

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

XAVIER FAISON,

Plaintiff,

v.

Case No: 3:25-cv-00002

ROLLY WAGAS,

Defendant.

COMPLAINT

Plaintiff Xavier Faison, by his attorneys, Strang Bradley, LLC, for his complaint against Defendant Rolly Wagas, states:

INTRODUCTION

1. This is a civil rights lawsuit brought pursuant to 42 U.S.C. § 1983 to redress the deprivation under color of law of Xavier Faison's constitutional right to be free from unreasonable search in violation of the Fourth Amendment of the United States Constitution.

2. On June 14, 2023, Xavier Faison was riding as a passenger in a truck pulled over by Wisconsin State Patrol Troopers because the driver was distracted by his phone.

3. During the traffic stop, a police dog alerted to the work vehicle, but a subsequent search found nothing illegal in the moving truck.

4. Wisconsin State Patrol Trooper Rolly Wagas asked Faison to step out while they conducted the search.

5. When Faison stepped out, Wagas illegally searched Faison's person by reaching his hands into the pockets of his pants and sweatshirt.

JURISDICTION AND VENUE

6. 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.

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

8. Venue is proper under 28 U.S.C. § 1391(b). The events giving rise to the claims asserted herein occurred within this judicial district.

PARTIES

9. Plaintiff Faison was a resident of the State of Wisconsin.

10. Faison attends college at Arizona State University.

11. Defendant Wagas was, at the time of this occurrence, employed as a trooper in the Wisconsin State Patrol. Defendant Wagas engaged in the conduct complained of while he was on duty and in the course and scope of his employment with the Wisconsin State Patrol.

12. At all times relevant to this action, Defendant Wagas was acting under color of state law, ordinance, and/or regulation. Defendant Wagas is sued in his individual capacity.

FACTS

13. On June 14, 2023, Xavier Faison was home in Wisconsin during summer break, working as a mover.

14. Faison was riding in the passenger seat of a large moving truck returning to Wisconsin after moving furniture from Wisconsin to Minnesota.

15. The truck was pulled over because a Wisconsin State Trooper noticed the truck was deviating in its lane, and when he pulled up alongside the truck, the trooper saw that the driver was looking at his phone.

16. The trooper also noticed that Faison was lounging with his feet out of the passenger window.

17. The trooper approached the driver and, after noticing a prescription pill bottle near him, asked the driver to conduct field sobriety tests.

18. The pill bottle turned out to be a valid prescription for antibiotics, and the driver of the car was later determined to not be under the influence of anything more than his phone.

19. Backup arrived on scene, including Defendant Trooper Wagas.

20. While troopers investigated the driver, Faison sat calmly in the passenger seat, listening to music on his headphones.

21. Unbeknownst to Faison, during the field sobriety exercises, troopers walked a canine around the moving truck.

22. The troopers said the dog alerted.

23. The troopers decided they would search the truck based on the alert and asked Faison to exit the vehicle.

24. What happened next was captured on Trooper Wagas's body camera.

25. Wagas approached the passenger side of the truck to speak with Faison.

26. Faison was polite, cooperative, and friendly with Wagas.

27. Faison explained where they were coming from, where they were going, and told Wagas he had no idea why the dog alerted on the truck.

28. Wagas asked Faison to step out of the truck, and Faison complied right away, pausing only to put his headphones in a container and leave them on the front seat.

29. There was nothing about Faison's appearance or behavior that would have led anyone to believe he was armed or dangerous.

30. As Faison got out of the vehicle, Wagas informed Faison that he was going to search his pockets and ordered Faison to turn around.

31. Wagas did not have a warrant and was not placing Faison under arrest.

32. Wagas did not conduct a pat-down but performed a full-blown search.

33. Wagas reached into Faison's pockets and rooted around without pausing to run his hands across Faison's outer-clothing first.

34. These images, taken from Wagas's body-worn camera, show the intrusion on Faison's privacy:



35. The search of Faison's pockets revealed nothing.

36. The search of the truck revealed nothing.

37. The driver was given a ticket for distracted driving, and Faison was given a warning for riding with his feet out of the passenger window.

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

38. Plaintiff realleges the above paragraphs.

39. Defendant Wagas searched Faison by putting his hands in Faison's jacket and pants pockets. The search was unlawful because Faison did not consent, Wagas did not obtain a warrant, and there was no reason to believe Faison was involved in a crime, was dangerous, or was armed.

40. The intentional actions of Defendant Wagas in searching Faison without a warrant, consent, reasonable suspicion, or probable cause violated his Fourth Amendment right to be free from unreasonable searches.

41. Defendant Wagas acted recklessly and with callous indifference to the federally protected rights of Plaintiff.

42. As a direct and proximate result of Defendant Wagas's unlawful actions, Faison suffered damages from loss of liberty, humiliation, and invasion of privacy.

43. WHEREFORE, pursuant to 42 U.S.C. §§ 1983 & 1988, Plaintiff demands actual or compensatory damages against Defendant Wagas, the costs of this action, attorneys' fees, and such other further relief that the Court deems just and equitable. And because Defendant Wagas acted maliciously, wantonly, or oppressively, Plaintiff demands punitive damages.

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: 2 January 2025,

/s/ William E. Grau
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