

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

DEANNA THOMAS,

Plaintiff,

v.

OFFICER ROBERT TEWIS and OFFICER KIRT
ARNOLD,

Defendants.

Civil Action No.

Judge:

Magistrate Judge:

COMPLAINT AND JURY DEMAND

NATURE OF THE CASE

1. This is a civil action seeking damages against Defendant Officers Robert Tewis and Kirt Arnold, both of whom are employed by the East Jefferson Levee District Police Department. The two officers participated in an unconstitutional and unlawful use of excessive force on April 6, 2020, against the Plaintiff, Deanna Thomas—a 54-year-old African-American mother and homeless resident of Louisiana.

2. Ms. Thomas is one of many victims who suffer from the unjust criminalization of poverty and homelessness, in Louisiana and around the country.¹ Because poverty and homelessness are inextricably linked to institutional racism, the criminalization of homelessness disproportionately affects Black people.² This reality, coupled with systemic racism in policing,³

¹ See, e.g., *No Safe Place: The Criminalization of Homelessness in U.S. Cities*, National Law Center on Homelessness and Poverty (2014).

² See, e.g., Marian Moser Jones, *Does Race Matter in Addressing Homelessness? A Review of the Literature*, 8 *World Medical & Health Policy J.*, 139, (2016), <https://doi.org/10.1002/wmh3.189>; Ebony Slaughter-Johnson, *The Criminalization of Black Homelessness*, Economic Hardship Reporting Project, Dec. 9, 2016, <https://economichardship.org/2016/12/the-criminalization-of-black-homelessness/>.

³ See, e.g., Frank Edwards, et al., *Risk of being killed by police use of force in the United States by age, race – ethnicity, and sex*, 116 *PNAS* 16793, 16794 (2019) (finding that Black men are 2.5 more likely than white men to be killed by law enforcement); Mark Hoekstra & Carly Will Sloan, *Does Race Matter for Police Use of Force? Evidence from 911 Calls*, NBER, Feb. 2020, <https://www.nber.org/papers/w26774>; Oliver Laughland,

far too often leads to police violence against already deeply marginalized homeless Black people, just like Ms. Thomas.⁴

3. On the day in question, Ms. Thomas was minding her own business in a public park, when the Defendants approached her and demanded that she leave the park. Rather than give her a chance to collect her belongings, including her cell phone, Defendant Tewis handcuffed her. He later proceeded to knock the handcuffed and compliant Ms. Thomas to the ground. Unable to break her fall because she was handcuffed, Ms. Thomas slammed face-first into the ground. The impact of the fall sprained both her wrist and shoulder. It also caused her glasses to snap in half against her face—lacerating it—and prompted the unintentional release of her bowels.

4. Ms. Thomas continues to experience emotional and psychological harm as a result of the incident, including increased anxiety, sleeplessness, nightmares, and a distrust of law enforcement.

5. Defendant Arnold witnessed the entire incident. Nonetheless, he did not intervene to serve and protect Ms. Thomas.

PARTIES

6. Plaintiff Deanna Thomas is a person of majority and a resident of New Orleans, Louisiana.

7. Defendant Officer Robert Tewis is currently, and was at the time of the events set forth in this complaint, an officer with the East Jefferson Levee District Police Department. He is sued in his individual capacity.

US police have a history of violence against black people. Will it ever stop?, The Guardian, Jun. 4, 2020, <https://www.theguardian.com/us-news/2020/jun/04/american-police-violence-against-black-people>.

⁴ See, e.g., Tianna Kelly, *Police Violence, Homelessness, and Black Lives*, National Alliance to End Homelessness, Oct. 1, 2020, <https://endhomelessness.org/police-violence-homelessness-and-black-lives/>.

8. Defendant Officer Kirt Arnold is currently, and was at the time of the events set forth in this complaint, an officer with the East Jefferson Levee District Police Department. He is sued in his individual capacity.

JURISDICTION AND VENUE

9. This Court has original jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3) because Plaintiff's claims of federal civil rights violations arise under the Constitution and laws of the United States, including 28 U.S.C. § 1983. This Court has supplemental jurisdiction over Plaintiff's Louisiana state law claims pursuant to 28 U.S.C. § 1367.

10. Venue in the Eastern District of Louisiana is proper pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events giving rise to Plaintiff's claims occurred in Jefferson Parish, Louisiana, which is located within the Eastern District of Louisiana.

11. Declaratory relief is authorized by 28 U.S.C. § 2201. A declaration of law is necessary to determine the respective rights and duties of the parties.

STATEMENT OF FACTS

12. Plaintiff Deanna Thomas, a 54-year-old African-American woman, is a mother and an unhoused resident of Louisiana. On the morning of April 6, 2020, Ms. Thomas was peacefully present on a levee in Laketown Park, a public park in Kenner, Louisiana. Ms. Thomas had several of her belongings with her, including a laptop computer, a sleeping bag, certain important legal documents (her birth certificate included), and an outdoor canopy that she used to protect herself from the elements. At the time, Ms. Thomas's cell phone was charging several hundred feet away near a public restroom at the park.

13. At or around 8:30 a.m., Defendants Tewis and Arnold, both in uniform, approached Ms. Thomas. Defendant Tewis told Ms. Thomas that she was illegally occupying the park and

instructed her to leave. Ms. Thomas replied that she was unable to move all of her belongings without assistance. Ms. Thomas stated that someone she knew would be available to assist her that evening, and that she would be happy to move her belongings then. Defendant Tewis replied that, if Ms. Thomas did not immediately leave the park, with or without her belongings, she would be arrested.

14. Ms. Thomas then told Defendant Tewis that she would need to retrieve her cell phone from near the public restroom before leaving the park. As Ms. Thomas began to walk toward the restroom to retrieve her cell phone, Defendant Tewis grabbed her by her jacket and began to drag her toward his vehicle. As he did so, Defendant Tewis placed both of Ms. Thomas's hands in handcuffs behind her back.

15. Ms. Thomas told Defendant Tewis that the handcuffs were too tight and that they were injuring her hands and wrists. She informed him that she suffered from Lupus, which causes swelling, and that the swelling compounded the discomfort and injury that the excessively tight handcuffs were causing. Defendant Tewis did not loosen the handcuffs.

16. He nevertheless continued to drag and pull Ms. Thomas, with her hands cuffed behind her back, toward his vehicle. As they approached the police vehicle, and while Ms. Thomas was standing on her feet and complying with Defendant Tewis's instructions, Defendant Tewis threw Ms. Thomas to the ground, face first. Ms. Thomas's hands were still handcuffed behind her back. Although she wrenched her shoulder in an attempt to protect herself, she was unable to break her fall. Ms. Thomas hit the ground, face first, causing her eyeglasses to break in half.

17. Ms. Thomas's face began to bleed, swell, and bruise. The force and impact of being thrown to the ground caused her to release her bowels. Her neck, back, and right shoulder were injured. Abrasions and an open wound to her nose also occurred as a result of the fall.

18. Defendant Tewis then knelt with his full body weight on Ms. Thomas's back, grabbed her left arm, and lifted it, twisting her left shoulder. The force of the handcuff against Ms. Thomas's hand caused her additional injury, including to her wrist, to three fingers on her right hand, and to the inside of her right hand.

19. Shocked from being thrown to the ground face first, Ms. Thomas began to scream and cry. Her glasses had broken, she could not see properly, and her face was bleeding over her nose. Defendant Tewis began to try to move Ms. Thomas toward his vehicle to place her in it. Ms. Thomas asked for "a minute" to collect herself before getting into the vehicle.

20. When they reached the police vehicle, Defendant Tewis placed Ms. Thomas in the backseat. Overwhelmed by the pain and shock, Ms. Thomas laid down across the back seat, face down, crying.

21. Defendant Tewis instructed Ms. Thomas that she could not lie down in the vehicle. Ms. Thomas pleaded with Defendant Tewis, telling him that she was in pain, and asked for time to collect herself before she readjusted herself in the backseat.

22. Defendant Tewis did not give Ms. Thomas time to collect herself. Instead, he lifted Ms. Thomas up by the handcuffs, causing further injury to her shoulders and hands. Defendant Tewis then pulled Ms. Thomas from the vehicle by the handcuffs. Shouting at her, he stated that she needed to sit upright in the vehicle with her legs in front of her. Ms. Thomas then re-entered the vehicle and sat upright in the backseat. She faced toward the door of the vehicle in order to protect her injured hands from being pressed against the backseat.

23. Throughout the physical altercation between Ms. Thomas and Defendant Tewis, Defendant Arnold was standing approximately ten feet away. At no point did Defendant Arnold interject, intervene, or otherwise prevent Defendant Tewis from dragging Ms. Thomas to the police

car, from throwing her to the ground, from kneeling on her back and twisting her shoulder, or from pulling her back out of the police car by the handcuffs. During the entire ordeal, Defendant Arnold did not utter a single word.

24. After Ms. Thomas was situated in the police car, Defendant Tewis took pictures of her belongings—the belongings she was unable to take with her—and the area surrounding those belongings.

25. Defendants Tewis and Arnold then drove Ms. Thomas to the Jefferson Parish Correctional Center, where she was offered medical services for her injuries, including her bleeding face. Ms. Thomas refused medical attention because the staff was not wearing masks despite the COVID-19 pandemic. Ms. Thomas was aware that correctional facilities were dangerous transmission zones for the COVID-19 virus, and did not want to expose herself to it.

26. At the Jefferson Parish Correctional Center, Ms. Thomas was finally able to wash her soiled clothes.

27. At around 3:30 p.m. the same day, Ms. Thomas was released from the Jefferson Parish Correctional Center, which is approximately 30 minutes by car from Laketown Park. She returned to the site of the incident to discover that all of her belongings had been removed, including her laptop computer, her sleeping bag, her birth certificate, and her outdoor canopy. The only item remaining was a pair of disposable rubber gloves that Defendant Tewis had used to search Ms. Thomas's belongings.

28. Three days later, Ms. Thomas found one half of her broken eyeglasses. This was a lucky find because she could not afford to buy new glasses. She used this half lens for months in order to see.

29. On April 15, 2020, Defendant Tewis returned to Laketown Park. He found Ms. Thomas and wrongly told her that she was on private property. Although Ms. Thomas attempted to defuse the situation by walking away from him, Defendant Tewis grabbed her and almost pushed her down the levee. He threatened to arrest Ms. Thomas again, but eventually left without handcuffing or arresting her.

30. On May 7, 2020, Ms. Thomas was woken up by Defendant Tewis in the early morning. He again handcuffed and arrested her. At the Jefferson Parish Correctional Center, Defendant Tewis toted around the handcuffed Ms. Thomas, sometimes dragging her by the jacket. She was forced to accompany him in this fashion to his locker and to watch him unload his gun.

31. In the months following the events of April 6 and continuing to this day, Ms. Thomas suffers from physical and emotional pain as a result of Defendant Tewis's actions and Defendant Arnold's inaction. Ms. Thomas's fingers exhibit evidence of serious injury, including contusions, lacerations, bumps, and bruises. Her shoulder still pains, and the palm of her right hand was bruised for months after the April 6 incident. Ms. Thomas also experiences anxiety, sleeplessness, nightmares, intrusive negative thoughts, and an increased distrust of law enforcement officers—all stemming from the April 6 altercation. Moreover, Ms. Thomas no longer feels comfortable in public. The sight of police officers now incites almost immediate panic, intrusive negative thoughts, and anxiety.

FIRST CAUSE OF ACTION
42 U.S.C. Section 1983 (Against all Defendants)

32. Plaintiff incorporates all other paragraphs of this complaint.

33. Defendants, at all relevant times, were acting under the color of state law in their capacity as East Jefferson Levee District Police Department officers, and their acts or omissions were conducted within the scope of their official duties or employment.

34. Any reasonable police officer would know or should have known that Plaintiff had a clearly established constitutional right to be secure in her person from unreasonable seizure through excessive force under the Fourth Amendment and to bodily integrity and to be free from excessive force under the Fourteenth Amendment.

35. Defendants' actions and omissions, including the use of force, as described above, were objectively unreasonable in light of the facts and circumstances and violated Plaintiff's rights under the Fourth Amendment.

36. Defendants' actions and omissions, including the use of force, as described above, were also malicious and involved reckless, callous, and deliberate indifference to Plaintiff's federally protected rights. The force used by Defendants shocks the conscience and accordingly violated Plaintiff's Fourteenth Amendment rights.

37. Defendant Tewis unlawfully seized Plaintiff by means of objectively unreasonable and excessive physical force, and thereby unreasonably deprived her of her freedom.

38. Defendant Arnold did not take reasonable steps to intervene and protect Plaintiff from the objectively unreasonable and excessive force that Defendant Tewis employed despite being in a position to do so. He is therefore liable for the injuries and damages resulting from the objectively unreasonable and excessive force used by Defendant Tewis.

39. Defendants engaged in the conduct described above wilfully, maliciously, in bad faith, and with reckless disregard of Plaintiff's rights.

40. Defendants are not entitled to qualified immunity for the complained-of conduct because this conduct was objectively unreasonable and violated Plaintiff's clearly established constitutional rights.

41. As a direct and proximate consequence of Defendants' acts and omissions, including the use of force, Plaintiff has suffered and continues to suffer damages, including through physical and emotional injury and through damage to and loss of her property.

SECOND CAUSE OF ACTION
Intentional Infliction of Emotional Distress (Against all Defendants)

42. Plaintiff incorporates all other paragraphs of this complaint.

43. Defendants, at all relevant times, were acting under the color of state law in their capacity as East Jefferson Levee District Police Department officers and their acts or omissions were conducted within the scope of their official duties or employment.

44. As a direct and proximate result of the intentional acts of the Defendants described above, Plaintiff suffered physical injury, psychiatric distress, and continues to suffer from these injuries and from shock, distress, anguish, humiliation, and loss of enjoyment of life.

45. Plaintiff's physical and psychological injuries were caused by Defendants' intentional acts.

46. Defendants' acts and omissions were extreme and outrageous, malicious, and done with the specific intent to harm Plaintiff and/or with reckless disregard for the consequences of their acts and omissions.

THIRD CAUSE OF ACTION
Negligent Infliction of Emotional Distress (Against all Defendants)

47. Plaintiff incorporates all other paragraphs of this complaint.

48. Defendants, at all relevant times, were acting under the color of state law in their capacity as East Jefferson Levee District Police Department officers and their acts or omissions were conducted within the scope of their official duties or employment.

49. Defendants' acts and omissions breached their duty of care to Plaintiff, which resulted in harm to Plaintiff.

50. As a direct and proximate result of the negligent acts of the Defendants described above, Plaintiff suffered physical injury, psychiatric distress, and continues to suffer from these injuries and from shock, distress, anguish, humiliation, and loss of enjoyment of life.

51. Plaintiff's injuries were caused wholly by the negligent acts of the Defendants, who acted with reckless disregard for the consequences of their acts and omissions.

FOURTH CAUSE OF ACTION
Assault (Against Defendant Tewis)

52. Plaintiff incorporates all other paragraphs of this complaint.

53. Defendant Tewis's various actions immediately preceding his physical assault of Ms. Thomas—including, but not limited to, threatening to arrest her despite her compliance and then reaching to grab Ms. Thomas by the jacket to pull her down to the ground—constituted threats to cause Ms. Thomas physical injury.

54. Defendant Tewis intended to threaten to cause physical injury to Plaintiff, and did in fact threaten to cause physical injury to Plaintiff.

55. Defendant Tewis's threat of physical injury to Plaintiff was unreasonable, was not justified in light of the circumstances, and was excessive. Defendant Tewis's actions were extreme and outrageous, and he acted maliciously and with specific intent to oppress and harm Plaintiff.

56. As a direct and proximate result of the intentional conduct of Defendant Tewis, Plaintiff suffered and continues to suffer physical and psychological injury. These injuries were caused wholly by the intentional acts of Defendant Tewis.

FIFTH CAUSE OF ACTION
Battery (Against Defendant Tewis)

57. Plaintiff incorporates all other paragraphs of this complaint.

58. Defendant Tewis intended to use force to cause physical injury to Plaintiff, and did in fact use force to cause injury to Plaintiff.

59. Defendant Tewis's use of force to cause physical injury to Plaintiff was unreasonable, was not justified in light of the circumstances, and was excessive. Defendant Tewis's actions were extreme and outrageous, and he acted maliciously and with specific intent to oppress and harm Plaintiff.

60. As a direct and proximate result of the intentional conduct of Defendant Tewis, Plaintiff suffered and continues to suffer physical and psychological injury. These injuries were caused wholly by the intentional acts of Defendant Tewis.

SIXTH CAUSE OF ACTION
Negligence (Against Defendant Arnold)

61. Plaintiff incorporates all other paragraphs of this complaint.

62. Plaintiff asserts violations of Louisiana law relative to intentional torts by Defendant Arnold who was acting within the course and scope of his employment with the East Jefferson Levee District Police Department.

63. Defendant Arnold at all times relevant hereto was acting under the color of state law.

64. The acts or omissions of Defendant Arnold, as described herein, deprived Plaintiff of her constitutional rights and caused her other damages.

65. Defendant Arnold breached his duty of care to Plaintiff resulting in harm to Plaintiff within the scope of protection of the duty he owed to her. As a result of his negligence, Plaintiff suffered physical injury, psychiatric distress, and continues to suffer from severe shock, distress, anguish, sorrow, and loss of enjoyment of life.

66. The aforesaid physical and psychological injuries sustained by Plaintiff were caused wholly by reason of the negligent acts of Defendant Arnold as described herein.

67. Defendant Arnold acted with reckless disregard for the consequences of his actions and omissions.

PRAYER FOR RELIEF

68. Plaintiff prays for:

- (i) A declaration that the Defendants' conduct violates the Fourth and Fourteenth Amendments of the United States Constitution;
- (ii) Compensatory damages;
- (iii) Punitive damages;
- (iv) Reasonable attorney's fees and costs;
- (v) Injunctive relief to prevent future harm or loss of property; and
- (vi) All other such relief as the Court deems necessary, just, and proper.

DEMAND FOR A JURY TRIAL

69. Plaintiff demands a jury trial on all claims in this action.

Dated: April 5, 2021

Respectfully submitted,

/s/ Davida Finger
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**Pro Hac Vice Application Pending*

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