

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

FILED
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS
DEC -5 PM 12:44
SOUTHERN DISTRICT
OF INDIANA
LAURA A. BRIGGS
CLERK

MARCUS SCHRENKER and)
MICHELLE SCHRENKER,)
)
Plaintiffs,)
)
v.)
)
THE HAMILTON COUNTY SHERIFF'S)
DEPARTMENT, DONALD BALL, T.L.)
GELHAUSEN, individually and in their)
official capacities as Deputy Sheriffs,)
SONIA LEERKAMP, individually and in)
her official capacity as Hamilton County)
Prosecutor, BARBARA TRATHAN,)
Individually and in her official capacity as)
a Deputy Prosecutor, and the TOWN OF)
FISHERS, Indiana,)
)
Defendants.)

1:05-cv-1809-RLY-WTL

COMPLAINT

Plaintiffs Marcus and Michelle Schrenker, by counsel, respectfully make the following complaint for damages:

Nature of Case

1. This lawsuit seeks redress from police officers and prosecutors who falsely arrested and subjected Marcus Schrenker to unreasonable force, in violation of his rights under the Fourth Amendment to the U.S. Constitution.

Jurisdiction

2. Plaintiffs bring this action pursuant to 42 U.S.C. § 1983 to redress Defendants' violations of their rights under the Fourth and Fourteenth Amendments of the U.S. Constitution. This Court has original subject matter jurisdiction of the federal questions presented pursuant to 28 U.S.C. § 1333 and § 1343.
3. Venue is proper in the Indianapolis Division because the Defendants reside in this division and the events complained of occurred in this division.
4. The Court has supplemental jurisdiction over the pendant state-law claims pursuant to 28 U.S.C. § 1367 because these claims arise out of the same events as the federal claims.

Parties

5. Marcus Schrenker is an adult citizen of the United States currently residing in McCordsville, Indiana.
6. Michelle Schrenker is an adult citizen of the United States currently residing in McCordsville, Indiana.
7. The Hamilton County Sheriff's Department is a government unit with offices located in Noblesville, Indiana.
8. Donald Ball is an adult citizen of the United States currently residing in Indiana. At all relevant times he was employed as a Deputy Sheriff of the Hamilton County Sheriff's Department and acted within the scope of his employment.

9. T.L. Gelhausen is an adult citizen of the United States. At all relevant times he was employed as Deputy Sheriff of the Hamilton County Sheriff's Department and acted within the scope of his employment.
10. Sonia Leerkamp is an adult citizen of the United States. She is the elected Prosecutor of Hamilton County, Indiana.
11. Barbara Trathan is an adult citizen of the United States. At all relevant times she was employed as Chief Deputy Prosecutor of Hamilton County and acted in the scope of her employment.
12. The Town of Fishers is a government unit located in Hamilton County, Indiana.

Facts

13. On May 24, 2005, Deputy Donald Ball of the Hamilton County Sheriff's Department entered the garage of Marcus and Michelle Schrenker at their house at 12999 Rocky Point Road in McCordsville, Indiana.
14. Ball accused Marcus Schrenker of riding a motorcycle illegally along Rocky Point Road moments earlier.
15. Schrenker denied that he had recently ridden his motorcycle and invited Deputy Ball to feel the muffler of his motorcycle, which was completely cold upon Deputy Ball's inspection.
16. Schrenker then asked Ball to leave his property.
17. Ball refused and instead instructed Schrenker to show him his driver's license.
18. Schrenker told Ball that the license was in a car in the garage.

19. As Schrenker turned away from Ball to retrieve the license, Ball tackled Schrenker to the ground, while Schrenker was holding his three-year-old child, Jayden Schrenker, in his arms.
20. In the presence of Schrenker's wife and children, Ball placed Schrenker in handcuffs and threw him into Ball's marked police car, causing Schrenker's head to hit roof of the car.
21. Ball kept Schrenker handcuffed and in the car even after Schrenker informed Ball that he was in extreme pain because the handcuffing aggravated his recent back surgery.
22. Ball's superior officer, Lieutenant T. L. Gelhausen, arrived and ordered Ball to release Schrenker, but told Schrenker that he would be taken to the Hamilton County Jail unless he promised that he wouldn't sue Deputy Ball.
23. Schrenker subsequently reported Ball's and Gelhausen's misconduct to the Hamilton County Sheriff's Department and to Hamilton County Prosecutor Sonia Leerkamp.
24. In response, Leerkamp, sent Mr. Schrenker a letter dated July 5, 2005 in which she not only refused to act on the misconduct, but also threatened to file charges against Schrenker for false reporting.
25. In so doing, Ms. Leerkamp overtly attempted to intimidate Mr. Schrenker from reporting police misconduct and seeking vindication of his constitutional rights.

26. On August 10, 2005 Chief Deputy Prosecutor Barbara Trathen made an unannounced, uninvited visit to Schrenker's office.
27. The purpose of the visit was allegedly to discuss Schrenker's role as a defense witness in the prosecution of one of his employees, Adam Moore, which was set for jury trial the next day, but was in fact a further attempt to intimidate Schrenker.
28. Trathan was accompanied by an armed officer of the Fishers Police Department.
29. Trathan and the Fishers police officer entered Schrenker's office without permission or a search warrant while Schrenker was with two clients and then followed Schrenker out of his office.
30. Schrenker told Trathen that he was with a client and asked her to leave.
31. But through the display of her authority, and that of the armed police officer who accompanied her, Trathen detained Mr. Schrenker against his will.
32. Trathan has made previous, unrelated attempts to intimidate defense witnesses and is notorious among criminal defense attorneys for such misconduct.
33. Leerkamp knew or should have known about Trathan's history of intimidating defense witnesses but failed to correct or discipline her.
34. As a result of Defendants' actions Plaintiff's have suffered physical injury, emotional distress, loss of reputation in the community, loss of business

revenue, and their children have experienced physical, emotional, and psychological damage.

Claims

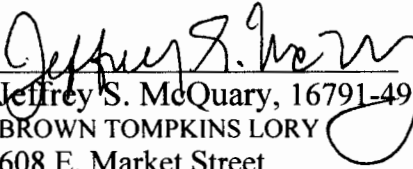
35. Defendant Ball's warrantless entry into the Schrenkers' house constitutes an illegal search.
36. Defendant Ball's actions in tackling Marcus Schrenker and throwing him into Ball's police car constitute false arrest and excessive force, in violation of his right under the Fourth Amendment to be free from unreasonable seizure.
37. Defendant Gelhausen failed to intervene to prevent Ball from engaging in this misconduct, or to timely release Schrenker.
38. Ball's and Gelhausen's actions constitute battery, trespass, false arrest, false imprisonment, negligence, and intentional infliction of emotional distress under Indiana law.
39. Defendant Hamilton County Sheriff's Department is liable for Ball's and Gelhausen's acts and omissions under the principle of *respondeat superior*.
40. Trathan's detention of Schrenker constitutes an unreasonable seizure within the meaning of the Fourth Amendment.
41. Trathan's detention of Schrenker constitutes false arrest, false imprisonment, intimidation, intentional infliction of emotional distress, and tortious interference with a business relationship under Indiana law.
42. Defendant Sonia Leerkamp is liable for Trathan's acts and omissions under the principle of *respondeat superior*.

43. By the actions of its police officer, the Town of Fishers detained Shrenker, an act that constitutes false arrest, false imprisonment, intimidation, intentional infliction of emotional distress, and tortious interference with a business relationship under Indiana law.
44. Defendant Leerkamp is liable for her negligent hiring, training, and supervision of Trathan.

Relief

45. Plaintiffs seek all available relief allowable by law, including punitive and compensatory damages, attorney's fees, and costs. Plaintiffs further seek injunctive relief against Sonia Leerkamp to prevent further acts of intimidation against Plaintiffs.

WHEREFORE, Plaintiffs pray that the Court will enter judgment in their favor and grant him them just and proper relief.


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