

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JOHN HARDICK

Plaintiff,

v.

Case No: 3:23-cv-550

CITY OF MADISON, BENJAMIN CRIPE

Defendants.

COMPLAINT

Plaintiff John Hardick by his attorneys, Strang Bradley, LLC, for his complaint against Defendants, states:

INTRODUCTION

1. On 31 May 2023, John Hardick's teenage daughter was involved in a car accident and called her father to come help her.

2. Hardick and his wife quickly drove to the scene of the accident to help their daughter.

3. City of Madison Police Department Officer Benjamin Cripe also arrived on scene to conduct a crash investigation.

4. Hardick tried to find a tow company that his insurance would cover to take his daughter's car from the scene.

5. But Officer Cripe called a tow company without letting Hardick confirm whether his insurance would cover it.

6. Hardick asked Officer Cripe to de-escalate and told him he was being ridiculous. He asked Officer Cripe to stop yelling at him.

7. Officer Cripe responded with an explosion of anger, illegally seizing Mr. Hardick by screaming in his face and threatening that if Mr. Hardick did not go sit in his own car and stay there, he would take him to jail. This interaction is depicted in the following video recording: https://StrangBradley.com/Officer_Benjamin_Cripe.mp4

8. Officer Cripe then had the tow driver take the vehicle from the scene before coming over to the Hardicks' car and informing them that they were "free to leave" the illegal detention.

9. This action is brought now to redress the deprivation of Plaintiff Hardick's civil rights and to seek a change in Defendant Cripe's behavior, and other officers who may be tempted to act similarly, by seeking punitive damages.

JURISDICTION AND VENUE

10. This action 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.

11. The Court has jurisdiction over federal claims under 28 U.S.C. § 1331 and the state law indemnification claim under 28 U.S.C. § 1367.

12. 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 this complaint occurred in this judicial district.

PARTIES

13. Plaintiff John Hardick is a resident of the State of Wisconsin and the County of Dane.

14. Defendant City of Madison is a political subdivision of the state of Wisconsin and is or was the employer of the individual Defendant Benjamin Cripe and is required to pay any tort judgment for damages for which its employees are liable for acts within the scope of their employment.

15. Defendant Benjamin Cripe was at the time of this occurrence employed as a police officer in the City of Madison Police Department. At all times relevant to this action, Defendant Cripe 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 Police Department and was acting under color of state law, ordinance, and regulation. This Defendant is sued in his individual capacity.

FACTS

16. On 31 May 2023, Hardick's daughter was involved in a car accident and called her parents to come out to help her.

17. Hardick and his wife hopped in their car and drove to the scene of the accident to help their daughter.

18. Hardick's daughter's car needed to be towed to a mechanic.

19. City of Madison Police Officer Benjamin Cripe also arrived on scene.

20. Hardick was not involved in the accident and was only there to comfort his daughter and help her deal with the stressful situation.

21. Hardick wanted to make sure that the tow would be covered by his insurance, so he took out his smartphone and began to search which companies in the area his insurance covered.

22. Hardick told Cripe that he wanted to use a tow company that his insurance would cover, but Cripe ignored this and called a tow truck company to the scene that Hardick was unfamiliar with.

23. Hardick is a veteran and suffers from PTSD.

24. Aggressive interactions with strangers can sometimes make it difficult for Hardick to focus on other tasks.

25. Officer Cripe was loud, aggressive, and belligerent with Hardick.

26. Cripe attempted to bully Hardick into letting the officer's chosen tow company take the vehicles away.

27. Cripe was so loud and aggressive that Hardick's wife decided to record the interaction to protect her family.

28. Hardick explained that he had never dealt with a car accident before, and he asked Cripe to "de-escalate" the situation.

29. Cripe continued to berate Hardick.

30. Hardick told Cripe he was being "ridiculous."

31. Hardick then said to Cripe, "Stop yelling at me, please."

32. Cripe responded by aggressively moving toward Hardick, snapping his fingers, and yelling:

Get back in your vehicle and sit! Go back to your vehicle now and sit! Get in your vehicle and sit or you're going to jail! That is your choice! Are you refusing to get back in your vehicle? Are you refusing to get back in your vehicle?! I said, "Get

back in your vehicle or you're going to jail!" Get back in your vehicle right now or you are going to jail!"

33. Hardick did as he was ordered and went and sat in his car with his wife and daughter until Cripe came to them and told them they were "free to go."

COUNT I
42. U.S.C. § 1983 First Amendment Retaliation

34. Plaintiff realleges the above paragraphs.

35. Mr. Hardick's speech, telling Officer Cripe he was being ridiculous, asking him to stop yelling, and asking him to de-escalate, is constitutionally protected speech.

36. Officer Cripe intentionally seized Mr. Hardick without reasonable suspicion, probable cause, or any other legal justification.

37. Officer Cripe seized Mr. Hardick because Mr. Hardick criticized him, or Mr. Hardick's constitutionally protected criticism was at least a motivating factor in Officer Cripe's decision to seize Mr. Hardick.

38. Officer Cripe's seizure of Mr. Hardick because Mr. Hardick criticized him is likely to deter free speech in the future.

39. The aforementioned actions of Officer Hardick were the direct and proximate cause of the constitutional violations set forth above and of Mr. Hardick's 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 Benjamin Cripe and because he 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 Madison is liable to defend this action against Defendant Benjamin Cripe and is required to satisfy any judgment against their employee by virtue of Wis. Stat. § 895.46

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

40. Plaintiff realleges the above paragraphs.

41. The intentional actions of Officer Cripe — telling Mr. Hardick that he had to sit in his car and wait or else he would be arrested — was a seizure done without probable cause, reasonable suspicion, or other legal justification. This violated Mr. Hardick’s rights under the Fourth Amendment to be free from unreasonable searches and seizures.

42. When Officer Cripe seized Mr. Hardick without reasonable suspicion, Officer Cripe was acting under color of law.

43. The aforementioned actions of Officer Hardick were the direct and proximate cause of the constitutional violations set forth above and of Mr. Hardick’s 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 Benjamin Cripe and because he 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 Madison is liable to defend

this action against Defendant Benjamin Cripe and is required to satisfy any judgment against their employee 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: 10 August 2023,

STRANG BRADLEY, LLC
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