

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

LAWRENCE FAULKENBERRY

§

V.

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§

§

CAUSE NO. 1:15-cv-01089

CALDWELL COUNTY, TEXAS

§

CALDWELL COUNTY SHERIFF'S

§

OFFICE, SERGEANT YOST,

§

DEPUTY M. TAYLOR, AND

§

DEPUTY HOUSESTON.

§

ORIGINAL COMPLAINT

Plaintiff Lawrence Faulkenberry files this Original Complaint against Caldwell County, Texas, the Caldwell County Sheriff's Office, Sergeant Dustin M. Yost, Deputy M. Taylor, and Deputy Houseston, pursuant to 42 U.S.C. § 1983, 28 U.S.C. § 2201, the Texas Tort Claims Act, and the common law of the State of Texas, and respectfully shows as follows:

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff Lawrence Faulkenberry is an individual and citizen of the State of Texas who resides in Lockhart, Caldwell County, Texas.
2. Caldwell County, Texas (the "County") is a political subdivision of the State of Texas which is located in the Western District of Texas, Austin Division. Caldwell County may be served with process by serving County Judge Ken Schawe, who is located at the Caldwell County Courthouse, 110 S. Main Street, Room 201, Lockhart, Texas 78644. Plaintiff brings his claims against Caldwell County directly under 42

U.S.C. § 1983 as allowed by law for its customs, policies and practices as set forth herein.

3. The Caldwell County Sheriff's Office (the "Sheriff's Office") is a law enforcement agency of the County. The Sheriff's Office may be served with process by serving Sheriff Daniel C. Law, 1204 Reed Drive, Lockhart, Texas 78644. Plaintiff brings claims against the Sheriff's Office directly under 42 U.S.C. § 1983 as allowed by law for its customs, policies and practices as set forth herein.

4. Sergeant Dustin M. Yost ("Yost") is an individual law enforcement officer employed by the Caldwell County Sheriff's Office. Yost may be served with process where he resides at 1825 S. Colorado Street, Lockhart, Texas 78644 or at his place of employment 1204 Reed Drive, Lockhart, Texas 78644 or wherever he may be found. Plaintiff brings suit against Yost in his individual capacity for his own personal acts and omissions committed while acting under color of the statutes, ordinances, regulations, policies, customs and usages of the State of Texas and/or the County and/or the Sheriff's Office as described herein.

5. Deputy M. Taylor ("Taylor") is an individual law enforcement officer employed by the Caldwell County Sheriff's Office. Taylor may be served with process at his place of employment 1204 Reed Drive, Lockhart, Texas 78644 or wherever he may be found. Plaintiff brings suit against Taylor in his individual capacity for his own personal acts and omissions committed while acting under color of the statutes, ordinances, regulations, policies, customs and usages of the State of Texas and/or the County and/or the Sheriff's Office as described herein.

6. Deputy Houseston (“Houseston”) is an individual law enforcement officer employed by the Caldwell County Sheriff’s Office. Houseston may be served with process at his place of employment 1204 Reed Drive, Lockhart, Texas 78644 or wherever he may be found. Plaintiff brings suit against Houseston in his individual capacity for his own personal acts and omissions committed while acting under color of the statutes, ordinances, regulations, policies, customs and usages of the State of Texas and/or the County and/or the Sheriff’s Office as described herein.

7. This Court has personal jurisdiction over the Defendants, each of whom is a political subdivision of the State of Texas (County), a law enforcement agency of a political subdivision of the State of Texas (Sheriff’s Office), or a citizen of Texas (Yost, Taylor, and Houseston).

8. This Court has original federal question subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 because Plaintiff brings federal causes of action pursuant to 42 U.S.C. § 1983. This Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 to address Plaintiff’s state law claims.

9. Venue is proper pursuant to 28 U.S.C. § 1391(b) because Defendants reside in the Western District of Texas and because a substantial part of the events or omissions giving rise to Plaintiff’s claims occurred in the Western District of Texas.

I. INTRODUCTION AND FACTS

10. Our country prides itself on being “[a] government of laws, and not of men.”¹ As a nation, we believe the “rule of law” is what distinguishes our civilized nation

¹ Adams, John. “The Novanglus Essays.” *The Federalist Papers Project* Essay No. 7: 66-80. The Federalist Papers. Web. 10 Nov 2015.

from what we often see on the news from around the world. In this country, we want to take for granted that our law enforcement officers will uphold and not violate the law. In the United States, members of law enforcement are not supposed to assault people for no good reason as they are being arrested. United States citizens are not supposed to face trumped up charges. That is only supposed to happen in other countries where the “rule of law” is not observed.

11. Nearly always, law enforcement officers in this country honor their oaths, uphold the law, and vigorously defend the Constitution of the United States. Unfortunately, however, that is not always the case. On occasion, officers charged with enforcing the laws, instead break them. In this digital age, such rare instances are sometimes captured on camera. Such cases present an opportunity to correct course, to punish those responsible, and most importantly, to vindicate the constitutional principles and rights enshrined in the United States and Texas Constitutions. This is such a case.

12. According to Taylor’s affidavits, on January 15, 2015 shortly after 6:30 p.m., Yost, Taylor and Houseston (collectively the “Deputies”) responded to a “disturbance with a firearm” at Plaintiff’s property located at 792 Oak Trail Drive, Lockhart, Texas 78644. At all material times, the Deputies were acting under color of law on behalf of the County and as law enforcement officers of the Sheriff’s Office.

13. The reported “disturbance” was a false report. The alleged “victim,” Plaintiff’s minor son, suffers from extreme and diagnosed mental illness. Plaintiff’s son got into an argument with Plaintiff earlier that day over homework and taking out the

garbage. Plaintiff's son expressly threatened that he would call the police and claim Plaintiff was drunk and threatening him with a handgun. Plaintiff's son, not for the first time, made good on his threat and called law enforcement. In fact, Plaintiff's son's claims were completely false; Plaintiff was not drunk, does not own a handgun, and certainly did not threaten his son.²

14. There are two buildings at Plaintiff's address: his residence and a second structure Plaintiff uses as a business office. Prior to the evening in question and ironically, at the suggestion of other members of local law enforcement, Plaintiff installed a surveillance camera system at his office because he had previously been burglarized. The security system contains several video cameras which depict the following events. Nearly all of the material events are therefore not subject to reasonable dispute.

15. From one camera, the Deputies can be seen arriving at the scene with their lights flashing. Plaintiff's son goes out to meet the approaching Deputies. The supposed "victim" of the "disturbance" was immediately, safely secured.

16. The Deputies then proceed to the business office located on Plaintiff's property. They deliberately parked their vehicles so their dashboard cameras would not record what they did next. The Deputies were not aware their actions were nonetheless being recorded on Plaintiff's security system.

17. On another security camera, the following events are plainly depicted. Plaintiff stands in front of his office door with his hands raised above his head. Plaintiff does

² In fact, Plaintiff devotes a substantial portion of his free time to helping charitable organizations whose mission is *to protect children* from abuse.

not move or otherwise take any action that could reasonably be construed as threatening to the Deputies. The Deputies nonetheless approach Plaintiff with their guns drawn.



18. Plaintiff who feared for his life does not resist at all and allows them to put his hands behind his back and to begin putting handcuffs on him. The Deputies cuffed Plaintiff's right hand, so hard he still bears the scars. The Deputies then placed his left hand into a cuff but did not lock it.

19. Plaintiff's security system does not record sound. At or around the time that Plaintiff was being placed in handcuffs, Plaintiff asked the Deputies why he was being detained and whether they had a warrant. The Deputies told Plaintiff to "fuck off" and then counted backwards from three to one.

20. When the Deputies reached "one", Yost can be seen on video attempting a judo leg sweep on Plaintiff in order to drive him face first into the ground. Though Plaintiff does not offer any resistance, Yost stumbles in his attack and falls himself. Whereupon, the other two Deputies pile onto Plaintiff's back and tackle him. The

video plainly shows that at no point during the entire incident did Plaintiff offer any resistance or assault any of the Deputies. The Deputies in turn had no legal basis or justification whatsoever for assaulting Plaintiff who was defenseless. After throwing him to the ground, Yost remained on top of Plaintiff pinning him while violently pressing his knee into Plaintiff's back. One of the Deputies also punched Plaintiff in his left eye causing a laceration, bruising and loss of vision.

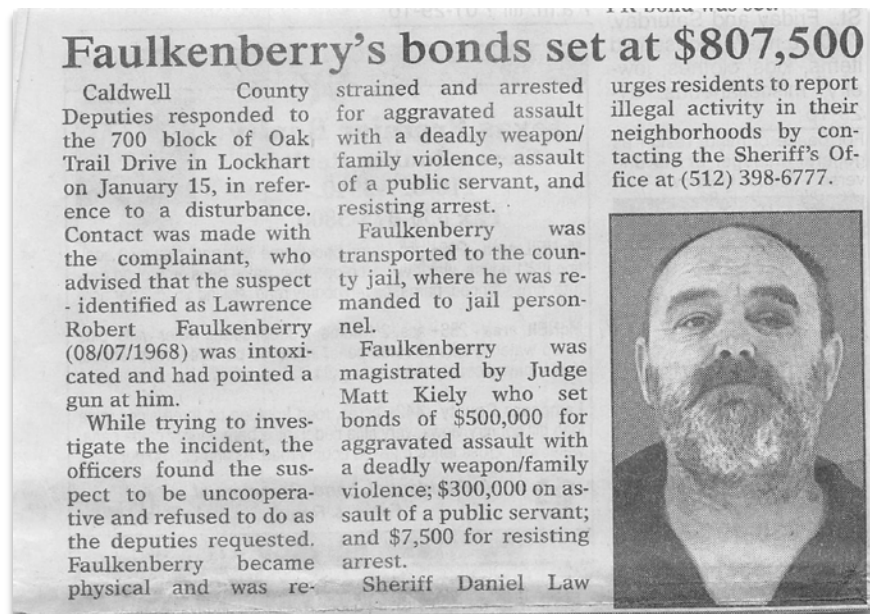
21. At this point, both the alleged "victim" and the alleged "perpetrator" have been secured by the Deputies. No exigent circumstances existed and the Deputies did not possess a warrant. Plaintiff did not consent to a search of his property. Nonetheless, the Deputies can be seen on video entering Plaintiff's office and, through its windows, searching it thoroughly. Of course, the Deputies found nothing because again Plaintiff does not own a handgun and was completely innocent.

22. The Deputies then arrested Plaintiff and took him to the Caldwell County Jail. With the knowing cooperation of Yost and Houseston, Taylor then intentionally fabricated two criminal charges against Plaintiff despite knowing he was innocent of both. Specifically, Taylor charged Plaintiff with "Assault on Public Servant," a third degree felony, and "Resisting Arrest," a Class A misdemeanor. Taylor swore *under oath* that Plaintiff assaulted Yost knowing that Yost was the one who actually attacked Plaintiff and attempted to throw him to the ground without provocation. Taylor filled out false affidavits in support of each of these charges, thereby himself

committing at least two counts of aggravated perjury among other state and federal crimes and violating Plaintiff's civil rights.³

23. Taylor's affidavits are one hundred percent contradicted by the video of Plaintiff's arrest at which Taylor himself was present and participated. As it is a third degree felony, the false assault charge potentially subjected Plaintiff to a sentence of two to ten years in prison. The Deputies did not merely "rough Plaintiff up;" their plan after seriously injuring him was to lock him up for years for crimes they knew he did not commit.

24. Plaintiff's bond was set at \$807,500.00 and so he sat in jail, incarcerated on trumped up charges. To compound matters, Plaintiff was humiliated by the following article picturing him in the local newspaper and relating the fabricated charges:



³ See **Exhibit 1** (Assault on Public Servant Charge) and **Exhibit 2** (Resisting Arrest) and TEX. PENAL CODE § 37.03.

Plaintiff retained counsel, Malcom S. Nettles, and directed him to the video of the incident. Upon showing the video to local authorities, Nettles was able to secure Plaintiff's release on a \$5,000 bond after Plaintiff had spent ten days in jail.

25. Plaintiff is completely innocent of all of the charges brought against him. Rather, he is the victim of several crimes. First, his son falsely accused him of assault. Then, he was victimized by the Deputies. Even assuming the Deputies were responding to an alleged disturbance in good faith, they planned to violate Plaintiff's civil rights from the outset. They deliberately parked their cars so their dashboard cameras would not record Plaintiff's arrest, not knowing there were other security cameras present. The Deputies told Plaintiff to "fuck off" when he asked why they were there and if they had a warrant. They counted down from three to launch a coordinated attack on a defenseless citizen. Removing all doubt about what happened, the security camera does not lie. Plaintiff did not resist or assault anyone.

26. Instead, the Deputies physically attacked Plaintiff without any legal justification whatsoever and seriously injured him. Then they hauled him off to jail and brought sworn felony and misdemeanor charges against him; charges they knew were absolutely false. ***If Plaintiff did not have a video security system, he would still be in jail or worse, he would be in prison facing potentially ten years of hard time.***

27. On January 22, 2015 — after Nettles presented the Caldwell County District Attorney with the video of the incident — he declined to prosecute the criminal charges brought against Plaintiff.

28. On February 13, 2015, Plaintiff provided notice of his state law claims to Caldwell County in accordance with the Texas Tort Claims Act.

II. CAUSES OF ACTION

A. Violations of Plaintiff's Civil Rights Under 42 U.S.C. § 1983

29. Plaintiff brings causes of action against all of the Defendants pursuant to 42 U.S.C. § 1983. Plaintiff's constitutional rights were violated in connection with his arrest and detention as set forth above. The Deputies are individually liable for their acts and omissions and were acting under color of law in their capacity as law enforcement officers of Caldwell County and the Caldwell County Sheriff's Office. Caldwell County and the Caldwell County Sheriff's Office ("County Defendants") are liable because their customs, policies and practices caused and contributed to the violations at issue. The factual allegations in the above section entitled "INTRODUCTION AND FACTS" are incorporated by reference as if fully restated herein.

Unreasonable Seizure and Substantive Due Process – Excessive Force

30. Defendants used excessive force and therefore conducted an unreasonable seizure of Plaintiff in violation of the Fourth and Fourteenth Amendments to the United States Constitution. Specifically, as set forth above, excessive and unnecessary force was used to detain Plaintiff. The conduct of the Deputies was objectively unreasonable in light of the totality of the facts and circumstances confronting them at the time. Plaintiff posed no immediate threat and was not actively resisting arrest or attempting to flee. As depicted in the video of the incident,

no law enforcement officer could have reasonably concluded force was needed or appropriate to detain Plaintiff under the circumstances. Plaintiff sustained serious physical, mental and emotional injuries as well as other damages as set forth below.

***Unreasonable Seizure and Substantive Due Process –
Fabrication of Criminal Charges***

31. By arresting and bringing false criminal charges against Plaintiff, Defendants conducted an unreasonable seizure and thereby violated Plaintiff's rights under the Fourth and Fourteenth Amendments to the United States Constitution. Defendants intentionally and knowingly seized Plaintiff and brought false criminal charges against Plaintiff for resisting arrest and assaulting Yost. These charges were not supported by probable cause. Taylor nonetheless signed sworn affidavits in support of the charges. While proof of malice is not required to support Plaintiff's claim, there is ample evidence to show the conduct at issue was intentional and knowing. Defendants' unlawful and criminal acts violated Plaintiff's Fourth and Fourteenth Amendment rights against unreasonable seizure and substantive due process. Plaintiff suffered and is entitled to recover damages as a result of these acts as set forth below.⁴

Unreasonable Search – Warrantless Search of Property

32. Defendants conducted an unreasonable search of Plaintiff's property in violation of the Fourth and Fourteenth Amendments to the United States Constitution. As set forth above, the Deputies did not have a search warrant. Once

⁴ Plaintiff is aware of the Fifth Circuit's opinion in *Castellano v. Fragozo*, 352 F.3d 939, 942 (5th Cir. 2003) but brings this claim to preserve his position. Consistent with *Castellano*, Plaintiff has also brought a state law claim for malicious prosecution.

they secured Plaintiff's son and detained Plaintiff, no exigent circumstances or other exception to the requirement of a search warrant existed. Plaintiff did not consent to a search of his property. Therefore, Defendants' search of Plaintiff's property was in clear violation of Plaintiff's constitutional rights.

County Defendants' Customs, Policies and Practices

33. Caldwell County and its law enforcement agency, the Caldwell County Sheriff's Office ("County Defendants"), promote, condone, tolerate or permit the use of excessive force and other violations of civil rights in connection with arrests and detentions through their customs, policies and practices. The County Defendants' customs, policies and practices include a failure to train and supervise their law enforcement officers with regard to the proper constitutional use of force (among other things) as well as a failure to enforce such written policies as may exist.

34. These customs, policies and practices have resulted in other prior claims being brought against different law enforcement officers of the Caldwell County Sheriff's Office as well as the County Defendants. The end result is that the County Defendants have developed a deserved reputation for violating the constitutional rights of citizens.

35. The very fact that Yost holds the rank of Sergeant is indicative that the County Defendants promote those who are prone to violating citizens' civil rights. The facts alleged strongly imply that, for these Deputies and probably others, the violence associated with Plaintiff's arrest is standard operating procedure in Caldwell County. The Deputies parked their cars in the hope that their conduct would not be recorded

and then counted down from three to one before engaging in a coordinated physical attack on a citizen they had already safely detained. The Deputies' conduct is beyond tortious; they committed a variety of state and federal crimes. Yet, upon information and belief, the County Defendants have not brought any criminal charges against or even investigated their law enforcement agents for what they indisputably did even though they have been in possession of a video recording of the pertinent events for nearly eleven months. Even more aggravating, upon information and belief, the County Defendants have not taken any disciplinary action against the Deputies. Effectively, the County Defendants have ratified and approved of what the Deputies did in this case and very likely others.

B. State Law Causes of Action

36. Plaintiff also brings common law tort claims against Defendants. Only to the extent required by law, Plaintiff brings these claims pursuant to the Texas Tort Claims Act without waiver of any rights he may possess to pursue these claims without regard to those provisions. Specifically, Plaintiff brings claims against Defendants for assault and malicious prosecution. The factual allegations in the above section entitled "INTRODUCTION AND FACTS" are incorporated by reference as if fully restated herein.

Notice and Use of Property

37. Defendants are liable to Plaintiff under the Texas Tort Claims Act. Plaintiff provided timely notice of his claims on February 13, 2015. Defendants made use of personal and real property in connection with the claims at issue including, without limitation, handcuffs and the Caldwell County jail.

Assault

38. Defendants are liable to Plaintiff for assault. The Deputies intentionally, knowingly, or recklessly caused Plaintiff bodily injury as set forth above. As a result of the assault, Plaintiff suffered serious physical and mental injuries and other damages as set forth below.

Malicious Prosecution

39. As set forth above, the Deputies intentionally brought charges against Plaintiff they knew were false and not supported by probable cause. Upon seeing the video of the incident, the Caldwell County District Attorney swiftly declined to prosecute Plaintiff thereby resulting in a termination of the proceedings in Plaintiff's favor. Plaintiff is completely innocent of the charges at issue. Defendants had no basis for believing there was probable cause to pursue the charges at issue. Rather, Defendants pursued those charges out of malice. Plaintiff was damaged as a result of Defendants' malicious prosecution as set forth below.

C. Immunity Does Not Apply

40. No immunity or privilege shields any of the Defendants. The County Defendants do not possess Eleventh Amendment immunity with regard to Plaintiff's claims under 42 U.S.C. § 1983 as political subdivisions of the State of Texas. Further, given the facts, most of which are recorded on video and therefore not subject to reasonable dispute, there is no basis for any of the Deputies to assert the defense of qualified immunity as to any of Plaintiff's claims. The Deputies violated Plaintiff's well-established constitutional rights by attacking him without provocation,

fabricating charges against him, and conducting a warrantless search of his property when no exception to the warrant requirement existed.

III. MONETARY DAMAGES

41. Plaintiff sustained general and special damages as a result of Defendants' violations of his civil rights as set forth herein. Plaintiff is entitled to both compensatory damages from all Defendants and punitive damages from the Deputies.

Physical Injuries and Related Damages

42. Defendants' use of excessive force caused serious bodily injury to Plaintiff. Plaintiff suffered pain, mental anguish and physical injuries as a result of the incident at issue which have impaired his ability to work as well as his enjoyment of life. Plaintiff did not suffer from back pain or symptoms prior to his arrest by assault. After his forcible arrest, Plaintiff suffered and continues to suffer from lower back pain. Plaintiff underwent conservative medical treatment but those measures failed to eliminate his symptoms. An MRI shows that the incident resulted in two herniated discs. An orthopedic surgeon has recommended extensive and lengthy pain management to be potentially followed by surgical intervention if such treatment is not successful. In all likelihood, Plaintiff will suffer life-long pain and impairment as a result of Defendants' conduct.

43. As a result of Defendants' conduct, Plaintiff has incurred expenses associated with medical treatment for medical treatment resulting from the incident and in reasonable probability Plaintiff will continue to incur medical expenses into the future. As a result of the incident, Plaintiff has suffered from pain and mental

anguish in the past and in all likelihood will continue to suffer from such pain and mental anguish in the future. The incident caused severe enough injuries that Plaintiff has sustained physical impairment in the past and in all likelihood, he will continue to be impaired in the future. The incident has resulted in a past loss of income as well as a loss of earning capacity and future income.

Mental and Emotional Damages

44. Plaintiff has sustained past and future mental and emotional damages as a result of the incident as well. In addition to the damages enumerated above, Plaintiff has sought and continues to receive psychological counseling since his release from jail following his forcible arrest and unlawful detention. In all probability, he will continue to receive such counseling into the future.

Public Humiliation

45. Defendants' conduct resulted in the public humiliation of Plaintiff. Specifically, his arrest for the fabricated offenses was published in the local newspaper which irreparably damaged his personal and business reputation in the community.

Other Consequential Damages

46. Defendants' conduct resulted in Plaintiff's incarceration for a period of ten days. During that time, further indignities were piled upon him. Child Protective Services was called, presumably by Defendants, and they initially removed Plaintiff's son from his custody and prohibited Plaintiff from contacting his daughter. Other than a call in which Plaintiff's son apologized for calling law enforcement, Plaintiff

has not been in contact with his son or daughter since his unlawful arrest and detention.

47. Defendants' conduct as set forth herein required him to retain criminal defense counsel at a cost of \$10,000 to date. Plaintiff additionally had to post a \$5,000 bond in order to get out of jail.

48. Defendants' conduct and Plaintiff's incarceration also irreparably damaged Plaintiff's business operations in the short and long term resulting in ongoing harm to his ability to make a living.

Punitive and Exemplary Damages

49. The Deputies are liable to Plaintiff for punitive and exemplary damages. Their conduct as set forth above was certainly intentional and deliberate. At a minimum, their acts demonstrated a reckless and callous indifference for Plaintiff's constitutional rights.

IV. DECLARATORY RELIEF

50. Pursuant to 28 U.S.C. § 2201 Plaintiff seeks declaratory relief that his constitutional rights were violated. Specifically, as set forth above, Plaintiff seeks a declaratory judgment to the effect that: (1) that his Fourth Amendment rights were violated due to the excessive force utilized during Plaintiff's arrest; (2) that his Fourth Amendment rights were violated as a result of the fabricated charges pressed against him by Defendants; and (3) that his Fourth Amendment rights were violated by the unreasonable and warrantless search of Plaintiff's office and property.

V. INJUNCTIVE RELIEF

51. Plaintiff seeks injunctive relief against the County Defendants. Specifically, Plaintiff requests an injunction that orders County Defendants: (1) conduct investigative and disciplinary proceedings against the Deputies for their respective roles in violating Defendants' constitutional rights as set forth herein; (2) conduct a review of their existing policies and procedures, if any, with regard to the use of force in connection with arrests made by the Caldwell County Sheriff's Office; (3) that following that review, proposed amendments to those policies and procedures be presented to this Court for approval; and (4) that the Court order such amendments to Caldwell County's policies and procedures as it deems necessary to safeguard the constitutional rights of the citizens and others who may find themselves in Caldwell County, Texas.

VI. ATTORNEY'S FEES

52. Plaintiff should be awarded reasonable attorney's fees in the discretion of the Court pursuant to 42 U.S.C. §§ 1983 and 1988 as a part of the costs associated with this case.

VII. JURY DEMAND

53. Pursuant to Federal Rule of Civil Procedure 38, Plaintiff demands a trial by jury "on all the issues so triable."

VIII. CONCLUSION AND PRAYER

54. Defendants' conduct is unconscionable and criminal. The Deputies intentionally and knowingly conducted an illegal and unjustified assault on Plaintiff

which seriously injured him. The Deputies then fabricated criminal charges against Plaintiff. The County Defendants caused and contributed to Plaintiff's damages by promoting, condoning, tolerating or permitting the use of excessive force and other violations of civil rights in connection with arrests and detentions through their customs, policies and practices. For these reasons, Plaintiff respectfully requests that he be awarded a judgment in his favor for the following:

- (1) Plaintiff's past and future medical expenses;
- (2) Plaintiff's past and future pain and suffering damages;
- (3) Plaintiff's past and future mental anguish emotional distress damages;
- (4) Plaintiff's past and future physical impairment damages;
- (5) Damages attributable to Plaintiff's disfigurement caused by the injuries sustained as a result of the occurrence in question;
- (6) Plaintiff's loss of income and loss of future earning capacity;
- (7) Monetary damages for public humiliation and damage to his reputation;
- (8) Monetary damages relating to Plaintiff's illegal and unjust incarceration;
- (9) Declaratory relief that Plaintiff's constitutional rights were violated as set forth herein;
- (10) An order directing that Caldwell County and the Caldwell County Sheriff's Office: (1) conduct investigative and disciplinary proceedings against the Deputies for their respective roles in violating Defendants' constitutional rights as set forth herein; (2) conduct a review of their existing policies and procedures with regard to the use of force in connection with arrests made by the Caldwell County Sheriff's Office; (3) that following that review, proposed amendments to those policies and procedures be presented to this Court for approval; and (4) that the Court order such amendments to Caldwell County's policies and procedures as it deems necessary to safeguard the constitutional rights of the citizens and others who may find themselves in Caldwell County, Texas;

- (11) Attorney's fees;
- (12) Court costs;
- (13) Pre and post-judgment interest; and
- (14) Such other and further relief to which Plaintiff may be justly entitled.

Respectfully submitted,

By: /s/ **Trek Doyle**
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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS
Lawrence Faulkenberry

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Trek Doyle and Karl Seelbach, Doyle & Seelbach PLLC, 12600 Hill Country Blvd., Suite R-275, 512.960.4892

DEFENDANTS
Caldwell County, Caldwell County Sheriff's Office, Sergeant Yost, Deputy M. Taylor, and Deputy Houseston

County of Residence of First Listed Defendant Caldwell County
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

1 U.S. Government Plaintiff

3 Federal Question *(U.S. Government Not a Party)*

2 U.S. Government Defendant

4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES		
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes	
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RS1 (405(g))	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN *(Place an "X" in One Box Only)*

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District *(specify)* 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity):*
42 U.S.C. § 1983

Brief description of cause:
Excessive force, unlawful arrest and prosecution of fabricated charges, and unlawful search of property

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMANDS
\$3 million +

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY *(See instructions):*

JUDGE _____ DOCKET NUMBER _____

DATE: 12/02/2015

SIGNATURE OF ATTORNEY OF RECORD: 

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; NOTE: federal question actions take precedence over diversity cases.)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.