Schaefer were the direct and proximate cause of the unlawful violations set forth above and of Plaintiff's injuries and damages set forth above.

WHEREFORE, pursuant to Wisconsin state law, Plaintiff demands actual or compensatory damages against Defendants Lored, Serenian, Clennon, Wiering, and Schaefer. Because they acted maliciously, wantonly, or oppressively, Plaintiff demands punitive damages. Plaintiff also demands the costs of this action and such other and further relief that the Court deems just and equitable.

COUNT 4:
42 U.S.C. § 1983 *Monell* Policy Claim
(City of Madison)

111. Plaintiffs realleges the above paragraphs.

112. The above alleged actions of Defendants Lored, Serenian, Clennon, Wiering, and Schaefer were done pursuant to one or more interrelated policies, practices and/or customs of the Defendant City of Madison, its Police Department and/or its Police Chief.

113. At all times material to this complaint, Defendant City of Madison, its Police Department and/or its Police Chief had interrelated de facto or official policies, practices, and customs which included, *inter alia*: (1) to bring someone into protective custody without proper legal authority, (2) to detain someone at a hospital without proper legal authority,

and/or (3) to force someone to into the custody of a detoxification center without proper legal authority.

114. These policies, practices and customs encouraged the above police misconduct and were separately and together, the moving force and a direct and proximate cause of the unconstitutional acts committed by Defendants Lored, Serenian, Clennon, Wiering, and Schaefer and the injuries and damages sustained by Christopher Meyers.

WHEREFORE, pursuant to 42 U.S.C. § 1983, Plaintiff demands actual or compensatory damages against Defendant City of Madison. Plaintiff also demands the costs of this action, attorneys' fees, and such other and further relief that the Court deems just and equitable.

COUNT 5:
Wisconsin State Law Claims for Conversion

115. Plaintiff realleges the above facts.

116. Defendants Lored, Serenian, and Wiering unlawfully dispossessed Meyers of his antique revolver. Defendants Serenian and Wiering intentionally took the revolver, which belonged to Meyers. Defendants Lored, Serenian, and Wiering's taking of the revolver seriously interfered with Meyers's right to own the revolver.

117. The City of Madison is required to pay any tort or judgment for damages for which its employees are liable, for acts within the scope of their employment, under Wis. Stat. § 895.46.

118. The City of Madison is responsible for the actions of its officers, under state law *respondeat superior*.

119. In the alternative, Defendant City of Madison, through its police department staff and its agents, unlawfully refused to return Meyers's antique revolver upon his demand. Assuming that the City of Madison had lawfully come into possession of the antique revolver, the City of Madison refused to surrender the revolver to Meyers after he demanded that it be returned. Meyers was entitled to return of the revolver. The City of Madison's refusal to return the revolver seriously interfered with Meyers's right to control and use the revolver. The City of Madison had no legitimate reason to refuse to return the revolver and held it for an unreasonable amount of time after Meyers demand its return.

120. The City of Madison is responsible for the actions of its officers, under state law *respondeat superior*.

121. The actions of Defendants Loredó, Sergenian, Wiering, and the City of Madison and its staff and agents were the direct and proximate cause of the state law violations set forth above and of Plaintiff's injuries and damages set forth above.

WHEREFORE, pursuant to Wisconsin state law, Plaintiff demands actual or compensatory damages against Defendants Loredó, Sergenian, Wiering, and the City of Madison. Because they acted maliciously, wantonly, or oppressively, Plaintiff demands punitive damages. Plaintiff also demands the costs of this action and such other and further relief that the Court deems just and equitable.

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: May 11, 2022

/s/ R. Rick Resch
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