

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION**

PHILIP WILLIAMS,	)	
	)	
Plaintiff,	)	No. 16-cv-50339
	)	
vs.	)	Judge
	)	Magistrate Judge
CITY OF WOODSTOCK,	)	
Woodstock Police Officers	)	
ERIC SCHMIDTKE and	)	Jury Demand
SHARON FREUND,	)	
	)	
Defendants.	)	

**COMPLAINT**

NOW COMES Plaintiff, PHILIP WILLIAMS, by his attorneys, MEYER & KISS, LLC, and complaining of Defendants, CITY OF WOODSTOCK, Woodstock Police Officers ERIC SCHMIDTKE and SHARON FREUND, states as follows:

**Introduction**

1. In August of 2016, Defendant SCHMIDTKE stopped Plaintiff's vehicle, illegally prolonged the traffic stop without probable cause or reasonable suspicion, and performed an illegal search of the car.
2. Defendant FREUND arrived at the scene of the traffic stop and quickly learned that Defendant SCHMIDTKE had no probable cause or reasonable suspicion to prolong the traffic stop, yet she was complicit with the violation of Plaintiff's constitutional rights and conspired with Defendant SCHMIDTKE to illegally detain then search Plaintiff and his vehicle.
3. During the resulting criminal proceeding against Plaintiff, Defendant SCHMIDTKE proceeded to write a false police report and testify falsely about the events surrounding Plaintiff's arrest.
4. Unbeknownst to Defendants SCHMIDTKE and FRUEND, their conversation at the traffic stop was captured on videotape. The videotape proves not only that Defendant

SCHMIDTKE authored a false police report and lied to the Grand Jury that indicted Plaintiff, but that both Defendants were complicit with the lie.

5. The criminal case having been resolved in Plaintiff's favor, he now brings this action pursuant to 42 U.S.C. § 1983 to redress the deprivation under color of law of Plaintiff's rights as secured by the United States Constitution.

#### **Jurisdiction**

6. This is an action for money damages brought pursuant to 42 U.S.C. § 1983, and the common law and statutes of the State of Illinois.

7. Jurisdiction for Plaintiff's federal claims is based on 28 U.S.C. §§ 1331 and 1343(a). Jurisdiction for Plaintiff's state claims is based on supplemental jurisdiction pursuant to 28 U.S.C. § 1367(a).

8. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b), in that the claims arose in this district as alleged below.

#### **Parties**

9. Plaintiff is a resident of Woodstock, Illinois.

10. Defendant Officers SCHMIDTKE and FREUND are duly appointed and sworn Woodstock police officers. At all times relevant to this Complaint, the Defendant-Officers were acting in the course and scope of their employment, and under color of state law, ordinance and/or regulation.

11. The Defendant Officers are sued in their individual capacities.

12. Defendant CITY OF WOODSTOCK is a municipal corporation, duly incorporated under the laws of the State of Illinois, and is the employer and principal of the Defendant Officers.

#### **Facts**

13. On or about August 28, 2016, Plaintiff was pulled over by Defendant SCHMIDTKE for having an expired license plate sticker that had expired in July, 2016.

14. After running Plaintiff's license, which came back clear, Defendant SCHMIDKTE approached Plaintiff's vehicle and stated that before he let Plaintiff leave he wanted to know if Plaintiff would be willing to allow a K9 dog walk to around Plaintiff's car.

15. Plaintiff told Defendant SCHMIDTKE he did not have his consent, and asked if

he could leave as the purpose of the traffic stop was completed.

16. Defendant SCHMIDTKE told Plaintiff that he was not free to leave.

17. By this point, ten minutes had already elapsed from the start of the traffic stop.

18. There was no probable cause or any other legal justification to continue to detain Plaintiff.

19. Approximately two minutes later, Defendant FREUND arrived on the scene with her partner Blue, a police dog.

20. Defendant FREUND eventually ran Blue around Plaintiff's vehicle.

21. Blue allegedly alerted on Plaintiff's vehicle.

22. Following the unreasonable seizure, a bag containing marijuana was recovered from the trunk of Plaintiff's car. This bag was discovered only as a result of the illegal detention of Plaintiff.

23. The illegal detention and eventual search of Plaintiff car was unlawful. There was insufficient legal justification to delay the traffic stop of Plaintiff.

#### **The Criminal Case**

24. Based on the Defendants' description of the traffic stop, as memorialized in their police reports and as communicated to the State's Attorney's Office, Plaintiff was charged with felony drug crimes.

25. Defendant SCHMIDTKE intentionally included false information in his report.

26. If convicted, Plaintiff faced years in prison. Accordingly, Plaintiff had to pay thousands of dollars to retain a criminal defense attorney to fight the case.

27. On or about September 22, 2016, Defendant SCHMIDTKE testified falsely before a Grand Jury to secure an indictment against Plaintiff.

28. Prior to the September 22, 2016, grand jury hearing, Defendant SCHMIDTKE met with Defendant FREUND and reached an agreement to write reports and testify falsely about how the traffic stop of Plaintiff was handled.

29. Defendant SCHMIDTKE took the witness stand at the Grand Jury and gave a false account of Plaintiff's arrest.

30. The perjury referred to in the preceding paragraph related to the reason why Defendant FREUND was called to the scene.

31. Defendant SCHMIDTKE wrote in his report and testified that when he first approached Plaintiff's car and was speaking with him, he was able to detect the order of cannabis emitting from inside Plaintiff's car. That was false. On the squad car video, Defendant SCHMIDTKE can be clearly heard telling Defendant FREUND that he was *not* able to smell anything in Plaintiff's car.

32. Defendant SCHMIDTKE lied about smelling the cannabis in an attempt to justify the illegal prolonged detention of Plaintiff during the traffic stop.

33. At the conclusion of Defendant SCHMIDTKE's testimony, the Grand Jury returned an indictment against Plaintiff.

34. On October 20, 2016, at a status hearing for Plaintiff's criminal case, the McHenry County State's Attorney's nolle prosequit the criminal case.

35. Plaintiff's criminal defense attorney was expecting to receive the Grand Jury transcript at this status.

36. The criminal charges were dismissed against Plaintiff in a manner indicative of his innocence.

### **Legal Claims**

37. In the manner described more fully above, Defendants violated Plaintiff's constitutional rights, causing him damage. Defendants violated Plaintiff's rights under the Fourth, Fifth, and Fourteenth Amendments.

38. Defendants' conduct also constitutes the tort of malicious prosecution under state and federal law.

39. Defendants also reached an agreement to deprive Plaintiff of his constitutional rights via illicit means, and both of them took actions in furtherance of this conspiracy, all in violation of both state and federal law.

40. Defendant FREUND also failed to intervene to prevent the constitutional violations described herein, notwithstanding a reasonable opportunity to have prevented those constitutional violations.

41. The misconduct described herein was objectively unreasonable, and undertaken with malice, willfulness, and reckless indifference to the rights of others such that the Defendants' actions shock the conscience.

42. Plaintiff's injuries were proximately caused by a policy and practice on the part of the City of Woodstock to pursue wrongful convictions in drug cases through untruthful testimony. In this way, the City of Woodstock violated Plaintiff's rights by maintaining policies and practices which were the moving force driving the foregoing constitutional violations.

43. The above-described widespread practices, so well-settled as to constitute *de facto* policy in the Woodstock Police Department, existed because municipal policymakers with authority over the same exhibited deliberate indifference to the problem, thereby effectively ratifying it.

44. The widespread practices described in the preceding paragraphs were allowed to flourish because the City of Woodstock declined to implement sufficient training and/or any legitimate mechanism for oversight or punishment. Indeed, the Department's system for investigating and disciplining police officers accused of this type of misconduct was, and is, for all practical purposes, nonexistent. As a result, officers are led to believe that they can act with impunity, thereby encouraging the very type of abuses which befell Plaintiff.

45. All of Defendants' interactions with Plaintiff and the criminal case brought against him were undertaken under color of law, and within the scope of their employment.

46. Because each of the Defendants acted within the scope of their employment, the City of Woodstock is therefore liable as their employer for any resulting damages and award of attorneys' fees.

WHEREFORE, Plaintiff, PHILIP WILLIAMS, respectfully asks that this Honorable Court enter judgment in his favor and against Defendants CITY OF WOODSTOCK, ERIC SCHMIDTKE and SHARON FREUND, awarding compensatory damages, costs, and attorneys' fees, along with punitive damages against each of the individual Defendants in their individual capacities, as well as any other relief this Court deems appropriate.

### **Jury Trial Demanded**

Plaintiff, PHILIP WILLIAMS, hereby demands a trial by jury pursuant to Federal Rule of Civil Procedure 38(b) on all issues so triable.

Respectfully submitted,

/s/ Louis J. Meyer  
*Counsel for the Plaintiff*

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