

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHWESTERN DIVISION**

JERRY MINOR,

Plaintiff,

v.

DEVIN WHITEHEAD, in his individual
capacity; NICHOLAS ROACH,
in his individual capacity; and
CHRISTOPHER HART, in his individual
capacity,

Defendants.

**JURY TRIAL DEMANDED
COMPLAINT FOR DAMAGES**

COMPLAINT

COMES NOW, the Plaintiff, Jerry Minor, by and through the undersigned
counsel, and files this Complaint.

INTRODUCTION

On May 18, 2023, Jerry Minor, a 55-year-old black man, was viciously
attacked by members of the Lauderdale County Sheriff's Office, the employees
(correctional officers) are DEVIN WHITEHEAD, NICHOLAS ROACH, and
CHRISTOPHER HART. Mr. Minor was pepper sprayed for knocking on the
window in the drunk tank by Christopher Hart after he was refused access to use the

telephone. After being pepper sprayed while in the shower, Mr. Minor was brutally attacked by these correctional officers when he was in the shower. Devin Whitehead and Nicholas Roach kicked and punched Mr. Minor in the head multiple times plus slammed him on the ground. Additionally, after leaving the shower area heading back to the drunk tank, Devin Whitehead punched Mr. Minor in the face multiple times. Subsequently, Devin Whitehead was terminated for using excessive force by the Sheriff Joe Hamilton. Also, Nicholas Roach was suspended and ordered to complete de-escalation training by Sheriff Joe Hamilton. At all times during that attack, Mr. Minor was in the Lauderdale County Detention Center. As a result of the assault, Mr. Minor sustained physical injuries (bleeding from his face, black eyes, etc.) and permanent scarring to his body. Additionally, Mr. Minor also suffered emotional injuries and damages as a result of the Defendants unlawful and unconstitutional acts. Further, Mr. Mr. Minor brings state law claims and constitutional claims against all named Defendants.

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction under 28 U.S.C. § 1131 and 1343 over Plaintiffs' claims under the United States Constitution, which are brought both directly under 42 U.S.C. §1983.
2. This Court has supplemental jurisdiction over Plaintiffs' state law claim pursuant to 28 U.S.C. §1367 because it is so related to the federal claims that

it forms part of the same case or controversy under Article III of the United States Constitution.

3. Venue is proper in this District under 28 U.S.C. § 1391(b)(2). All of the events giving rise to this Complaint occurred within this District.

PARTIES

4. Jerry Minor is of legal age and U.S. citizen. He resides in Florence, Alabama. He is a resident and citizen of the state of Alabama and is over nineteen (19) years of age.
5. Defendant Devin Whitehead was a citizen of the United States and a resident of the State of Alabama and was acting under color of state law in his capacity as a correctional officer employed by the County of Lauderdale as an employee with Lauderdale County Sheriff's Office at the Lauderdale County Detention Center. Defendant Devin Whitehead is sued in his individual capacity.
6. Defendant Nicholas Roach was a citizen of the United States and a resident of the State of Alabama and was acting under color of state law in his capacity as a correctional officer employed by the County of Lauderdale as an employee with Lauderdale County Sheriff's Office at the Lauderdale County Detention Center. Defendant Nicholas Roach is sued in his individual capacity.

7. Defendant Christopher Hart was a citizen of the United States and a resident of the State of Alabama and was acting under color of state law in his capacity as a correctional officer employed by the County of Lauderdale as an employee with Lauderdale County Sheriff's Office at the Lauderdale County Detention Center. Defendant Christopher Hart is sued in his individual capacity.

STATEMENT OF FACTS

8. On May 18, 2023, at approximately 2:53 A.M., Jerry Minor (hereinafter "Mr. Minor" or "Plaintiff"), a 55-year-old black man was being held in the drunk tank in the detox cell in the Lauderdale County Detention Center. Mr. Minor knocked on the window so he could make a telephone call to any person that he chooses without undue delay.
9. Notably, Defendant Christopher Hart (hereinafter "Mr. Hart") upset with Mr. Minor knocking on the window attempting to make a phone call. Defendant Mr. Hart told Sergeant Anita McDaniel and Correctional Officer Michael Kelly that if Mr. Minor knock on the window again in the Detox Cell for trying to use the telephone that he would be pepper sprayed.
10. Mr. Minor knocked on the window again in the Detox Cell; then Defendant Mr. Hart began to pepper spray Mr. Minor in his face. Defendant Mr. Hart never let Mr. Minor use the telephone to place his phone call.

11. Subsequently, without legal justification, after being pepper sprayed in the face, Mr. Minor was taken to the shower to rinse the dangerous spray out of his eyes and off of his body.
12. Mr. Minor was brutally attacked while in the shower when he threw his underwear in the hallway landing on Defendant Nicholas Roach's (hereinafter "Mr. Roach") head. Defendant Mr. Roach rushed into the shower then hit and slammed Mr. Minor in the head several times along with other correctional officers according to Correctional Officer Aaron Farmer and Ashley English.
13. Specifically in the shower, Defendant Devin Whitehead (hereinafter "Mr. Whitehead") hit and kicked Mr. Minor in the head several times according to Correctional Officer Aaron Farmer.
14. Additionally, after leaving the shower area heading back to the drunk tank, Suddenly, without legal cause or just provocation, simultaneously the Defendants led by Defendant Mr. Whitehead punched Mr. Minor in the face multiple times throwing him into the wall while slamming Mr. Minor to the ground with the other correctional guards. Subsequently, Defendant Devin Whitehead was terminated for using excessive force by the Sheriff Joe Hamilton.
15. Also, Defendant Nicholas Roach was suspended and ordered to complete de-escalation training by Sheriff Joe Hamilton. At all times during that attack,

Mr. Minor was in the Lauderdale County Detention Center that is overseen by the Lauderdale County Sheriff's Office.

16. As a result of the assault, Mr. Minor sustained physical injuries (bleeding from his face, black eyes, etc.) and permanent scarring to his body. Additionally, Mr. Minor also suffered emotional injuries and damages as a result of the Defendants unlawful and unconstitutional acts.
17. As a direct and proximate result of the Defendants' wrongful conduct, the Plaintiff sustained substantial injuries. Plaintiff was never transported by ambulance to the Hospital.
18. Plaintiff's injuries include but are not limited to, loss of constitutional and federal rights, physical injuries, impairments and disfigurement, great pain and emotional distress, and/or aggravation of pre-existing conditions, and ongoing special damages medically/psychologically related treatment caused by the unconstitutional and moving forces concerted conduct of all these Defendants. Plaintiff also continues to suffer ongoing emotional distress, with significant PTSD-type symptoms, including sadness, anxiety, stress, anger, depression, frustration, sleeplessness, nightmares and flashbacks from his unlawful arrest, assault, and battery.

19. Plaintiff is also entitled to punitive damages on all of his claims against the individual Defendants personally to redress their willful, malicious, wanton, reckless, and fraudulent conduct.
20. Specifically, Defendant Devin Whitehead failed to intervene in preventing the use of excessive force against depriving Plaintiff of his constitutional rights as stated in this Complaint.
21. By failing to intervene, Defendant Devin Whitehead additionally violated Plaintiff's constitutional rights.
22. The actions and omissions of the Defendants were objectively unreasonable under the circumstances, without legal justification or other legal rights, done under color of law, within the course of scope of their employment as law enforcement officers and/or public officials, and pursuant to unconstitutional customs, policies and procedures of City, County, and/or other jurisdictions.
23. At all material times, and alternatively, the actions and omissions of each Defendant were conscience-shocking, reckless, deliberately indifferent to Plaintiff's rights, negligent, and objectively unreasonable.
24. As a direct and proximate result of the individual Defendants' wrongful conduct, Mr. Minor sustained substantially injuries. These injuries include, but are not limited to, loss of constitutional and federal rights, emotional distress, and/or aggravation of pre-existing conditions, and ongoing special

damages medically/psychologically related treatment caused by the unconstitutional and moving forces concerted conduct of all these Defendants. Plaintiff also continues to suffer ongoing emotional distress, with significant PTSD type symptoms, including sadness, anxiety, stress, anger, depression, frustration, sleeplessness, nightmares and flashbacks from his unlawful arrest.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

42 U.S.C. § 1983 – Substantive Due Process - Deprivation of Liberty Interest by Denial Telephone Call After Arrest (Against Defendant Christopher Hart)

25. Plaintiff realleges and incorporates herein by reference each and every allegation contained in paragraph 1 through 24 of this Complaint.

42 U.S.C. § 1983 provides that:

Every person, who under color of any statute, ordinance, regulation, custom or usage of any state or territory or the District of Columbia subjects or causes to be subjected any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the constitution and law shall be liable to the party injured in an action at law, suit in equity, or other appropriate proceeding for redress.....

26. All individual Defendants to this claim, are person for purposes of 42 U.S.C. § 1983.

27. Plaintiff Jerry Minor had a cognizable interest under the Due Process Clause of the Fourteenth Amendment of the United States Constitution to be free from state actions that deprive them of life, liberty, or property in a manner as

to shock the conscience, including not limited to, unwarranted interference in Plaintiff's rights to have access to make a phone call after an arrest. Pursuant to *Alabama Rules of Criminal Procedure 4.2* states "Any person under arrest shall be afforded an opportunity to make a telephone call to any person that he or she may choose, without undue delay." Fundamental fairness dictates that a person who has been taken into custody be allowed to communicate to another that he is being held by the police and charged with a crime.

28. The right to post-booking phone calls is protected by the Fourteenth Amendment of the U.S. Constitution because *Alabama Rules of Criminal Procedure 4.2* creates a liberty interest. Denying arrestees, the opportunity to make a telephone call is a civil rights violation. The Fourteenth Amendment guarantees the right to due process, and is particularly protective of the minimal liberty interests granted to prisoners, such as the ability to make a phone call when arrested and booked.

29. The right to phone calls after booking is such a right because the statute establishes that police officers do not have discretion to decline phone calls to arrestees, and the consequences for not allowing someone the ability to call family members or an attorney and let them know where they are; can be dire.

30. This count applies to Defendant Christopher Hart.

31. Defendant Christopher Hart, at all times relevant hereto, was acting under the color of state law in his capacity as a correctional officer employed by the County of Lauderdale as an employee with Lauderdale County Sheriff's Office at the Lauderdale County Detention Center and his acts or omissions were conducted within the scope of their official duties or employment.
32. At the time of the complained of events, Plaintiff had a clearly established constitutional right under the Fourteenth Amendment to be able to make a telephone call after an arrest depriving the Plaintiff of his liberty interest.
33. It is undisputed that Plaintiff was in the Drunk Tank in the Detox Cell when the Defendant Mr. Hart was deprived the Plaintiff to make a telephone call after his arrest depriving him of his constitutional rights to his liberty interest when the Defendant used excessive force against him.
34. The aforementioned actions of the Defendant, along with other undiscovered conduct, shock the conscience, in that he acted with deliberate indifference to the constitutional rights of the Plaintiff with purpose to harm unrelated to any legitimate law enforcement objective.
35. Defendant Christopher Hart, acting under color of state law, thus violated the Fourteenth Amendment rights of the Plaintiff.

36. As a direct and proximate cause of the acts of Defendant Christopher Hart, Plaintiff suffered extreme and severe mental anguish and pain and have been injured in mind and body.
37. As a result of the conduct of Defendant Christopher Hart, they are liable for the Plaintiff's injuries because they were integral participants in the denial of due process.
38. The conduct of Defendant Christopher Hart was willful, wanton, malicious, and done with reckless disregard for the rights and safety of the Plaintiff and therefore warrants the imposition of safety of the Plaintiff and therefore warrants the imposition of safety of the Plaintiff and therefore warrants the imposition of exemplary and punitive damages as to Defendant Christopher Hart.
39. On information and belief, Plaintiff suffered lost future earnings and impaired earnings capacities from the not yet fully ascertained sequelae of his injuries, in amount to be ascertained in trial. Plaintiff is further entitled to attorney's fees and cost pursuant to 42 U.S.C. § 1988, pre-judgment interest and costs as allowable by federal law. There may also be special damages for lien interests.
40. In addition to compensatory, economic, consequential and special damages, Plaintiff is entitled to punitive damages against each of the individually named

Defendant under 42 U.S.C. § 1983, in that the actions of each of these individual Defendant have been taken maliciously, willfully or with a reckless or wanton disregard of the constitutional rights of Plaintiff. All Defendant is liable for violating Minor's Fourteenth Amendment Rights.

41. WHEREFORE, Plaintiff prays for the following relief:

- a. Judgment for compensatory damages;
- b. Judgment for exemplary or punitive damages;
- c. Cost of suit;
- d. Reasonable attorney fees, pursuant to 42 U.S.C. § 1988;
- e. Trial by jury as issues so triable; and such other relief as this

Honorable Court may deem just and appropriate.

SECOND CLAIM FOR RELIEF

**42 U.S.C. § 1983 – Excessive Force in violation of the Fourth Amendment
(Against All individuals Defendants)**

42. Plaintiff hereby realleges and incorporates by reference the allegations contained in paragraphs 1 through 24 of this Complaint.

43. All individual Defendants to this claim, is a person for purposes of 42 U.S.C. § 1983.

44. This count applies to Defendants Devin Whitehead, Nicholas Roach, and Christopher Hart.

45. All individual Defendants, at all times relevant hereto, were acting under the color of state law in his capacity as a correctional officer employed by the County of Lauderdale as an employee with Lauderdale County Sheriff's Office at the Lauderdale County Detention Center and his acts or omissions were conducted within the scope of their official duties or employment. At the time of the complained events, Plaintiff had a clearly established constitutional right under the Fourth Amendment to be secured in his person from unreasonable seizure through excessive force.
46. Plaintiff also had the clearly established Constitutional right under the Fourth Amendment to bodily integrity and to be free from excessive force by law enforcement.
47. Any reasonable law enforcement officer knew or should have known of these rights at the time of the complained conduct as they were clearly established at that time.
48. The Defendants' actions and use of force, as described herein, were objectively unreasonable in light of the facts and circumstances confronting them and violated these Fourth Amendment rights of Plaintiff.
49. The Defendants' actions and use of force, as described herein, were also malicious and/or involved reckless, callous, and deliberate indifference to

Plaintiff's federally protected rights. The force used by Defendants shocks the conscience and violated these Fourth Amendment rights of Plaintiff.

50. Defendants unlawfully seized the Plaintiff by means of objectively unreasonable, excessive and conscious shocking physical force, thereby unreasonably restraining Plaintiff of his freedom.

51. The force used by the Defendants caused serious bodily injury to Plaintiff.

52. Defendants engaged in the conduct described by this Complaint willfully, maliciously, in bad faith, and in reckless disregard of Plaintiff's federally protected constitutional rights.

53. Defendants did so with shocking and willful indifference to Plaintiff's rights and their conscious awareness that they would cause Plaintiff severe physical and emotional injuries.

54. The acts or omissions of Defendants were moving forces behind Plaintiff's injuries.

55. The acts or omissions of Defendants as described herein intentionally deprived Plaintiff of his constitutional rights and caused him other damages.

56. The Defendants are not entitled to qualified immunity for their actions.

57. As a direct and proximate result of the individual Defendants' unlawful conduct, Plaintiff has suffered actual physical and emotional injuries, and other damages and losses as described herein entitling him to compensatory

and special damages, in amounts to be determined at trial. As further result of the individual Defendants' unlawful conduct, Plaintiff has incurred special damages, including medically related expenses and may continue to incur further medically and other special damages related expenses, in amounts to be established at trial.

58. On information and belief, Plaintiff suffered lost future earnings and impaired earnings capacities from the not yet fully ascertained sequelae of his injuries, in amount to be ascertained in trial. Plaintiff is further entitled to attorney's fees and cost pursuant to 42 U.S.C. § 1988, pre-judgment interest and costs as allowable by federal law. There may also be special damages for lien interests.

59. In addition to compensatory, economic, consequential and special damages, Plaintiffs are entitled to punitive damages against each of the individually named Defendants under 42 U.S.C. § 1983, in that the actions of each of these individual Defendants have been taken maliciously, willfully or with a reckless or wanton disregard of the constitutional rights of Plaintiff. All Defendants are jointly and severally liable for violating Plaintiff's Fourth Amendment Rights.

60. WHEREFORE, Plaintiff prays for the following relief:

- a. Judgment for compensatory damages;

- b. Judgment for exemplary or punitive damages;
- c. Cost of suit;
- d. Reasonable attorney fees, pursuant to 42 U.S.C. § 1988;
- e. Trial by jury as issues so triable; and such other relief as this Honorable Court may deem just and appropriate.

THIRD CLAIM FOR RELIEF
42 U.S.C. § 1983
Failure to Intervene in Violation of the Fourth Amendment
(Against Defendant Devin Whitehead)

61. Plaintiff hereby realleges and incorporates by reference the allegations contained in paragraphs 1 through 24 of this Complaint.
62. All individual Defendants to this claim, is a person for purposes of 42 U.S.C. § 1983.
63. This count applies to Defendant Devin Whitehead.
64. Defendant Devin Whitehead, at all times relevant hereto, acting under the color of state law in his capacity as a correctional officer employed by the County of Lauderdale as an employee with Lauderdale County Sheriff's Office at the Lauderdale County Detention Center and his acts or omissions were conducted within the scope of their official duties or employment.
65. Each above Defendants failed to intervene in preventing the other Defendants from using use of excessive force against the Plaintiff.

66. Each individual had realistic opportunity to intervene to prevent the harm from occurring to the Plaintiff.
67. Plaintiff was damaged and injured by the Defendants' intentional failure to intervene and stop the assault on him.
68. The Defendants' intentional failure to intervene directly and proximately contributed to the Plaintiff's unconstitutional seizure, and directly and proximately to the Plaintiff's significant physical injuries and emotional pain and suffering. The force used by the Defendants caused serious bodily injury to Plaintiff.
69. Defendants engaged in the conduct described by this Complaint willfully, maliciously, in bad faith, and in reckless disregard of Plaintiff's federally protected constitutional rights.
70. Defendants did so with shocking and willful indifference to Plaintiff's rights and their conscious awareness that they would cause Plaintiff severe physical and emotional injuries.
71. The acts or omissions of Defendants were moving forces behind Plaintiff's injuries.
72. The acts or omissions of Defendants as described herein intentionally deprived Plaintiff of his constitutional rights and caused him other damages.
73. The Defendants are not entitled to qualified immunity for their actions.

74. As a proximate result of Defendants' unlawful conduct, Plaintiff has suffered actual physical and emotional injuries, and other damages and losses as described herein entitling him to compensatory and special damages, in amounts to be determined at trial. As a further result of the Defendants' unlawful conduct, Plaintiff has incurred special damages, including medically related expenses and may continue to incur further medical and other special damages-related expenses, in amounts to be established at trial.
75. On information and belief, Plaintiff may suffer lost future earnings and impaired earnings capacities from the not yet fully ascertained sequelae of his injuries, in amounts to be ascertained in trial. Plaintiff is further entitled to attorneys' fees and costs pursuant to 42 U.S.C. §1988, pre-judgment interest and costs as allowable by federal law. There may also be special damages for lien interests.
76. In addition to compensatory, economic, consequential and special damages, Plaintiff is entitled to punitive damages against each of the individually named Defendants under 42 U.S.C. § 1983, in that the actions of each of these individual Defendants have been taken maliciously, willfully or with a reckless or wanton disregard of the constitutional rights of Plaintiff. All Defendants are jointly and severally liable for violating Plaintiff's Fourth Amendment Rights.

77. WHEREFORE, Plaintiff prays for the following relief:
- a. Judgment for compensatory damages;
 - b. Judgment for exemplary or punitive damages;
 - c. Cost of suit;
 - d. Reasonable attorney fees, pursuant to 42 U.S.C. § 1988;
 - e. Trial by jury as issues so triable; and such other relief as this Honorable Court may deem just and appropriate.

FOURTH CLAIM FOR RELIEF
State Law – Assault and Battery
(Against All Individual Defendants)

78. Plaintiff hereby realleges and incorporates by reference the allegations contained in paragraphs 1 through 24 of this Complaint.
79. This count applies to all individual Defendants Devin Whitehead, Nicholas Roach, Christopher Hart.
80. All individual Defendants' touched Plaintiff with the intent to harm or offend him.
81. Plaintiff did not consent to the touching and was harmed by it.
82. A reasonable person in Plaintiff's situation would have been offended by touching.

83. Defendants' conduct caused Plaintiff to suffer physical injury, emotional distress, pain and suffering, loss of income, medical expenses, fear, trauma, humiliation, and further damages according to proof at the time of trial.
84. The conduct alleged herein was done in willful, malicious, intentional, deliberate, or reckless disregard of Plaintiff's constitutionally protected rights, welfare, and safety.
85. WHEREFORE, Plaintiff demands judgment and compensatory and punitive damages to the fullest extent of the law against Defendants and demands trials by jury on all issues so triable.

FIFTH CLAIM FOR RELIEF
State Law – Intentional Infliction of Emotional Distress
(Against all Individual Defendants)

86. Plaintiff hereby realleges and incorporates by reference the allegations contained in paragraphs 1 through 24 of this Complaint.
87. This count applies to all individual Defendants Devin Whitehead, Nicholas Roach, and Christopher Hart.
88. Defendants' conduct as described herein was outrageous.
89. Defendants intended to cause Plaintiff emotional distress.
90. Defendants acted with reckless disregard of the probability that Plaintiff would suffer emotional distress, knowing that Plaintiff was present when the conduct occurred.

91. Plaintiff suffered severe emotional distress from Defendants' harassment.
92. Defendants' conduct as described herein was a substantial factor in causing Plaintiff's severe emotional distress.
93. Defendants' conduct caused Plaintiff to suffer physical injury, emotional distress, pain and suffering, loss of income, medical expenses, fear, trauma, and humiliation, and further damages according to proof at the time of trial.
94. The conduct alleged herein was done in willful, malicious, intentional, deliberate, or reckless disregard of Plaintiff's constitutionally protected rights, welfare, and safety.
95. WHEREFORE, Plaintiff demands judgment and compensatory and punitive damages to the fullest extent of the law against Defendants and demands trial by jury on all issues so triable.

Other Matters

96. All conditions precedent to the bringing of this suit have occurred.

PRAYER FOR RELIEF

Plaintiff prays that this Court enter judgment for the Plaintiff and against each of the Defendants and grant:

- a. compensatory and consequential damages, including damages for emotional distress, humiliation, loss of enjoyment of life, and other pain and suffering on all claims all allowed by law in an amount into be determine by a jury;
- b. economic losses on all claims allows allowed by law;

- c. special damages in an amount to be determined at trial;
- d. punitive damages on all claims allowed by law against all individual Defendants;
- e. attorney's fees and the costs associated with this action under 42 U.S.C. § 1988, including expert witness fees, on all claims allowed by law;
- f. pre-and post-judgment interest at the lawful rate; and,
- g. any further relief that this court deems just and proper, and any other appropriate relief of law and equity.

PLAINTIFF REQUESTS A TRIAL BY JURY.

Respectfully submitted this 17th day of November 2023,

The Roderick Van Daniel Law Firm, LLC

/s/ Dr. Roderick Van Daniel, Esquire

Dr. Roderick Van Daniel, Esquire

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