



## MEMORANDUM

TO: Members of the Troy City Council  
FROM: Lori Grigg Bluhm, City Attorney  
Julie Quinlan Dufrane, Assistant City Attorney  
DATE: February 17, 2015  
SUBJECT: Carter, et al. v. Oakland County Jail, et al.

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Enclosed please find a new lawsuit filed against three county jails and three individual police officers, including one from the City of Troy police department. This lawsuit has been assigned to the Honorable Gershwin A. Drain of the U.S. District Court for the Eastern District of Michigan.

The lawsuit is filed as a 42 U.S.C. Section 1983 claim, and it also alleges a violation of state law. The three named Plaintiffs, who are inmates at the Chippewa Correctional Facility, have consolidated their claims despite the fact there is no connection between each of the individually named Defendants or the local jails.

Defendant Carter's claim against the City of Troy police officer arises from his arrest on April 23, 2013 for possession of controlled substances, including marijuana and methamphetamine. Carter was a passenger in a vehicle that was stopped for operating while intoxicated. During the traffic stop, officers could smell marijuana in the vehicle and questioned the driver and the passenger about it. Based on the actions of Carter, the officer conducted a pat down search for officer safety reasons where it was then discovered that Carter possessed marijuana, four small bags of crystal methamphetamine, and paraphernalia commonly associated with drug use, including a syringe and a green rubber strap.

Carter was arrested and booked into the Troy lock up at 11:30 p.m. on April 23, 2013. While in custody, he was questioned by Troy officers and released without charges at 1:30 p.m. on April 25, 2013. After Carter's release, Troy police officers continued their investigation and requested a warrant from the Oakland County Prosecutor's office authorizing a felony charge of possession of methamphetamine with intent to deliver and a misdemeanor charge of possession of marijuana. Carter subsequently pled guilty as charged.

In essence, Plaintiff alleges that his civil rights were violated when he was arrested, without a warrant, and he was not afforded "prompt judicial determination of probable cause" in violation of the Fourth Amendment. The Complaint alleges further that the officer violated a Michigan statute which requires an arresting officer to present an accused to a magistrate "without unnecessary delay" for a judicial determination of the validity of an arrest.

Our office will commence its defense of this litigation by filing an Answer to the Complaint on behalf of the City of Troy and the individual Troy police officer. A Motion for Summary Judgment will also be filed in an effort to avoid protracted discovery in this matter. A proposed resolution authorizing our legal representation is provided for your consideration.

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN

- ~~CATER~~  
(1) JEREMY ~~CATER~~ #6815A3  
(2) PATRICK EUGENE JAMAR SPAIN #876215  
(3) ARRON LAVELLE LEE #786297

Plaintiffs,

v.

- (1) OAKLAND COUNTY JAIL, DETECTIVE T. HARRISON  
(2) ST. JOSEPH COUNTY JAIL, CORY SMITH  
(3) KALAMAZOO COUNTY JAIL, DEPUTY AMPEY OF THE KALAMAZOO SHERIFF'S DEPARTMENT  
Defendants.

JURISDICTION

This is a civil action authorized by 42 U.S.C. §1983 to redress deprivation, under color of State Law, of rights secured by the Constitution of the United States. The court has jurisdiction under 28 § U.S.C. § 1351 and 1343(a)(3).

COMPLAINT

I. PREVIOUS LAWSUITS:

A) Have you ever filed a lawsuit while incarcerated or detained in any prison or jail facility?

Seid Plaintiffs in this action have not filed any lawsuit under 42 § U.S.C. 1983

B) Questions 1-5 are not applicable.

II) Place of Present Confinement:

All said Plaintiffs in this action are currently confined at:

Chippewa Correctional Facility

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FEB - 11 PM 1:05  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
LANSING, MICHIGAN

4269 West M-80

Kincheloe, Michigan 49784

III) Parties:

Plaintiff(s):

- 1) Jeremy Carter  
Chippewa Correctional Facility  
4269 West M-80  
Kincheloe, Michigan 49784
- 2) Patrick Eugene Jamar Spain  
Chippewa Correctional Facility  
4269 West M-80  
Kincheloe, Michigan 49784
- 3) Arron Lavelle Lee  
Chippewa Correctional Facility  
4269 West M-80  
Kincheloe, Michigan 49784

Defendant(s) sued in official capacity (only):

Defendant(s):

- 1) Oakland County Sheriff Department Michigan (County Jail)
- 2) St. Joseph County Sheriff Department Michigan (County Jail)
- 3) Kalamazoo County Jail Department Michigan (County Jail)

Defendants sued in both official and individual capacities:

Defendant(s)

- (1) Detective T. Harrison #26 of the Troy Police Department
- (2) Cory Smith of the Three Rivers Police Department
- (3) Deputy Ampey of the Kalamazoo County Sheriff Department

Timeliness of Claim Asserted:

The appropriate ~~statute~~<sup>statute</sup> of limitations to be applied in all sections 1983 actions is the state statute of limitations governing actions for personal injury. Subsequently Michigan's three year statute of limitations for personal injury claims govern this instant civil action. Because the injuries to plaintiffs occurred in the year of 2013, and filing of this civil action is brought within the three (3) years personal injury statute. Plaintiffs complaint is timely.

STATEMENT OF CLAIMS(S):

Plaintiff Carter

- 1) On April 23, 2013, Defendant Det. T. Harrison #26 made a warrantless arrest against Plaintiff-Carter after a traffic stop was initiated.
- 2) Det. T. Harrison then brought Plaintiff-Carter to the Oakland County Jail on 4/23/2013 on the charges of Controlled Subs-Delivery and Manufacture-Methamphetamine which was filed against Plaintiff-Carter.
- 3) After being questioned by the detectives, Plaintiff-Carter sat inside the county jail for (2) two days then was released on April 25, 2013. The complaint was not authorized until December 16, 2013. Some 8 months later. However, during the dates of April 23 to 25 in 2013 Plaintiff-Carter never received any judicial determination of probable cause for the warrantless arrest that was based on the charge of MCL 333.740 and MCL 333.74032(D).
- 4) Defendant-Det. T. Harrison being the arresting officer, was obligated as

such to bring Plaintiff before a judicial officer for a probable cause determination hearing after Plaintiff warrantless arrest pursuant to MCL 764.13, and the Fourth Amendment of the United States Constitution.

5) Defendant Det. T. Harrison, however, never took Plaintiff-Carter before a judicial official for probable cause determination hearing following Plaintiffs arrest for the charge of Controlled Substance-Delivery and Manufacturing-Methamphetamine, contrary to MCL 764.13 and the Fourth Amendment of the United States Constitution. \* This action or omission by Defendant D. Harrison violated Plaintiffs Constitutional right under the (4) Fourth Amendment of the United States Constitution.

6) Defendant Harrison was required, after Plaintiffs warrantless arrest, to present a complaint before a judicial officer, setting forth probable cause within the complaint, pursuant to MCL 764.13 and Fed. R. Civ. Pro. 5(a) and (b). However, Det. T. Harrison did not present a complaint before any judicial officer to justify the warrantless arrest of Plaintiff-Carter following the two (2) days Plaintiff sat in the Oakland County Jail. This violated also the Fourth Amendment rights of Plaintiff-Carter.

7) The Defendant-Oakland County Jail is responsible in this matter, because once Plaintiff was book, and jailed it then became the county's responsibility to ensure that Plaintiff-Carter receive a prompt judicial determination of probable cause for the warrantless arrest.

8) At no time during the days of April 25th in 2013 which Plaintiff sat inside the county jail for the charge stated above did the county jail ever ensure that Plaintiffs warrantless arrest was justified.

9) This failure to take Plaintiff before a judicial officer for a determination of probable cause within the "48" hour period mandated by the United States Supreme Court, as supported by the Fourth Amendment to the

United States Constitution violated Plaintiffs Fourth Amendment Constitutional right.

Plaintiff-Spain

10) On July 8th, 2013, Defendant Cory Smith arrested Plaintiff-Spain without a warrant. For the charges of Home Invasion-1st Degree, and Assault with a Dangerous weapon (Felonious Assault).

11) Defendant-Smith was required to take Plaintiff-Spain before a judicial officer, for a determination of probable cause for a warrantless arrest. However, at no time did Defendant-Smith take Plaintiff before a judicial officer for a determination of probable cause. In violation of Plaintiffs Fourth Amendment Constitutional right, and MCL 764.13.

12) Defendant-Smith was required pursuant to MCL 764.13 to further present a complaint to a judicial officer setting forth probable cause as to enable the judicial officer to make a finding of probable cause for the issuing of a felony warrant. Again at no time did Defendant-Smith present to a judicial officer any felony complaint so that a determination of probable cause could be made for the charges of Home Invasion-1st Degree and (Felonious Assault). This failure violated Plaintiffs Fourth Amendment Constitutional right, and that of MCL 764.13.

13) Defendant-St. Joseph County Jail was legally required to ensure that Plaintiff received a prompt probable cause determination hearing following the warrantless arrest of Home Invasion 1st-Degree and (Felonious Assault) within "48" hours. But, Defendant-St. Joseph County Jail never ensured that Plaintiff received the judicially required determination mandated under the Fourth Amendment rights under the Fourth Amendment to the United States Constitution.

Plaintiff-Lee

14) On September 3rd, 2013 Defendant-Deputy Ampey of the Kalamazoo County

Sheriff Department arrested Plaintiff-Lee without a warrant for assault. Plaintiff-Lee sat inside the Kalamazoo County Jail from 9/3/13 until 9/6/13 before charges were ever filed or brought against Plaintiff-Lee. That is Plaintiff-Lee sat in the Kalamazoo County Jail for three (3) days after the warrantless arrest was made by Deputy Ampey. And during this time no effort was made to ensure Plaintiff received a prompt judicial determination of probable cause.

15) Defendant-Deputy Ampey was required to bring Plaintiff along with a complaint, or affidavit setting forth probable cause sworn to under oath before a judicial officer for a probable cause determination hearing.

16) Defendant-Deputy Ampey did not at any time bring complaint or affidavit setting forth probable cause along with the Plaintiff before a judicial officer for a judicial determination of probable cause. Thus, violating Plaintiff-Lee's Fourth Amendment right.

17) Defendant-Deputy Ampey being the arresting officer was obligated as such to bring Plaintiff-Lee before a judicial officer for a probable cause determination hearing after Plaintiff's warrantless arrest pursuant to MCL 764.13.

18) Defendant-Deputy Ampey did not take Plaintiff-Lee before a judicial officer for a probable cause determination hearing following Plaintiff's arrest, contrary to MCL 764.13 and the Fourth Amendment of the United States Constitution. All of which violated the rights afforded to Plaintiff-Lee under the Fourth Amendment to the United States Constitution.

19) Defendant-Kalamazoo County Sheriff Department had the responsibility to ensure that Plaintiff received a prompt judicial determination of probable cause for the warrantless arrest made by Deputy Ampey with "48" hours.

20) Defendant-Kalamazoo County Sheriff Department never ensured that Plaintiff

received the judicially required determination mandated under the Fourth Amendment of the United States Constitution, thus, violating Plaintiff-Lee's right under the Fourth Amendment to the United States Constitution.

Relief Sought

WHEREFORE, Plaintiff(s) respectfully request that this Court enter Judgment:

- 21) Granting Plaintiff-Carter compensatory damages from Defendant-Det. T. Harrison for violating Plaintiffs 4th Amendment right an amount in excess of \$75,000.00.
- 22) Granting Plaintiff-Spain compensatory damages from Defendant-Cory Smith for violating Plaintiffs 4th Amendment right, an amount in excess of \$75,000.00.
- 23) Granting Plaintiff-Lee compensatory damages from Defendant-Deputy Ampey for violating Plaintiffs 4th Amendment right, an amount in excess of \$75,000.00.
- 24) Granting Plaintiff-Carter compensatory damages from Defendant-Oakland County Jail for violating Plaintiffs 4th Amendment rights, an amount in excess of \$75,000.00.
- 25) Granting Plaintiff-Spain compensatory damages from Defendant-St. Joseph County Jail for violating Plaintiffs 4th Amendment rights, an amount in excess of \$75,000.00
- 26) Granting Plaintiff-Lee compensatory damages from Defendant-Kalamazoo County Jail for violating Plaintiffs 4th Amendment right, an amount in excess of \$75,000.00
- 27) Granting Plaintiff-Carter compensatory damages from Defendant(s)-Det. T. Harrison and Oakland County Jail jointly for violating plaintiffs 4th amendment right, an amount in excess of \$75,000.00.
- 28) Granting Plaintiff-Spain compensatory damages from Defendant-Cory Smith and the St. Joseph County Jail jointly for violating Plaintiffs 4th Amendment right, an amount in excess of \$75,000.00.
- 29) Granting Plaintiff-Lee compensatory damages from Defendant-Deputy Ampey and the Kalamazoo County Jail jointly for violating Plaintiff 4th Amendment

right, an amount in excess of \$75,000.00.

30) A jury trial on all issues triable by a jury.

31) Plaintiff(s) cost in this suit.

32) Any other relief this court deems just, proper, and equitable.

Dated: January 20<sup>th</sup>, 2015

Jeremy Carter  
Jeremy Carter

Patrick Eugene Jamar Spain  
Patrick Eugene Jamar Spain

Aaron Lavella Lee  
Aaron Lavella Lee

Verification

I have read the forgoing complaint and hereby verify that the matters alleged therein are true. I certify under the penalty of perjury that they are true and correct.

Executed at Kincheloe, MI 49784 on this date of 20<sup>th</sup> of January, 2015

Aaron Lee  
Aaron Lee

Jeremy Carter  
Jeremy Carter

Patrick E. Spain  
Patrick E. Spain

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN

JEREMY CARTER et al,  
Plaintiffs

Civil Action No: \_\_\_\_\_

v.

DAKLAND COUNTY JAIL et al.,  
Defendants

Exhibit (A)

- 1) Affidavit of Jeremy Carter
- 2) Affidavit of Patrick Eugene Jamar Spain
- 3) Affidavit of Aaron Lavelle Lee

AFFIDAVIT

I, Jeremy D Carter declare and say that following my warrantless arrest on April 23, 2013. The arresting officer did not take me before a Judicial Officer for a Probable Cause Determination hearing. I further state at no time during this entire criminal process was I presented to a judicial officer for a determination of Probable Cause for the warrantless arrest that took place on April 23, 2013.

I Jeremy D Carter affirm that these statements are true, and factual to the best of my information and belief. I hold to these statements as true under the penalty of perjury.

dated: 1/18/15

Jeremy Carter

Jeremy Carter

Chippewa Correctional Facility  
4269 West M-80  
Kincheloe, Michigan 49784

AFFIDAVIT

I, Patrick E. Spain declare and say that following my warrantless arrest on July 8, 2013. The arresting officer did not take me before a Judicial Officer for a Probable Cause Determination hearing. I further state at no time during this entire criminal process was I presented to a judicial officer for a determination of Probable Cause for the warrantless arrest that took place on July 8, 2013.

I Patrick E Spain affirm that these statements are true, and factual to the best of my information and belief. I hold to these statements as true under the penalty of perjury.

dated: 1/18/15

Patrick Spain 1/19/15

Patrick Spain

Chippewa Correctional Facility  
4269 West M-80  
Kincheloe, Michigan 49784

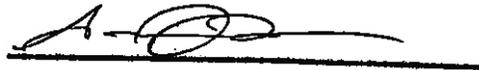
AFFIDAVIT

I, Aaron L. Lee declare and say that following my warrantless arrest on September 3, 2013. The arresting officer did not take me before a Judicial Officer for a Probable Cause Determination hearing. I further state at no time during this entire criminal process was I presented to a judicial officer for a determination of Probable Cause for the warrantless arrest that took place on September 3, 2013.

I Aaron L. Lee affirm that these statements are true, and factual to the best of my information and belief. I hold to these statements as true under the penalty of perjury.

dated: 1/19/15

AARON L. LEE



Chippewa Correctional Facility  
4269 West M-80  
Kincheloe, Michigan 49784