

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

TILLY LEE WINBURN, individually;
BRIAN RICHARD GARRETT, individually;
JOSHUA JAMES ANGEL, individually;
NATALIE HENDERSON, as natural
guardian on behalf of her minor child, J.H.;
and YEMANH GEBREMEDHIN,
individually,

Plaintiffs,

v.

JOHN RUTHERFORD, in his official
capacity as Sheriff of Duval County, Florida,

Defendants.

CASE NO.:

JURY TRIAL DEMANDED

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiffs, TILLY LEE WINBURN (“Winburn”), BRIAN RICHARD GARRETT (“Garrett”), JOSHUA JAMES ANGEL (“Angel”), NATALIE HENDERSON (“Henderson”), as natural guardian¹ on behalf of her minor child, J.H. (“J.H.”), and YEMANH GEBREMEDHIN (“Gebremedhin”) (collectively, the “Plaintiffs”), by and through their undersigned counsel, hereby sue JOHN RUTHERFORD (“Sheriff Rutherford”), in his official capacity as Sheriff of Duval County, Florida, and allege the following:

¹ See FLA. STAT. § 744.301(1); FED. R. CIV. P. 17(a)(1)(c).

JURISDICTION AND VENUE

1. This is an action for monetary damages, brought pursuant to 42 U.S.C. §§ 1983 and 1988, and the Fourth and Fourteenth Amendments to the United States Constitution.

2. This Court has jurisdiction over this matter, pursuant to 28 U.S.C. § 1331 (federal question jurisdiction) and 28 U.S.C. § 1343(a)(3) (civil rights jurisdiction).

3. Venue is proper in this judicial district and division, pursuant to 28 U.S.C. § 1391(b) and M.D. Fla. Loc. R. 1.02. Plaintiffs reside in this judicial district and division. Additionally, all conduct giving rise to the claims herein occurred in this judicial district and division.

PARTIES

4. At all times material hereto, Winburn was a private individual and resident of Duval County, Florida. On April 29, 2014, in Jacksonville, Duval County, Florida, Winburn was subjected to a warrantless arrest by officers of the Jacksonville Sheriff's Office ("JSO"), in spite of her actual innocence, and in spite of there having been no probable cause or even arguable probable cause to believe that she had committed a crime.

5. At all times material hereto, Garrett was a private individual and resident of Duval County, Florida. On April 29, 2014, in Jacksonville, Duval County, Florida, Garrett was subjected to a warrantless arrest by JSO officers, in spite of his actual innocence, and in spite of there having been no probable cause or even arguable probable cause to believe that he had committed a crime.

6. At all times material hereto, Angel was a private individual and resident of Duval County, Florida. On September 5, 2012, Angel was subjected to a warrantless arrest by JSO officers, in spite of his actual innocence, and in spite of there having been no probable cause or even arguable probable cause to believe that he had committed a crime.

7. At all times material hereto, Henderson and J.H. were private individuals and residents of Duval County, Florida. On June 30, 2014, J.H., a thirteen year-old boy, was detained for several hours and interrogated by JSO officers against J.H.'s will, and without Henderson's consent, in spite of J.H.'s actual innocence, and in spite of there having been no probable cause, arguable probable cause, or even reasonable suspicion to believe that J.H. had committed a crime.

8. At all times material hereto, Gebremedhin was a private individual and resident of Duval County, Florida. On August 20, 2013, Gebremedhin was

arrested by JSO officers, pursuant to an arrest warrant that was based on a materially misleading law enforcement affidavit. Gebremedhin was actually innocent of the alleged crime, and there was no probable cause or even arguable probable cause to arrest him.

9. Sheriff Rutherford is now, and at all times material hereto was, the Sheriff of Duval County, Florida. He assumed office in July 2003. As Sheriff of Duval County, Florida, he exercises overall responsibility for the policies, training, instruction, supervision, customs, practices, policies, discipline, control and conduct of all law enforcement officers employed by the JSO. Sheriff Rutherford made policy for the JSO with respect to searches, seizures, arrests and use of force. At all times material hereto, Sheriff Rutherford had the power, right and duty to train and control his officers, agents and employees to conform to the Constitution of the United States. At all times material hereto, Sheriff Rutherford, and his agents and employees, acted under color of state law. Plaintiffs sue Sheriff Rutherford in his official capacity for compensatory damages and attorneys' fees and costs.

10. Plaintiffs have retained The Bonderud Law Firm, P.A. to represent them in this lawsuit and have agreed to pay a reasonable attorney fee and related costs.

11. All conditions precedent to Plaintiffs' recovery in this action have occurred, accrued, or been waived as a matter of law.

12. Plaintiffs demand a trial by jury on all issues so triable.

JOINDER OF PLAINTIFFS

13. Herein, Plaintiffs assert rights to relief that arise out of the same series of transactions or occurrences. Specifically, the JSO has a widespread custom (the "Custom") of conducting constitutionally, unreasonably insufficient investigations into allegations of criminal conduct. The Custom is characterized by an unreasonable disregard of available evidence that would eliminate any probable cause or arguable probable cause that otherwise exists. Alternatively, the Custom is characterized by the frequent conclusion that probable cause or arguable probable cause exists to make a warrantless arrest when, in fact, neither cause exists.

14. These investigations frequently conclude with warrantless arrests, in spite of a lack of probable cause or even arguable probable cause to make an arrest. When the investigating JSO officer does obtain an arrest warrant, the Custom results in investigating officers submitting materially misleading affidavits.

15. The Custom, recklessly and personally encouraged by Sheriff Rutherford and other senior JSO officers, subordinates the priorities of integrity

and justice to the priority of crime victim advocacy. This troubling Custom results in JSO officers being unreasonably pressured to effect an arrest, even when there is neither proof of criminal conduct nor competent evidence to support an arrest. Ironically and tragically, the Custom has led to a growing community of collateral victims of crime in Jacksonville.

16. In essence, this Custom is characterized by a disregard for the Fourth Amendment rights of citizens of Jacksonville, Duval County, Florida. The Custom is characterized by sloppy, even feckless, police work that frequently results in citizens being arrested and incarcerated, in spite of their actual innocence.

17. This Custom amounts to deliberate indifference to the rights of Jacksonville citizens who come into contact with JSO officers. Sheriff Rutherford has endorsed and approved this custom. JSO officers who engage in such conduct are rarely, if ever, disciplined for following this Custom, which has the force of official JSO policy.

18. Because this Custom was the moving force behind Plaintiffs' claims, and because common issues of law and fact predominate over individual issues of law and fact, Plaintiffs properly have brought their claims against Sheriff Rutherford in a single case.

COUNT I – 42 U.S.C. §§ 1983 and 1988
(Winburn vs. Sheriff Rutherford)

19. Winburn realleges and incorporates by reference paragraphs 1 through 18, as though fully set forth herein.

20. Winburn brings a claim pursuant to 42 U.S.C. §§ 1983 and 1988 against Sheriff Rutherford for deprivation of civil rights under color of state law.

21. Sheriff Rutherford deprived Winburn of her Fourth Amendment right to be free from unreasonable searches and seizures. Specifically, Winburn alleges that she was falsely arrested.

22. The JSO's Custom was the direct and proximate cause of Winburn's false arrest and imprisonment.

23. On the evening of April 29, 2014, Winburn and Garrett were shopping at the Wal-Mart store, located at 13490 Beach Blvd. in Jacksonville, Florida. They were there, hoping to shop for home goods for the home where they lived as roommates.

24. After gathering several items in their shopping cart, Winburn and Garrett sought to find the "Layaway" department so that they could pay for their merchandise over time, rather than immediately.

25. After they learned that Wal-Mart does not have a "Layaway" department, Winburn separated from Garrett, who continued to push the shopping cart around the store.

26. Winburn went outside the store and toward her car so that she could smoke a cigarette and retrieve her credit card from Garrett's car. She intended to return to the store so that she and Garrett could purchase at least some of the items in the cart, while abandoning the other items that she and Garrett could not immediately afford.

27. Shortly thereafter, Winburn was arrested for grand theft.

28. Neither Winburn nor Garrett committed the crime of grand theft.

29. No reasonable Florida law enforcement officer could have arrested Winburn or Garrett for the crime of grand theft.

30. The evidence obtained from JSO's investigation of Winburn and Garrett did not give the JSO probable cause, or even arguable probable cause, to arrest Winburn and Garrett for the crime of grand theft.

31. In relevant part, the JSO's description of its investigation, within Winburn and Garrett's Arrest and Booking Report, contains the following narrative:

I was showed [sic] the video surveillance of the incident. I observed the two suspects [Winburn and Garrett] in the Home department, selecting various items. The female suspect [Winburn] went in an unknown direction and the suspect #1 [Garrett] went into the electronics section. I observed the suspect touching various Tv boxes. The suspect then pushed his cart towards the pharmacy, where he was met with suspect #2 [Winburn]. The suspect #2 [Winburn] left the scene in an unknown direction. Suspect #1 [Garrett] pushed the cart

by the Deli department, where he was observed speaking to an associate. He passed all points of checkout. He was then seen leaving the shopping cart by the Deli department with the merchandise, and leaving the store.

32. Even assuming these factual allegations to be true, there was no probable cause, or even arguable probable cause, to arrest Winburn.

33. The JSO failed to acknowledge that Winburn had not carried any merchandise outside – or even past the electronic, loss-prevention detectors – beyond which there is no merchandise for sale.

34. The JSO had no basis to conclude that Winburn had the requisite intent, or that she had committed any of the required acts, to have even arguable probable cause to arrest her.

35. In fact, any such basis was clearly controverted by the fact that Winburn did not carry any merchandise out of the store, and by the fact that all of the merchandise was in a large, conspicuous, mostly-full shopping cart that was in plain sight – inside the store.

36. In the Arrest and Booking Report, the JSO claims that a Wal-Mart loss prevention officer “followed [Garrett] from the electronics to the clothing area, where he concealed some merchandise into Walmart shopping bags.” However, this allegation was uncorroborated by surveillance footage. And, nevertheless, Garrett lawfully used a plastic bag to protect a single article of

clothing merchandise from collecting dirt and dust from the other merchandise in his shopping cart.

37. Winburn was arrested for grand theft, because the JSO calculated the retail price of all merchandise in their shopping cart – which was still in the store during the JSO’s investigation. The total retail price of all merchandise in their shopping cart was \$763.15.

38. Winburn was innocent of any allegations of grand theft, and the JSO did not have probable cause or even arguable probable cause to arrest her.

39. As a direct and proximate result of the her warrantless false arrest, Winburn has suffered embarrassment, anxiety, severe emotional distress, and inconvenience.

40. As a direct and proximate result of her warrantless false arrest, Winburn spent one day in the Duval County Pre-Trial Detention Center. Winburn also suffered lost wages.

41. While Winburn was handcuffed in the back seat of the police cruiser, she complained that her handcuffs were too tight and that they were hurting her. One of the JSO officers responded by tightening the handcuffs rather than loosening them. This left Winburn with bruises and cuts on her wrists. In addition

to the physical trauma caused by the handcuffs, Winburn suffered additional emotional distress therefrom.

COUNT II – 42 U.S.C. §§ 1983 and 1988
(Garrett vs. Sheriff Rutherford)

42. Garrett realleges and incorporates by reference paragraphs 1 through 18, as though fully set forth herein.

43. Garrett brings a claim pursuant to 42 U.S.C. §§ 1983 and 1988 against Sheriff Rutherford for deprivation of civil rights under color of state law.

44. Sheriff Rutherford deprived Garrett of his Fourth Amendment right to be free from unreasonable searches and seizures. Specifically, Garrett alleges that he was falsely arrested.

45. The JSO's Custom was the direct and proximate cause of Garrett's false arrest and imprisonment.

46. On the evening of April 29, 2014, Winburn and Garrett were shopping at the Wal-Mart store, located at 13490 Beach Blvd. in Jacksonville, Florida. They were there, hoping to shop for home goods for the home where they both lived as roommates.

47. After gathering several items in their shopping cart, Winburn and Garrett sought to find the "Layaway" department so that they could pay for their merchandise over time, rather than immediately.

48. After they learned that Wal-Mart does not have a “Layaway” department, Winburn separated from Garrett, who continued to push the shopping cart around the store.

49. Winburn went outside the store and toward her car so that she could smoke a cigarette and retrieve her credit card from Garrett’s car. She intended to return to the store so that she and Garrett could purchase at least some of the items in the cart, while abandoning the other items that she and Garrett could not immediately afford.

50. After a short time passed, Garrett pushed the shopping cart towards the front of the store and asked a Wal-Mart associate in the Deli department if Garrett could leave his shopping cart by the Deli while he walked outside to find Winburn.

51. The Wal-Mart associate responded in the affirmative, after which Garrett walked outside the store and towards his car, where Winburn was. Garrett intended to return to the store so that he and Winburn could purchase at least some of the items in the cart, while abandoning the other items that he and Winburn could not immediately afford.

52. As Garrett was leaving the store, he was detained by JSO officers and later arrested for grand theft.

53. Neither Winburn nor Garrett committed the crime of grand theft.

54. No reasonable Florida law enforcement officer could have arrested Winburn or Garrett for the crime of grand theft.

55. The evidence obtained from JSO's investigation of Winburn and Garrett did not give the JSO probable cause, or even arguable probable cause, to arrest Winburn and Garrett for the crime of grand theft.

56. In relevant part, the JSO's description of its investigation, within Winburn and Garrett's Arrest and Booking Report, contains the following narrative:

I was showed [sic] the video surveillance of the incident. I observed the two suspects [Winburn and Garrett] in the Home department, selecting various items. The female suspect [Winburn] went in an unknown direction and the suspect #1 [Garrett] went into the electronics section. I observed the suspect touching various Tv boxes. The suspect then pushed his cart towards the pharmacy, where he was met with suspect #2 [Winburn]. The suspect #2 [Winburn] left the scene in an unknown direction. Suspect #1 [Garrett] pushed the cart by the Deli department, where he was observed speaking to an associate. He passed all points of checkout. He was then seen leaving the shopping cart by the Deli department with the merchandise, and leaving the store.

57. Even assuming these factual allegations to be true, there was no probable cause, or even arguable probable cause, to arrest Garrett.

58. Importantly, in this Wal-Mart store, there are several items for sale that are past all points of sale, including pizza, deli items, and other merchandise.

59. The JSO failed to acknowledge that Garrett had not carried any merchandise outside – or even past the electronic, loss-prevention detectors – beyond which there is no merchandise for sale.

60. The JSO had no basis to conclude that Garrett had the requisite intent, or that he had committed any of the required acts, to have even arguable probable cause to arrest him.

61. In fact, any such basis was clearly controverted by the fact that Winburn did not carry any merchandise out of the store, and by the fact that all of the merchandise was in a large, conspicuous, mostly-full shopping cart that was in plain sight – inside the store.

62. Furthermore, rather than avoiding Wal-Mart employees who might have disrupted their alleged plan to steal, Garrett intentionally engaged in conversation with a Wal-Mart associate in the deli.

63. In the Arrest and Booking Report, the JSO claims that a Wal-Mart loss prevention officer “followed [Garrett] from the electronics to the clothing area, where he concealed some merchandise into Walmart shopping bags.” However, this allegation was uncorroborated by surveillance footage. And, nevertheless, Garrett lawfully used a plastic bag to protect a single article of

clothing merchandise from collecting dirt and dust from the other merchandise in his shopping cart.

64. Garrett was arrested for grand theft, because the JSO calculated the retail price of all merchandise in their shopping cart – which was still in the store during the JSO’s investigation. The total retail price of all merchandise in their shopping cart was \$763.15.

65. Garrett was innocent of any allegations of grand theft, and the JSO did not have probable cause or even arguable probable cause to arrest him.

66. As a direct and proximate result of the his warrantless false arrest, Garrett has suffered embarrassment, anxiety, severe emotional distress, and inconvenience.

67. As a direct and proximate result of his warrantless false arrest, Garrett spent eleven days in the Duval County Pre-Trial Detention Center.

COUNT III – 42 U.S.C. §§ 1983 and 1988
(Angel vs. Sheriff Rutherford)

68. Angel realleges and incorporates by reference paragraphs 1 through 18, as though fully set forth herein.

69. Angel brings a claim pursuant to 42 U.S.C. §§ 1983 and 1988 against Sheriff Rutherford for deprivation of civil rights under color of state law. Specifically, Angel alleges that he was falsely arrested.

70. The JSO's Custom was the direct and proximate cause of Angel's false arrest and imprisonment.

71. Sheriff Rutherford deprived Angel of his Fourth Amendment right to be free from unreasonable searches and seizures.

72. On September 5, 2012 at 9:00 p.m., Michael Horne ("Horne") went to the Gate gas station convenience store, located at 3230 Emerson Street in Jacksonville, Duval County, Florida. After Horne got change for a twenty-dollar bill, he departed from the store and was subsequently robbed by two white males in the parking lot area of Metro Square Park, a business complex located at 3563 Phillips Highway.

73. Two JSO officers responded to a report of this robbery, with one of the JSO officers proceeding to the home of Horne, and the other proceeding to the Gate store.

74. Later, based on the information gathered from Horne, a JSO "be on the lookout" (a "BOLO") alert was issued via the police radio. The BOLO described the suspects as follows: (1) white male, 5'4" tall, skinny, brown hair, chin hair, 20 years of age, white tank top, blue shorts, blue sandals; (2) white male, in his 50s, brown hair, short white goatee, 6'0", 250 pounds, blue shirt, blue jeans, armed with a gun.

75. Subsequently, a JSO officer found and detained Angel, who was at a BP gas station, located at 3037 Phillips Highway, nearly two miles from the Gate store.

76. According to the JSO, Angel was wearing shoes, blue shorts, and a white t-shirt.

77. A JSO officer then brought Horne to the BP station and, on the way, the JSO officer told Horne that the JSO had found one of the perpetrators at the BP. The JSO officer told Horne that the captured perpetrator matched the description that Horne had provided to the JSO.

78. Thereafter, although Horne admittedly has trouble seeing clearly more than a yard away from him, the JSO officer asked Horne to identify whether or not Angel was one of the perpetrators, while Angel was standing an estimated twenty feet away from Horne.

79. Taking his cue from the JSO, Horne – who also suffers from cerebral palsy – positively identified Angel as one of the perpetrators.

80. In spite of the fact that Angel stands 6 feet tall and has several conspicuous and unmistakable tattoos, the JSO essentially concluded its investigation into the robbery after Horne's identification of Angel.

81. Lisa Miles, a Gate store employee who saw the perpetrators, was never asked to identify Angel.

82. No physical evidence linking Angel to the robbery was ever discovered.

83. Video surveillance footage of the Gate store shows one of the perpetrators and corroborates the height estimate provided by Horne to the JSO for the BOLO.

84. Later, Horne even positively identified the individual in the Gate store surveillance footage as the young, short perpetrator. In spite of this positive identification, the JSO ignored the clearly distinguishable characteristics between the actual perpetrator and Angel, including but not limited to height difference, tattoo distinctions, and clothing differences between Angel and the perpetrator.

85. For example, although Angel was found wearing blue shorts and a white t-shirt, the actual perpetrator in the surveillance footage is revealed to have been wearing light, almost white, shorts and a dark shirt.

86. In spite of the overwhelming reasons to believe that Angel had not committed the robbery, in spite of the inherently unreliable and tainted identification made by Horne, and in spite of Angel's vociferous protestations of

innocence, Angel was arrested without a warrant and, subsequently, spent nine months in jail.

87. Angel was innocent of any allegations of robbery, and the JSO did not have probable cause or even arguable probable cause to arrest him.

88. As a direct and proximate result of Angel's warrantless false arrest, he has suffered severe emotional distress and aggravation of his pre-existing psychological and psychiatric conditions.

COUNT IV – 42 U.S.C. §§ 1983 and 1988
(Henderson vs. Sheriff Rutherford)

89. Henderson realleges and incorporates by reference paragraphs 1 through 18, as though fully set forth herein.

90. Henderson brings a claim pursuant to 42 U.S.C. §§ 1983 and 1988 against Sheriff Rutherford for deprivation of civil rights under color of state law. Specifically, Henderson alleges that J.H. was falsely arrested.

91. Sheriff Rutherford deprived J.H. of his Fourth Amendment right to be free from unreasonable searches and seizures.

92. The JSO's Custom was the direct and proximate cause of the violations of J.H.'s constitutional rights.

93. On Monday, June 30, 2014, at approximately 4:15 p.m., J.H. left his home on Myrtle Avenue in Jacksonville, Duval County, Florida, and began

walking towards the Happy Jack Grocery Store and Market (“Happy Jack”). J.H. was carrying his Nintendo Gameboy and intended to utilize Happy Jack’s WiFi.

94. As J.H. was walking, J.H. was complying with all laws, regulations, and ordinances.

95. However, within minutes of departing from his home, a marked JSO patrol vehicle drove up to him and a JSO officer exited the vehicle. The JSO officer then drew his firearm, pointed it at J.H., and yelled at J.H. to get on the ground. In doing so, the JSO officer used profane language.

96. At or around 5:00 p.m., the JSO officer called Henderson to inform her that he had J.H. in his custody and that J.H. was suspected of having committed an armed robbery earlier that afternoon.

97. Henderson immediately responded that J.H. had just departed from her home, and that J.H. had been on the phone with a friend prior to leaving her house.

98. The JSO officer then told Henderson that, in that case, J.H. could not have been involved in the armed robbery.

99. With that, the phone call ended, and Henderson believed that J.H. was going to be released from the JSO’s custody. However, instead, J.H. was placed in the back seat of the JSO patrol car, and J.H. was driven to the location of the armed

robbery victim. J.H. was then compelled, against his will, to participate in a show-up identification.

100. At first, the armed robbery victim identified J.H. as the perpetrator but then said that he was unsure about whether J.H. was the perpetrator.

101. Thereafter, the JSO transported J.H. downtown, where he was interrogated by a JSO detective. The JSO detective aggressively questioned J.H., demanding that J.H. admit to having committed an armed robbery earlier that afternoon.

102. During the questioning, J.H. was not accompanied by any parent, guardian or attorney. Nor did Henderson know that the JSO was interrogating J.H.

103. Sometime between 7:30 p.m. and 8:00 p.m., after Henderson had been calling the JSO, reporting that J.H. was missing, Henderson learned that J.H. had been taken downtown for interrogation.

104. When Henderson and her parents arrived where J.H. was being held, the JSO detective told Henderson and her parents that the JSO had enough evidence to arrest J.H. for armed robbery.

105. The JSO detective then demanded that J.H. provide a DNA sample and that, if J.H. would not provide such a sample, the JSO would hold J.H. until the JSO obtained a search warrant, compelling J.H. to provide a DNA sample.

106. Under the overwhelming pressure of this coercion, Henderson and her parents agreed to permit J.H. to provide a DNA sample to the JSO. Thereafter, J.H. was released from the JSO's custody.

107. At or around 9:00 p.m. that night, J.H. finally was able to return to his home, after having been in JSO custody for more than four hours.

108. J.H. was innocent of any allegations of armed robbery, and the JSO had no probable cause or even arguable probable cause to believe that J.H. had committed a crime.

109. As a direct and proximate result of J.H.'s false arrest and false imprisonment, he has suffered damages, including but not limited to severe emotional distress.

COUNT V – 42 U.S.C. §§ 1983 and 1988
(Gebremedhin vs. Sheriff Rutherford)

110. Gebremedhin realleges and incorporates by reference paragraphs 1 through 18, as though fully set forth herein.

111. Gebremedhin brings a claim pursuant to 42 U.S.C. §§ 1983 and 1988 against Sheriff Rutherford for deprivation of civil rights under color of state law. Specifically, Gebremedhin alleges that he was falsely arrested.

112. The JSO's Custom was the direct and proximate cause of Gebremedhin's false arrest and imprisonment.

113. Sheriff Rutherford deprived Gebremedhin of his Fourth Amendment right to be free from unreasonable searches and seizures.

114. On April 11, 2013, JSO officers responded to a burglary alarm Sally's Beauty Supply, a business located at 8180 Merchants Way in Jacksonville, Duval County, Florida. The business' front glass door had been shattered and the perpetrator had stolen five pairs of hair clippers.

115. In the weeks prior to April 11, Gebremedhin had purchased a hair clipper from Sally's Beauty Supply at the same location. However, Gebremedhin subsequently returned the hair clipper to the business and obtained a full refund.

116. The box, with clippers enclosed, that Gebremedhin had returned to the business was placed back on the shelf with the other hair clippers that were for sale. This box had Gebremedhin's latent fingerprints on it.

117. A JSO evidence technician responded to the business on April 11, 2013 and found Gebremedhin's fingerprints on the box of hair clippers that Gebremedhin had returned to the business.

118. The JSO officer who submitted an affidavit for arrest warrant materially and intentionally obfuscated the facts by merely stating that the fingerprints had been collected from an area not accessible to customers. Had the JSO officer explicitly stated that Gebremedhin's fingerprints had been found on a

box of hair clippers that is routinely handled by prospective customers, the judge who issued the arrest warrant would not have concluded that there was probable cause to believe that Gebremedhin had committed a crime.

119. The JSO made a material omission by failing to mention that Gebremedhin's fingerprints were found on a box of hair clippers that is routinely handled by prospective customers.

120. No other evidence linked Gebremedhin to the crime committed at Sally's Beauty Supply, nor did the JSO attempt to find any other evidence linking Gebremedhin to the crime.

121. As a direct and proximate result of Gebremedhin's false arrest, he has suffered damages, including but not limited to severe emotional distress.

COUNT VI – 42 U.S.C. §§ 1983 and 1988
(Angel vs. Sheriff Rutherford)

122. Angel realleges and incorporates by reference paragraphs 1 through 18 and 68 through 88, as though fully set forth herein.

123. Angel brings a claim pursuant to 42 U.S.C. §§ 1983 and 1988 against Sheriff Rutherford for deprivation of civil rights under color of state law. Specifically, Angel alleges malicious prosecution.

124. An original judicial proceeding against Angel was commenced on September 25, 2012 and was continued through June of 2013. The proceeding was

in the Circuit Court of the Fourth Judicial Circuit in and for Duval County, Florida, and was styled as the *State of Florida vs. Joshua James Angel* with case number 16-2012-CF-8794.

125. Sheriff Rutherford, and the JSO's Custom, was the direct and proximate cause of the proceeding.

126. The State Attorney's Office terminated the proceeding by entering a *nolle prosequi* on June 6, 2013. This was a *bona fide* termination of the proceeding in favor of Angel.

127. There was an absence of probable cause for the proceeding.

128. Sheriff Rutherford exhibited malice for Angel.

129. Angel spent nine months in jail, pre-trial, thus suffering an egregious deprivation of liberty, in violation of Angel's Fourth Amendment right to be free from unreasonable searches and seizures.

130. As a direct and proximate result of the malicious prosecution, Angel has suffered severe emotional distress and aggravation of his pre-existing psychological and psychiatric conditions.

WHEREFORE, Plaintiffs demand judgment for all available damages, together with attorneys fees and costs, against Sheriff Rutherford, as well as any and all other and further relief this Court deems just and proper.

Dated September 10, 2014.

THE BONDERUD LAW FIRM, P.A.

/s/ Andrew M. Bonderud

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