

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

SHAUNA M. JOHNSON,

Plaintiff,

v.

CEDRIC TURNER and MELANIE
MONTROLL

Defendants.

Civil Action No.

Judge:

Magistrate Judge:

COMPLAINT

COMES NOW Plaintiff Shauna M. Johnson, by and through her undersigned counsel, and for her Complaint against Defendants Cedric Turner and Melanie Montroll, hereby states and alleges as follows:

INTRODUCTION

1. Plaintiff Shauna M. Johnson is a Black woman who was stopped, detained, and arrested for purportedly committing minor traffic violations – purported violations that were later unilaterally dismissed by the government. Ms. Johnson is not alone as a Black woman facing law enforcement officers, like the officers of the Harbor Police Department of the Port of New Orleans, using their authority to criminalize Black people, and particularly Black women. Far too often, because of their implicit or explicit biases, law enforcement officers treat Black women as suspicious or dangerous for no reason other than the color of their skin.¹ This racism produces disastrous results – Black women are the group most likely to be killed by law enforcement while

¹ Michelle S. Jacobs, *The Violent State: Black Women's Invisible Struggle Against Police Violence*, 23 WILLIAM & MARY J. OF RACE, GENDER, & SOC. JUSTICE 39, 46 (2017).

unarmed.² But even when Black women such as Ms. Johnson survive their encounters with law enforcement, they face real consequences. Instead of being innocent until proven guilty, Black women are immediately treated with contempt and suspicion because of pervasive racism within law enforcement. Ms. Johnson's case is just one example of many.

2. If law enforcement officers are not held accountable for their unjust treatment of Black women, they will continue to deny Black women their rights. Black women like Ms. Johnson who exercise their constitutionally protected right to freedom of speech are especially vulnerable. In Ms. Johnson's case and many others, law enforcement officers use their authority to silence the protected speech of Black women, especially when Black women exercise their First Amendment right to criticize the injustices perpetrated by law enforcement.³ Our justice system must hold law enforcement accountable for criminalizing Black women and depriving them of their constitutionally protected rights.

² See Odis Johnson, Jr. et al., *Race, Gender, and the Contexts of Unarmed Fatal Interactions with Police*, 24 (2018), <https://cpb-us-w2.wpmucdn.com/sites.wustl.edu/dist/b/1205/files/2018/02/Race-Gender-and-Unarmed-1y9md6e.pdf>; Marisa Iati et al., *Nearly 250 women have been fatally shot by police since 2015*, THE NEW YORK TIMES, Sept. 4, 2020, <https://www.washingtonpost.com/graphics/2020/investigations/police-shootings-women/>; Andrea J Ritchie, *Invisible No More: Police Violence Against Black Women and Women of Color*, (2017)

³ See Etienne Toussaint, *Blackness as Fighting Words*, 106 VA. L. REV. ONLINE 124 (2020), https://legacy.virginialawreview.org/volumes/content/blackness-fighting-words#_ftn15 (describing how Black identity has become “a type of public speech unprotected by the Constitution”); Juwan J. Holmes, *Black Women Are Not Afforded the Freedom of Speech*, MEDIUM, Aug. 25, 2020, <https://medium.com/the-renaissance/black-women-dont-have-the-freedom-of-speech-928207fa6d1c>; Benjamin P. Marcus, *The First Amendment, Black Liberation, and You*, FREEDOM FORUM, June 11, 2020, <https://www.freedomforum.org/2020/06/11/the-first-amendment-black-liberation-and-you/> (“While the First Amendment now applies to all in law, it does not apply equally in action”).

PARTIES

3. Plaintiff Shauna M. Johnson is a person of majority domiciled in the State of Louisiana within the Eastern District of Louisiana.

4. Defendant Cedric Turner is currently, and was at the time of the incidents set forth in this Complaint, an officer of the Harbor Police Department of the Port of New Orleans. He is currently a Sergeant assigned to the Training Division. He is sued in his individual capacity.

5. Defendant Melanie Montroll is currently, and was at the time of the incidents set forth in this Complaint, an officer of the Harbor Police Department of the Port of New Orleans. She is currently a Captain and is the Assistant Chief of the Harbor Police Department. She is sued in his individual capacity.

JURISDICTION AND VENUE

6. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 and 1343 because the controversy arises under the U.S. Constitution and 42 U.S.C. § 1983. This Court has authority to award attorney's fees pursuant to 42 U.S.C. § 1988. Plaintiff further invokes the supplemental jurisdiction of this Court under 28 U.S.C. § 1367(a) to hear and adjudicate state law claims.

7. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2) because the events giving rise to this complaint happened in this district.

8. Declaratory relief is authorized by 28 USC 2201. A declaration of law is necessary to determine the respective rights and duties of the parties.

FACTUAL ALLEGATIONS

9. In February 2020, Ms. Johnson worked as an Uber driver.

10. On or about February 23, 2020, at approximately 11:15 am, Ms. Johnson was present in the vicinity of the Port of New Orleans for the of purpose of picking up an Uber fare. A significant amount of vehicular and pedestrian traffic was present.

11. Ms. Johnson identified her Uber fare near 1100 Port of New Orleans Place, and, after making eye contact with the group of individuals, pulled her vehicle to the right side of the road. Ms. Johnson did not observe any vehicles behind her that were obstructed by her vehicle.

12. Before Ms. Johnson could exit the vehicle and approach her fare, an officer later identified as Defendant Sgt. Cedric Turner approached Ms. Johnson's fare, and Ms. Johnson observed Sgt. Turner gesture at the group in a manner that Ms. Johnson interpreted as an instruction to the group to go elsewhere. The group departed and cancelled the Uber ride. Because the cancelled ride was not eligible for any cancellation fees, Ms. Johnson lost all revenue associated with the fare.

13. After his interaction with Ms. Johnson's fare, Sgt. Turner approached the driver-side door of Ms. Johnson's vehicle. She stepped out of the vehicle and asked Sgt. Turner where he had directed her Uber fare so that she could proceed to that location. Instead of providing the requested information, Sgt. Turner instructed Ms. Johnson to re-enter her vehicle and depart. Ms. Johnson again inquired as to where Sgt. Turner had directed her fare, but Sgt. Turner did not provide the requested information.

14. Ms. Johnson re-entered her vehicle and prepared to depart. Sgt. Turner stood in front of Ms. Johnson's vehicle for purposes of directing traffic; as a result, Ms. Johnson was unable to proceed straight ahead and was required to enter the lane of traffic to her left to comply with Sgt. Turner's direction to depart. At this time, no traffic was directly behind Ms. Johnson's vehicle but a significant amount of traffic was passing in the lane to Ms. Johnson's immediate left.

15. Ms. Johnson promptly prepared to depart by engaging her left turn signal and turning the front wheels of her vehicle to the left. However, the passing cars did not make space for her to enter the lane.

16. As Ms. Johnson continued to monitor the lane to her left for an opportunity to enter the flow of traffic, Sgt. Turner approached her vehicle. Instead of directing traffic to permit Ms. Johnson to enter the flow of traffic, Sgt. Turner again approached her driver-side window.

17. Ms. Johnson promptly rolled down her window to speak with Sgt. Turner, who told her that she was “going to jail.” Ms. Johnson responded that she had not done anything wrong and that she was trying to leave. Sgt. Turner’s response to Ms. Johnson’s explanation that she was trying to leave was to reach through the open window into Ms. Johnson’s vehicle, turn off the vehicle, and remove the keys from the ignition.

18. Ms. Johnson again explained that she had been trying to leave but was unable to do so as a result of the traffic, and she stated that Sgt. Turner should help her instead of harassing her. Sgt. Turner became upset by these comments.

19. Sgt. Turner then asked Ms. Johnson for her driver’s license. Ms. Johnson informed Sgt. Turner that her wallet had been stolen, but that she had the “LA Wallet” application on her phone, which provides a digitized driver’s license pursuant to La. R.S. § 32:411.⁴ Ms. Johnson possessed a valid digitized driver’s license at all times relevant to this Complaint.

20. Ms. Johnson reached toward the front passenger seat to retrieve her phone and show Sgt. Turner her digitized driver’s license; however, Sgt. Turner told Ms. Johnson that she was not

⁴ If an officer has reasonable grounds to believe a person has committed the offense of driving without a valid license in her possession, this statute requires the officer to “make every practical attempt based on identifying information provided by the person to confirm that the person has been issued a valid driver’s license.” La. R.S. 32:411(F)(1).

allowed to access her phone. Ms. Johnson complied with Sgt. Turner's order to not access her phone, and she was therefore unable to show Sgt. Turner the valid driver's license in her possession.

21. Ms. Johnson again objected to Sgt. Turner's conduct as an abuse of power. While Ms. Johnson and Sgt. Turner were continuing to speak to one another, an unidentified second officer, referred to herein as John Doe, arrived at the scene. While the unidentified officer initially told Sgt. Turner that it was unnecessary to arrest Ms. Johnson and attempted to deescalate the situation, after Ms. Johnson stated that the officers were engaged in misconduct, John Doe indicated that he did not have a choice about arresting her, and he placed Ms. Johnson in handcuffs with her hands behind her back. Ms. Johnson, who had a visible rash on her wrists, suffered abrasions and pain as a result of being placed in handcuffs.

22. After being placed in handcuffs, Ms. Johnson asked to speak with a supervisor. A third individual, subsequently identified as Capt. Melanie Montroll, approached the scene and asked why Ms. Johnson was being arrested for a traffic stop. Sgt. Turner continued to insist that Ms. Johnson be taken to jail.

23. Ms. Johnson requested that she be permitted to speak with Capt. Montroll, but she was not permitted to do so. Although Capt. Montroll raised concerns regarding Sgt. Turner's decision to arrest Ms. Johnson for purported traffic violations, when Sgt. Turner persisted in pursuing Ms. Johnson's arrest, Capt. Montroll – the Assistant Chief of the Harbor Police Department – failed to comply with her obligation to properly and adequately supervise and discipline her subordinate officers, and she failed to intervene in Ms. Johnson's wrongful arrest. Instead, Capt. Montroll ratified Sgt. Turner's decision to arrest Ms. Johnson.

24. After Ms. Johnson was placed under arrest, another officer arrived on site to transport Ms. Johnson to the Orleans Parish Sheriff's Office for processing.

25. At no time prior to her arrest did any officer explain to Ms. Johnson the alleged charges for which she was being arrested.

26. Ms. Johnson was held in custody for approximately one hour while her arrest was processed. Following processing, Ms. Johnson was issued a Traffic Parole Form and a Summons. Pursuant to the Summons, Sgt. Turner affirmed under oath that Ms. Johnson had violated three statutes: La. R.S. §§ 32:56 ("Obedience to police officers"), 32:52 ("Driver must be licensed"), and 32:64(B) ("General speed law").⁵

27. Following her arrest, Ms. Johnson's vehicle was towed and impounded, and Ms. Johnson was required to locate her vehicle and pay for the release of the vehicle.

28. On March 6, 2020, a *nolle prosequi* was issued from the Municipal and Traffic Court of New Orleans with respect to all three violations. Ms. Johnson was not provided any explanation for the charges against her being dropped.

FIRST CAUSE OF ACTION
STATE LAW FALSE ARREST (ALL DEFENDANTS)

29. Plaintiff incorporates and re-alleges the above allegations as though fully set forth herein.

30. Defendants arrested and restrained Plaintiff, against her will.

31. Defendants did not obtain a warrant for Plaintiff's arrest, and otherwise lacked statutory authority to arrest and restrain Plaintiff because Defendants lacked probable cause to believe an offense had occurred.

⁵ The arresting officer described these violations in the summons as "Disobey officer signal," "No DL," and "Impeding the flow of traffic," respectively.

32. Plaintiff complied with all instructions issued by Defendants. When instructed to depart the location where her vehicle was stopped, Plaintiff entered her vehicle, started her car, engaged her turn signal, and turned the wheels of her vehicle to the left so that she could proceed into the flow of traffic at the first safe, available opportunity. Plaintiff did not actually depart the location because she had no safe opportunity to do so prior to Defendant Turner turning off her car and detaining her.

33. Plaintiff possessed a valid driver's license, and upon demand she attempted to produce it. Defendant Turner instructed Plaintiff not to produce her valid digitized driver's license.

34. At no time prior to her wrongful arrest by Defendants did Plaintiff impede the normal and reasonable movement of traffic.

35. As a direct and proximate result of the conduct of Defendants, Plaintiff was damaged in numerous respects, including loss of income and other pecuniary losses, as well as pain and suffering.

SECOND CAUSE OF ACTION
WRONGFUL ARREST IN VIOLATION OF THE FOURTH AMENDMENT
42 U.S.C. § 1983 (ALL DEFENDANTS)

36. Plaintiff incorporates and re-alleges the above allegations as though fully set forth herein.

37. Defendants deprived Plaintiff of the rights, privileges, or immunities secured by the Constitution by wrongfully arresting her without probable cause in violation of the Fourth Amendment.

38. At the time that the Individual Defendants wrongfully arrested Plaintiff, they were operating under the color of law. Defendants were wearing uniforms of the Harbor Police Department and held themselves out as such.

39. No reasonable officer in Defendants' position would have believed that probable cause existed to arrest Plaintiff.

40. It was clearly established at the time that Plaintiff was arrested that the Constitution prohibits arrest without probable cause.

41. The conduct of Defendants thus violated Plaintiff's clearly established rights, of which reasonable officers knew or should have known.

42. As a direct and proximate result of the conduct of Defendants, Plaintiff was damaged in numerous respects, including loss of income and other pecuniary losses and pain and suffering.

THIRD CAUSE OF ACTION
STATE LAW NEGLIGENT SUPERVISION
(DEFENDANT MELANIE MONTROLL)

43. Plaintiff incorporates and re-alleges the above allegations as though fully set forth herein.

44. Defendant Montroll has a duty to properly and adequately supervise her subordinate officers, including Defendant Turner.

45. Defendant Montroll was present and had ample opportunity to issue instructions to her subordinates and to provide supervision of their actions.

46. Defendant Montroll failed to provide adequate supervision to her subordinate officers, breaching her duty to Plaintiff.

47. Defendant Montroll's failure to provide adequate supervision to her subordinate officers was a substantial factor in Plaintiff's wrongful arrest; had Defendant Montroll intervened and directed her subordinate officers not to arrest Plaintiff, Plaintiff would not have been arrested.

The risk of wrongful arrest is within the scope of the protection afforded by Defendant Montroll's duty to supervise her subordinate officers.

48. As a direct and proximate result of the conduct of Defendant Montroll, Plaintiff was damaged in numerous respects, including loss of income and other pecuniary losses and pain and suffering.

FOURTH CAUSE OF ACTION
RETALIATORY ARREST IN VIOLATION OF THE FIRST AMENDMENT
42 U.S.C. § 1983 (ALL DEFENDANTS)

49. During the course of Plaintiff's interactions with Defendants, Plaintiff engaged in speech protected by the First Amendment when she objected to Defendants' actions in detaining and wrongfully arresting her.

50. In response to Plaintiff's protected speech, Defendant Turner became visibly upset.

51. Despite initially objecting to the detention and arrest of Plaintiff, John Doe responded to Plaintiff's protected statement that the officers were engaged in misconduct by informing Plaintiff that he had no choice but to arrest her and placing her in handcuffs at the direction of Defendant Turner.

52. Defendants lacked probable cause to arrest Plaintiff, but nonetheless placed Defendant under arrest.

53. Even assuming *arguendo* that Defendants had probable cause to place Plaintiff under arrest, which Plaintiff denies, officers typically exercise their discretion to not arrest otherwise similarly situated individuals not engaged in the same sort of protected speech.

54. Retaliation against Plaintiff for her protected speech was a substantial or motivating factor for her arrest. As a direct and proximate result of the conduct of Defendants, Plaintiff was

damaged in numerous respects, including loss of income and other pecuniary losses and pain and suffering.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court enter judgment in her favor and against Defendants, and award the following relief:

- A. Declare that Defendants' conduct violates the First and Fourth Amendments of the United States Constitution;
- B. Award Plaintiff money damages in an amount to be proven at trial;
- C. Award Plaintiff her attorneys' fees and costs incurred in bringing this action; and
- D. Grant Plaintiff such other and further relief as the Court deems just and proper.

Respectfully submitted,

Dated: February 22, 2021.

By: /s/Bruce Hamilton

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JURY DEMAND

Plaintiff hereby requests a jury trial in this matter.

Respectfully submitted,

Dated: February 22, 2021.

By: /s/Bruce Hamilton

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