

**IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

BERTRAM (BERT) KEYS

PLAINTIFF

VS.

CIV. ACTION NO. : 4:19-CV-048-SA-JMV

CITY OF GREENWOOD, MISS.;

**JAMES D. LAYTON, in his individual
capacity;**

**BYRON L. GRANDERSON, in his
individual capacity;**

**DYLAN H. PEDEN in his individual
capacity;**

**LENARD PAIGE, in his individual
capacity**

**ROY MOORE, in his official
capacity**

DEFENDANTS

JURY TRIAL DEMANDED

AMENDED COMPLAINT

Plaintiff Bertram (Bert) Keys brings this action against the Defendants for violation of his clearly-established rights, privileges and immunities under the Fourth and Fourteenth Amendments of the United States Constitution pursuant to 42 U.S.C. §§ 1983 and 1988.

I.

JURISDICTION

1. Jurisdiction of this court is proper pursuant to 28 U.S.C. §§1131 and 1343. Venue in this court is appropriate under 28 U.S.C. §1391(b). The Court also has jurisdiction of this case by virtue of an order of the Municipal Court of the City of Greenwood, dated November 7, 2018, dismissing with prejudice all criminal charges against Plaintiff Keys (P. Exh. "A"), and that court's separate order of the same date, expunging the record of those charges. (P. Exh. "B").

II.

PARTIES

2. Plaintiff **Bertram (Bert) Keys** is an adult resident citizen of Greenwood, LeFlore County, Mississippi.
3. Defendant Greenwood, Mississippi is an incorporated municipal subdivision of the State of Mississippi, located in the Northern Judicial District. The City is sued for its unlawful policy or custom of permitting and encouraging SWAT teams to engage in harassment, search and arrest of citizens based solely on their color (black) and their neighborhood in violation of their individual constitutional rights. This municipal policy or custom directly led to the arrest, torture and incarceration for several days of Plaintiff. The City is also sued for the Police Chief's High Crimes Detail policy, and his acceptance and ratification of the SWAT team's unlawful violation of Plaintiff Keys' individual constitutional rights.
4. Defendant Officer James D. Layton was at all relevant times a member of a SWAT law enforcement team. He was an officer of the Greenwood Police Department and on information and belief an adult resident citizen of LeFlore County.
5. Defendant Detective Byron L. Granderson was at all relevant times a member of a SWAT law enforcement team. He was an officer of the Greenwood Police Department and on information and belief an adult resident citizen of LeFlore County.
6. Defendant Officer Dylan H. Peden was at all relevant times a member of a SWAT law enforcement team. He was an officer of the Greenwood Police Department and on information and belief was an adult resident citizen of LeFlore County.
7. Defendant Sgt. Lenard Paige was at all relevant times a member of a SWAT law enforcement team. On information and belief he is an officer of the Greenwood Police Department and an adult resident citizen of LeFlore County.
8. Defendant RAY MOORE is the Greenwood Chief of Police, who set the policy for High Crimes Detail and publicly affirmed the wrongful actions of the SWAT team defendants against Plaintiff Keys. He is sued in his official capacity for his policy of allowing and mandating pat down searches

of citizens, including Plaintiff Keys, without first having individualized reasonable articulable suspicion of criminal conduct by them simply because they were standing in public places without obstructing traffic, thereby violating their clearly established right under the Fourth Amendment to be free from unreasonable seizure and search, and for his subjective and objective knowing acceptance and ratification of the unconstitutional conduct of his officers against Plaintiff Keys. Moore is the final policy-making official for day to day operation of the Greenwood Police Department.

III.

FACTS

9. On Friday night, September 2, 2016, at a little after 10 p.m., the Defendants and other officers of a SWAT team descended upon the 100 block of Palace Street around the intersection of Main and Palace Streets in Greenwood, Mississippi. They spilled out of their vehicles “to conduct a search for males standing on the streets and side walk (sic) loitering.” (Supplemental Investigative report of Officer Tawana Lapearl Friend.) (DEF. 00044) (Plaintiff Exh. “4”)

10. In response to a later citizen complaint by Plaintiff Bertram (Bert) Keys, the Police Department’s Internal Affairs Officer, Captain Michael Johnson, interviewed and recorded several sworn statements of the officers who participated in the SWAT team’s sweep, which they dubbed a “High Crime Detail”. They uniformly agreed the purpose of the sweep was to pat down all men standing in the public area. For example: Plaintiff’s Collective Exhibit “C”,

a. Detective Sergeant Jeri Bankston. Captain Johnson summarized his explanation of the sweep’s purpose by asking Bankston, “[I]n other words ya’ll were looking for people that were loitering?” Bankston replied, “Yes, that’s the word”. (DEF-00009).

b. Detective Sergeant Edgar Gibson: “...mainly making sure subjects not standing out on corners...” (DEF-00011)

c. Defendant Patrol Officer David Layton: “...the Swat Team was out that weekend for High Crime Detail which consisted of us basically clearing the corners...” (DEF-00013)

d. Narcotics Agent Serafin Simon: "...going to the major crime spots ...and try to clear everybody who's actually obstructing or just loitering around known businesses that are known for a high crime area." (DEF-00017)

e. Patrol Officer Artiko Greer: "...basically just go out and when all the people and get to gathering up on the corners and things like that, we basically just get out and search them for weapons or anything and just after that, we tell them you know to move on, they can't be standing out on the corner and stuff like that, you know, on the street and sidewalk." (DEF 00019-20)

f. Defendant Patrol Officer Dylan Peden: He described the sweep's purpose as "to clear corners, make sure, you know, crime's off the street and try to help the other, the people on shift to reduce their calls as much as possible." (DEF-00021)

g. Patrol Officer Tawana Friend: She described the scene when the SWAT team spilled out of their vehicles. "[W]e advised everybody there wanted to touch the wall so that they could be searched." (DEF-00027)

h. Defendant Sergeant LeNard Paige: "We were out just checking a lot of the areas that, just trying to deter the crime and drug sales, and just folks standing out loitering." (DEF-00030)

i. Defendant Sergeant Byron Granderson: "[W]e was out working a detail, a High Crime Detail, as people stand out in the street, and so we just get them out of the street and check them, make sure they don't have no weapons on them and drugs." (DEF 00033)

11 .Plaintiff Keys was leaning against his truck in front of a food vendor business, I'am Sandwich Shop,114 Palace Street, waiting for his order of food to be ready. There was no room to wait inside.

12. Without articulable suspicion of wrongdoing by Keys, Defendant Leyton asked to search Keys' truck.

13. Keys said, "Yes, if you have a warrant, you can search it.

14. Leyton replied, "Then you can take your ass inside to wait for your food."

15. Keys replied, "Don't be talking to me like that. I don't need to go nowhere."

16. Both Leyton and Defendant Peden tried to get Keys to turn around so they could search him.

17. Keys protested, saying the officers had no warrant and he was not doing anything wrong.
18. Defendant Detective Sergeant Byron Granderson stepped up and tried to convince Keys to allow a search, but Keys adamantly refused.
19. Granderson then told Defendant Peden to arrest Keys for disorderly conduct.
20. Defendant Peden came up behind Keys with an attempt at a choke hold.
21. Surprised, Keys swung his arm around defensively to ward him off, but he did not hit anyone.
22. Then Defendant Detective Granderson tased Keys with a five-second jolt with wired darts in the chest and leg.
23. Keys was stunned and fell forward to the ground.
24. While Keys lay face down, still stunned with one arm under his body, and Defendants Peden and Layton struggling to lift his 260 pound body to grab the pinned arm to handcuff Keys behind his back, Defendant Paige yelled, "tase him again."
25. Defendant Granderson gave Keys another five-second jolt by recycling his Taser while the Taser darts remained stuck in the front of Keys' body.
26. Defendants Peden, Granderson, Layton and Page handcuffed Keys.
27. He was then wrestled into the back of Layton's unit for transport to the county jail.
28. Keys was charged with assault on a police officer, disorderly conduct—failure to comply; threat on an officer and "other-parking".
29. Keys was booked into the LeFlore County Jail, where he remained for approximately four days until he was able to post bail.
30. None of the charges against Keys were ever prosecuted.
31. All of the charges were dismissed with prejudice and expunged by orders of the Greenwood Municipal Court on November 7, 2018. See Exhibits "A" and "B", attached and incorporated herein verbatim.

IV.

DAMAGES

32. As a proximate result of the individual and municipal defendants' willful, wanton, reckless and patently unconstitutional malicious conduct and policies, Keys suffered unnecessary and unreasonable seizure, search and use of force at the hands of the individual defendants. He also suffered physical and emotional anguish and suffering, humiliation, anger, expense and inconvenience, including days of false imprisonment and financial losses for bail and an attorney fee. He suffered extreme embarrassment at unwanted and untrue publicity in *the Greenwood Commonwealth* newspaper as the result of the defendants' false charges and the blind, willful and reckless acceptance and ratification of those charges by the Chief of Police, defendant Ray Moore, who falsely and recklessly claimed to the newspaper reporter that Keys was being held for the Mississippi Department of Corrections for an alleged parole violation. Moore also falsely claimed that the defendant officers observed Keys "rolling a 'blunt' marijuana cigar", a claim reported in the newspaper. Keys suffered extreme embarrassment at the news that because of his arrest a youth football tournament had to be cancelled. He was the head coach of the Greenwood Raiders youth football team.

V.

CLAIMS

FOURTH AND FOURTEENTH AMENDMENTS:

33. Plaintiff's arrest, torture, search and confinement for about four days without articulable reasonable suspicion or probable cause to believe that the Plaintiff had committed or was committing a violation of the law at the time of arrest amounted to an unreasonable seizure, search and use of unreasonable force and imprisonment in violation of his individual constitutional rights under the Fourth Amendment, made applicable to the states by the Fourteenth Amendment. His four days of imprisonment upon the request of the defendants also were the proximate result of violation of the Fourteenth Amendment's prohibition of unlawful confinement without due process. Ratification of that misconduct amounted to a policy of the Chief of Police. Furthermore the improper deployment of the SWAT team was in accordance with a municipal policy or custom of allowing pat down

searches without articulable reasonable individualized suspicion of criminal conduct, violating the clearly established individual rights of citizens, including Plaintiff, based only on their color (black) and their neighborhood, rendering the City liable, and the Chief of Police, Roy Moore in his official capacity, also liable to Plaintiff.

VI.

REQUESTED RELIEF

34. Plaintiff requests that the defendants be required to answer this Amended Complaint within 21 days of service upon them. Plaintiff demands a jury trial and reasonable compensatory damages from all the defendants, punitive damages from the individual defendants in their individual capacities, court costs and reasonable attorney fees and expenses pursuant to 42 U.S.C. §1988.

RESPECTFULLY SUBMITTED,

BERTRAM (BERT) KEYS, PLAINTIFF

BY: /s/Ronald W. Lewis
RONALD W. LEWIS
MISS. BAR NO. 1242
P.O. BOX 2729
404 GALLERIA LN., STE. 5
OXFORD, MS 38655
(662) 234-0766
ron@ronlewislaw.com

OF COUNSEL:

TOM CALHOUN
MISS. BAR. NO. 4964
103 FULTON ST.
GREENWOOD, MS 38930
662) 455-1767
tcalhoun@calhounlawpllc.com

CERTIFICATE OF SERVICE

I, Ronald W. Lewis, hereby certify that I am filing the foregoing document via the court's CM/ECF filing system which then will automatically notify all counsel of record by email.

This the 26th day of August, 2019,

/s/Ronald W. Lewis

RONALD W. LEWIS