

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Glenda F. Johnson,

Court File No.: 18-CV-888 (ECT/TNL)

Plaintiff,

Vs.

AMENDED COMPLAINT

Jason Wolff, individually,

Defendant.

Plaintiff for her amended complaint against defendant states and alleges as follows:

PRELIMINARY STATEMENT

1. On about April 9, 2016, the defendant, Minneapolis Police Officer Jason Wolff took plaintiff into custody for the purpose of bringing her to the Hennepin County jail for an alleged misdemeanor offense - obstructing of legal process without force. Under the totality of the circumstances defendant used objectively unreasonable, unnecessary and excessive force to arrest Ms. Johnson. Defendant threw plaintiff to the floor of her home, handcuffed her wrists behind her back and pulled her up off the floor of her home in an intentional, reckless and deliberate manner causing personal injury and great pain to plaintiff's right shoulder.

2. Plaintiff commences this action against defendant in his individual capacity as City of Minneapolis Police Officer, for violations of her rights under the United States Constitution, including her right to be free from objectively unreasonable, unnecessary

and excessive force by a police officer while being placed under arrest. Plaintiff's claims against defendant are grounded in 42 U.S.C. § 1983.

3. Plaintiff demands that this action be tried to a jury.

PARTIES AND JURISDICTION

4. Currently plaintiff is a resident of the State of Nebraska and is a United States citizen. At times relevant and material to the incident that forms the basis for this action, plaintiff was a resident of the City of Minneapolis, County of Hennepin and State of Minnesota.

5. Defendant Jason Wolff at times relevant and material hereto was a City of Minneapolis Police Officer and was acting within the course and scope of his employment with the City of Minneapolis.

6. At times relevant and material hereto, the defendant police officer was acting under color of law and pursuant to his authority as City of Minneapolis Police Officer..

7. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988 and the Fourth, Fifth and Fourteenth Amendments to the United States Constitution.

8. This Court has subject matter jurisdiction to hear this claim pursuant to Minn. Stat. § 484.01 subd. 1(1).

THE FACTS

9. On about April 9, 2016, plaintiff resided with her adult son, Victor Rogers. Jr.; husband, Logan John Johnson at 2631 Newton Avenue North - a two-story, single family home - in Minneapolis, Minnesota 55411.

10. On the evening of April 9, 2016, plaintiff's son's lifelong friend, Brendan Bechthold ("Mr. Bechthold") came over to plaintiff's home and was hanging out and/or waiting for plaintiff's son, who was in the process of moving that day / night to his own place, so Victor was coming and going, making moving trips. Mr. Bechthold hung out, which plaintiff did not think strange or unusual, because he was a long time friend of her son, who spent a lot of time at her home with her son.

11. Around 11:00 pm plaintiff and her son found Mr. Bechthold lying on an upstairs bedroom bed in a nonresponsive state.

12. Plaintiff immediately telephoned #911 to request emergency medical services for Mr. Bechthold.

13. Before the ground ambulance arrived, Minneapolis Police Officer Peng Moua and partner heard the 911 call over the radio/computer and "self – assigned" to assist on the 911 call. Moua understood plaintiff's 911 call reported a 21 year old in possible cardiac arrest. Moua and partner were the first to arrive at plaintiff's home. Plaintiff directed officer Moua and partner to the upstairs bedroom where they found Mr. Bechthold lying on his back on a single bed not breathing, unresponsive, cooler to the touch and turning bluish in color.

14. Defendant Wolff and partner were the second MPD squad to arrive on the scene. Plaintiff or her husband directed defendant to go upstairs to the bedroom.

15. After a few minutes officer Moua came downstairs and began questioning plaintiff, her son and husband before an ambulance was on the scene. When EMS did

arrive, they were directed to the upstairs bedroom, and officer Moua continued with questioning plaintiff and her family.

16. Defendant Wolff verbally abused plaintiff and spewed out vulgar obscenities toward plaintiff in her home all intended to frighten and terrify plaintiff. Defendant intentionally, deliberately and recklessly escalated a human tragedy, in order to intimidate plaintiff, who had called 911 to ask for emergency medical services for her son's long time friend, who experienced a medical emergency and desperately needed their help. Defendant was not interested in helping Mr. Bechthold. Instead, he was interested in using tough, vulgar obscenities on plaintiff to escalate the situation and intimidate and manipulate plaintiff.

17. Plaintiff was shook up, shocked, deeply affected and emotionally distressed after finding Mr. Bechthold unresponsive in her home.

18. After MPD officers determined to investigate this tragic and emotionally charged incident, they determined they would not serve with compassion or use de-escalation tactics. Instead, defendant Wolff used escalation tactics, yell at plaintiff and spew out vulgar obscenities in her home. Without consent, MPD officers searched plaintiff's home and restrained plaintiff.

19. Without provocation or prior active resistance, defendant Wolff grabbed plaintiff's right arm and physically dragged her into the living room of her home. Plaintiff protested Wolff's abusive conduct. He then ordered plaintiff to leave her home. Plaintiff protested and denied consent to search her home. Defendant Wolff again grabbed plaintiff's right arm and jerked her arm. Wolff then grabbed plaintiff's right

wrist area and right upper arm area and used his left leg to trip and sweep plaintiff off of her feet forcefully putting her on the floor face down (prone) on her stomach on the floor of her home.

20. Defendant with officer Moua handcuffed plaintiff's wrists behind her back. Defendant Wolff hoisted plaintiff off the floor by her restrained right arm causing significant force and stress to plaintiff's right shoulder.

21. Plaintiff complained to the defendant that he hurt her right shoulder. Despite having unrelenting severe pain in her right shoulder, defendant put plaintiff in a MPD squad for immediate transport to the Hennepin County Jail.

22. Eventually, defendant allowed EMS personnel at the scene to examine plaintiff. EMS instructed defendant to release plaintiff from the handcuffs behind her back. Defendant refused to release plaintiff from behind the back restraints. Finally, EMS instructed defendant they needed to transport plaintiff by ambulance to North Memorial Hospital for emergency department evaluation, care and treatment.

23. Subsequently, plaintiff was tab charged with Misdemeanor – Obstructing Legal Process Without Force. Plaintiff pleaded not guilty to alleged misdemeanor offense and demanded a jury trial. The Hennepin County District Court dismissed the charge in its entirety and with prejudice. Subsequently, Plaintiff's arrest and court record was expunged.

24. As a direct result of defendant's objectively unreasonable use of force, plaintiff suffered an injury to her right shoulder requiring medical care and treatment including orthopedic surgery on her right shoulder

COUNT I

**Violations of the Fourth, Fifth and Fourteenth Amendment
and 42 U.S.C. §1983**

25. Plaintiff realleges all of the above allegations set forth in this amended complaint as if hereinafter set forth in full, and the plaintiff further states and alleges as follows:

26. This claim arises under Title 42 of the United States Code (Civil Rights Act of 1871, as amended), including but not limited to §1983.

27. The defendant acted alone and he was a state actor.

28. Defendant deprived the plaintiff of her rights, privileges and immunities secured by the United States Constitution; specifically, the Fourth, Fifth and Fourteenth Amendments in conjunction with other rights, including but not limited to, the following established rights: (a) the right to be free from unreasonable searches and seizures; (b) the right not to be deprived of liberty without due process of law; (c) the right to be free from excessive use of force by a person acting under color of state law; and (d) the right to be free from false arrest.

29. Plaintiff was subjected to unreasonable seizure when she was taken into custody inside her home. There was no justification for seizing plaintiff and therefore it was unreasonable.

30. Plaintiff was subjected to unreasonable and excessive force when she was thrown to the floor inside her home, resulting in a permanent physical injury to her right

shoulder. There was no justification for this use of force and therefore it was unreasonable and excessive.

31. The conduct and force used by the defendant against the plaintiff was unreasonable in light of the then existing facts and circumstances as judged by a reasonable police officer at the scene on April 9, 2016.

32. Defendant's individual conduct was objectively unreasonable, and the unlawfulness of his actions or omissions was apparent in light of clearly established law.

33. As a direct and proximate result of the violation of the plaintiff's constitutional rights by the defendant, plaintiff suffered damages as alleged in this amended complaint, and plaintiff is entitled to relief under 42 U.S.C. §1983. For all of the reasons set forth above, plaintiff is entitled to a judgment against the defendant, in a reasonable amount in excess of \$50,000.

COUNT II
Punitive Damages under Federal Law

34. Plaintiff realleges the above allegations as if hereinafter set forth in full and further states and alleges as follows:

35. All of the aforementioned acts, errors and omissions of the defendant MPD police officer was willful and malicious, committed in bad faith and with intentional, deliberate and reckless disregard for the rights and safety of plaintiff, so as to subject the defendant to punitive damages pursuant to the statutes and common law of the United States of America.

WHEREFORE, Plaintiff respectfully prays that this Court grant her relief as follows:

1. Awarding judgment in favor of plaintiff and against defendant Wolff, individually, in an amount greater than \$50,000 in compensatory damages.
2. Awarding judgment in favor of plaintiff and against defendant Wolff, individually, in an amount greater than \$50,000 as and for punitive damages pursuant to 42 U.S.C. § 1983.
3. Awarding Plaintiff her reasonable attorney's fees, pursuant to 42 U.S.C. § 1988.
4. Awarding Plaintiff her costs and disbursements incurred herein.
5. For such other and further relief as to the Court deems just and equitable.

Dated: February 11, 2019

s/ James Behrenbrinker

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