

RECEIVED
U.S. DISTRICT COURT
EAST DISTRICT OF LA
2007 DEC 21 AM 9:40
LORETTA G. WHYTE
CLERK

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

**GREG GRIFFITH AND NOAH
LEARNED,**

Plaintiffs,

CIV. ACTION NO.

07-9738

VERSUS

**D. HUGHES, JOHN DOE (A), JOHN DOE
(B), JOHN DOE (C), and WARREN J.
RILEY, SUPERINTENDENT, NEW
ORLEANS POLICE DEPARTMENT,
Defendants.**

JUDGE

SECT 4 MAG 2

MAGISTRATE JUDGE

JURY DEMAND

COMPLAINT

The Complaint of Greg Griffith and Noah Learned (herein after "Plaintiffs") respectfully represents:

JURISDICTION

1.

This action is brought pursuant to 42 U.S.C. § 1983 for actions arising under the First and Fourth Amendment to the Constitution of the United States. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331, 1343, 2201, and 2202. Supplemental jurisdiction of this Court is invoked pursuant to 28 U.S.C. §1367 over claims arising under the laws of

Louisiana, as they arise out of the same case or controversy as the federal claim.

VENUE

2.

Venue is proper for this Court under 28 U.S.C. §1391(b)(2) because a substantial part of the events or omissions giving rise to the claim occurred in the Eastern District of Louisiana.

PARTIES

3.

Plaintiff Greg Griffith is an adult citizen of the United States and resided in New Orleans, Louisiana at all times relevant to this Complaint.

4.

Plaintiff Noah Learned is an adult citizen of the United States and resided in Opelousas, Louisiana at all times relevant to this Complaint.

5.

Defendant D. Hughes is a deputy for the New Orleans Police Department and was an “arresting officer” who arrested Plaintiffs on February 18, 2007. He participated in the constitutional and state law violations that are the subject of this complaint. Defendant D. Hughes is sued in his personal and official capacities.

6.

Defendant John Doe (A) is one or more officers for the New Orleans Police Department, who is unknown, but identifiable, as his identifying information is in possession of the Defendants. Defendant John Doe (A) participated in the constitutional and state law violations that are the subject of this Complaint. Defendant John Doe (A) is sued in his personal and

official capacities.

7.

Defendant John Doe (B) is one or more officers for the New Orleans Police Department, who is unknown, but identifiable, as his identifying information is in the possession of the Defendants. Defendant John Doe (B) participated in the constitutional and state law violations that are the subject of this Complaint. Defendant John Doe (B) is sued in his personal and official capacities.

8.

Defendant John Doe (C) is one or more officers for the New Orleans Police Department, who is unknown, but identifiable, as his identifying information is in the possession of the Defendants. Defendant John Doe (C) participated in the constitutional and state-law violations that are the subject of this Complaint. Defendant John Doe (C) is sued in his personal and official capacities.

9.

Defendant Warren J. Riley is Superintendent of the New Orleans Police Department and was so at all times relevant to this Complaint. Defendant Warren J. Riley is sued in his personal and official capacities. Defendant Riley participated or acquiesced in the violation of Plaintiffs' rights by maintaining or acquiescing in police practices, customs or procedures resulting in the violation of Plaintiffs' rights. Defendant Riley further participated in the violation of Plaintiffs' rights in the inadequate hiring, training, or supervising of Defendant Hughes and the Defendant Does.

STATEMENT OF FACTS

10.

Defendants Officer Hughes, Officer John Doe (A), Officer John Doe (B), Officer John Doe (C), and Superintendant Riley are police officers of the City of New Orleans, and at all times relevant to this Complaint did act under color of state law.

11.

On or about Sunday, February 18, 2007, at or about 9:45 P.M., Plaintiffs Greg Griffith and Noah Learned stood on the sidewalk of Canal Street in New Orleans, Louisiana, observing the "Bacchus" Mardi Gras parade.

12.

Plaintiff Griffith held a digital camera capable of recording video footage and, from his position on the sidewalk, began filming police officers interacting with a group of youths on the Canal Street sidewalk.

13.

Upon witnessing such videotaping, Defendant Officer John Doe (A), a New Orleans police officer, approached Plaintiff Griffith and tackled him, causing the digital camera to fall to the ground.

14.

When Plaintiff Learned picked up the digital camera, Defendant Officer John Doe (B), a New Orleans police officer, proceeded to tackle Plaintiff Learned with excessive force. Defendant John Doe (C) then seized the digital camera.

15.

Defendant Officer John Doe (A) then knocked Plaintiff Griffith to the ground, and he positioned himself atop Plaintiff Griffith with force.

16.

Defendant Officer John Doe (A) acted with excessive force, causing Plaintiff Griffith's face to hit the sidewalk and eyeglasses to break.

17.

On or about February 18, 2007, at or about 9:45 p.m., police officers of the New Orleans Police Department, including Defendants Officer Hughes, Officer John Doe (A), Officer John Doe (B), and Officer John Doe (C), arrested Plaintiffs Greg Griffith and Noah Learned for "crossing or traversing a police cordon," pursuant to New Orleans Municipal Code § 54-442.

18.

Defendants Officer Hughes, Officer John Doe (A), Officer John Doe (B), and Officer John Doe (C) arrested Plaintiffs Griffith and Learned without an arrest warrant and without probable cause.

19.

Before, during, and after Plaintiffs' observation and filming of police activity on or about February 18, 2007, Plaintiffs behaved in a lawful and peaceful manner.

20.

Before, during, and after the Plaintiffs' observation and filming of police activity on or about February 18, 2007, Plaintiffs were located outside or behind any and all police cordons, and never crossed or traversed such cordons.

21.

Before, during, and after Plaintiffs' observation and filming of police activity on or about February 18, 2007, Defendant police officers had knowledge that Plaintiffs were located outside or behind any and all police cordons.

22.

Defendant John Doe (C) zip-tied the hands of Plaintiffs Griffith and Learned behind each of their backs.

23.

Defendant John Doe (C) escorted Plaintiffs Griffith and Learned to the Canal Street Neutral Ground where they forced Plaintiffs to kneel on the ground outside of a police vehicle.

24.

Defendants then forced Plaintiffs to sit in a police vehicle for at least 30 minutes.

25.

The police vehicle transported Plaintiffs Griffith and Learned to Armstrong Park in New Orleans, Louisiana where Sheriff's deputies processed Plaintiffs for arrest and forced them to sit in another police vehicle for at least one hour.

26.

The police vehicle transported Plaintiffs Griffith and Learned to the Orleans Parish Prison.

27.

Plaintiffs were released on bond at or about 4 A.M. on Monday, February 19, 2007.

28.

On or about February 19, 2007, Orleans Parish Prison deputies returned the digital camera, described in the event above, to Plaintiff Griffith. The camera was broken. All footage pertaining to the event described above was erased.

29.

On or about April 24, 2007, charges were dropped against Plaintiffs Griffith and Learned for "crossing or traversing a police cordon," pursuant to New Orleans Municipal Code § 54-442.

30.

At all times above, Defendants acted knowingly, intentionally, or recklessly with regard to Plaintiffs' rights.

31.

At all times above, Defendants acted under color of state law.

STATEMENT OF CLAIMS

FIRST CAUSE OF ACTION – FOURTH AMENDMENT VIOLATION

UNLAWFUL ARREST

32.

Defendants' actions and inactions constituted an illegal seizure of persons, unlawful arrests without evidence in support thereof, and unlawful detention and imprisonment in violation of Plaintiffs' rights under the Fourth Amendment of the Constitution of the United States.

SECOND CAUSE OF ACTION – FOURTH AMENDMENT VIOLATION

EXCESSIVE FORCE

33.

Defendants' actions and inactions constituted an objectively unreasonable excessive use of force in violation of Plaintiffs' rights under the Fourth Amendment of the Constitution of the United States.

THIRD CAUSE OF ACTION – FIRST AMENDMENT VIOLATION

34.

Defendants' actions and inactions constituted an unlawful prevention and inhibition of Plaintiffs' free exercise of their rights of speech, in violation of Plaintiffs' rights under the First Amendment of the Constitution of the United States.

FOURTH CAUSE OF ACTION – ASSAULT AND BATTERY

35.

Defendants' actions and inactions constituted assault and battery and infliction of injury upon the Plaintiffs under LSA-C.C. Art. 2315 *et seq.*

FIFTH CAUSE OF ACTION – FALSE IMPRISONMENT

36.

Defendants' unlawful detention and imprisonment of Plaintiffs constituted false imprisonment under LSA-C.C. Art. 2315 *et seq.*

JURY DEMAND

Plaintiffs demand trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request this Honorable Court to grant the following relief:

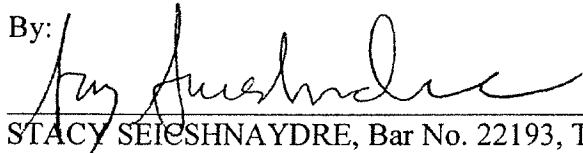
- A. That the Court declare Defendants' actions complained of herein to be in violation of Plaintiffs' rights as secured by 42 U.S.C. § 1983, as well as the Fourth Amendment, and the First Amendment of the United States Constitution;
- B. That the Court declare Defendants' actions complained of herein to be in violation of state tort law established in LSA-C.C. Art. 2315 *et seq.*
- C. That the Court enter a permanent injunction restraining Defendants, their agents, and employees from:
 - (1) Interfering in any manner with the free exercise of First Amendment rights, including the legal observing and filming of police activity;
 - (2) Subjecting persons who observe and film the police to physical violence, threats, or harassment, or conspiring with others to do so; and
 - (3) Subjecting persons who observe and film the police to illegal and unconstitutional arrest or detention or in any manner limiting their freedom of movement under the Fourth Amendment to the Constitution of the United States.
- D. That the Court order Defendants to undertake such affirmative steps to ensure the complained of acts do not recur;
- E. That the Court grant Plaintiffs compensatory and punitive damages for violation of their constitutional rights and their rights under Louisiana law;
- F. That Plaintiffs be awarded costs, reasonable attorney's fees, and any and all such

further relief as the Court deems just and proper.

Respectfully submitted,

TULANE LAW CLINIC
6239 Freret Street
New Orleans, LA 70118
(504) 865-5153
(504) 862-8753 (fax)

By:


STACY SEESHNAYDRE, Bar No. 22193, T.A.

ANDREA WILKES, No. 26305

Supervising Attorneys

Amanda Burnette
Aaron Greenbaum
Valerie Auger
Brooke Wright
Student Attorneys

Katie Schwartzman, No. 30295
P.O. Box 56157
New Orleans, LA 70156

Staff Attorney, ACLU Foundation of Louisiana

Attorneys for Plaintiffs