

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

LINDA ROSE, JENNIFER CRADIT,
SYLVIA DENISE BRADDOCK, LISA
RENEE BRANDIMORE, DWAYNE BUTTERFIELD,
BOBBIE WAYNE CARTER, DANIEL WRAY
CLAYTON, HOPE MICHELLE DAVIS, JOSHUA
FULLER, NICHOLAS ANTHONY GILES, WILLIE
LOUIS HENDRICKS, TANISHA RAMON JOHNSON,
ROBERT ALLEN KELSEY, SUE ANN LETTERMAN,
DONNA LYNN QUARLES, DAVID TODD REINER,
GREGORY LOUIS SCHULTZ, AMANDA RAE
SHINAVER, DWAYNE ALANN SIMMONS, ROBIN
RENEE THOMAS AND JOSHUA ALLEN WEIGANT,

PLAINTIFFS,

V

SAGINAW COUNTY, SAGINAW COUNTY
SHERIFF'S DEPARTMENT, MUNICIPAL
GOVERNMENTAL ENTITIES, CHARLES
BROWN AND OFFICERS JOHN DOE,
AND JANE DOE, (IN THEIR
INDIVIDUAL CAPACITY),
JOINTLY & SEVERALLY,

DEFENDANTS.

CASE NO. 01 10337

HON: DAVID M. LAWSON

PLAINTIFF'S FOURTH
AMENDED COMPLAINT AND
DEMAND FOR TRIAL BY JURY

FLETCHER, WOLF & ASSOCIATES
BY: CHRISTOPHER J. PIANTO, P-59160
ATTORNEYS FOR PLAINTIFFS
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JENSEN GILBERT SMITH & BORRELLO PC
BY: PETER C JENSEN (P25001)
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COMPLAINT

COMMON ALLEGATIONS

NOW COME Plaintiffs, by and through their attorneys, FLETCHER, WOLF & ASSOCIATES, BY: LOYST FLETCHER, JR., P-29799 and CHRISTOPHER J. PIANTO, P-59160, and for their complaint state as follows:

1. Venue is proper in the United States District Court for the Eastern District of Michigan as the case presents an issue under the Constitution of the United States of America.

2. Saginaw County Sheriff's Department is a governmental agency situated in the County of Saginaw, State of Michigan.

3. Plaintiff, Linda Rose is a resident of the city of Montrose, County of Genesee, State of Michigan.

4. Jennifer Cradit is a resident of the city of Saginaw, County of Saginaw, State of Michigan.

5. That at all pertinent times, Defendant Saginaw County is municipal and/or governmental entity exercising power in Saginaw County, Michigan.

6. That at all pertinent times, and on present information and belief, Defendants Charles Brown, John and Jane Doe are residents and/or employees, agents, and/or servants of Saginaw County exercising authority in Saginaw County, Michigan.

7. That on or about January 29, 2001, Plaintiff Linda Rose was detained at the Saginaw County Jail.

8. That in the summer of 1999 Plaintiff Jennifer Cradit was detained at the Saginaw County Jail.

9. That at all pertinent times hereto all of the named Plaintiffs ("Plaintiffs") were detainees of the Saginaw County Jail in Saginaw Michigan, who were subjected to conduct in violation of their State and Constitutional rights.

10. That at all pertinent times hereto, Defendant, Charles Brown was the Sheriff of Saginaw County.

11. That at all pertinent times hereto, Defendants Jane and John Doe, were officers assigned to or working at the Saginaw County Jail as employees, agents, and/or servants of Saginaw County and/or Saginaw County Sheriff's Department.

12. That while detainees, Plaintiffs forced to completely disrobe and be subjected to viewing by male and/or female officers and male and female jail trustees.

13. That while pretrial detainees Plaintiffs were forced to completely disrobe and be subjected to viewing by male and female officers and male and female jail trustees.

14. That at all pertinent times hereto, Defendant Saginaw County and Saginaw County Sheriff's Department owned or controlled or contributed to the ownership, operation, control, and/or maintenance of the Saginaw County Jail.

15. That at all pertinent times hereto, Defendant, Charles Brown as sheriff of Saginaw County directed the operation, control, and/or maintenance of the Saginaw County Jail.

16. That at all pertinent times hereto, Defendants had a custom, policy, practice, and/or procedure within the Saginaw County Jail in which Plaintiffs were subjected to an unlawful deprivation of their Constitutional and civil rights.

17. That Defendants did not have a warrant or any other lawful authority to strip and/or strip search Plaintiffs in the manner more fully described herein.

18. That at the time Plaintiffs were detainees and subjected to the various violations herein described, Defendants had no reason to believe, nor any probable cause to believe, that Plaintiffs were in possession of any type of dangerous weapons, contraband, or other instrumentality of questionable/suspicious nature.

19. That Defendants' purpose for stripping and/or strip searching Plaintiffs herein were for behavioral modifying, punitive, malicious, illegal, gratuitous and/or personal reasons, and were clearly unreasonable on their face.

20. Pursuant to Defendant's illegal custom, policy, practice an/or procedure, Plaintiffs were forced to sit naked in a cell commonly referred to as "the hole" or "the naked tank" for as many hours on end exposing their naked bodies to male and female officers and jail trustees alike.

21. The naked Plaintiffs were left without blankets, gowns, or any other way to shield their bodies from the video cameras or naked eyes of male and female jail employees and/or trustees that chose to look and at them.

22. Plaintiffs in violation of their Constitutional and statutory rights were stripped without consent or permission of any type whatsoever.

23. Plaintiffs, while post trial detainees are also subjected warrantless, unreasonable strip searches conducted absent any probable cause in the manner described herein.

24. Defendants' conduct and actions were done under color of state and federal law.

25. Plaintiffs have a clearly established right to be free from unreasonable searches and seizures, unwanted bodily contact, invasions of their privacy, etc. Reasonable officers acting in the position of jail guards knew or should have known that the conduct at issue was a moving force in violation those rights. *Pray v. City of Sandusky*, 49 F.3d 1154 (6th Cir. 1995).

26. That Defendants' conduct was carried out under a custom, policy, practice, and/or procedure violative of the Constitution of the United States of American and the Constitution of the State of Michigan.

COUNT I

FEDERAL CONSTITUTIONAL VIOLATIONS OF CIVIL RIGHTS

27. Plaintiffs reincorporate each and every paragraph above as though fully stated herein.

28. That this count or cause of action arises out of the Fourth, Eighth and Fourteenth Amendments of the United States Constitution and 42 USC §1983 and 1988.

29. That Defendants did not have search warrants or other lawful authority to strip the Plaintiffs in the manner described more fully above.

30. That the actions of Defendants herein violated Plaintiffs' clearly established rights under the Fourth, Eighth, and Fourteenth Amendments to the United States Constitution, specifically but not by way of limitation:

- A. The right to be free from unreasonable searches and seizures;
- B. Freedom from deprivation of liberty;
- C. Freedom from deprivation of privacy;
- D. Freedom from deprivations of privileges;
- E. Freedom from deprivation of immunities;
- F. Freedom from cruel and unusual punishment.

31. Defendants herein subjected Plaintiffs to these deprivations either intentionally, maliciously and/or by a reckless disregard for whether their rights would be violated by their actions.

32. Defendants' wrongful conduct described herein was done under color of Federal and State law.

33. That as a direct and proximate result thereof, Plaintiffs suffered the following injuries:

- A. Extreme embarrassment and humiliation past and future;
- B. Emotional distress and mental anguish, past and future;

- C. Insulted honor and mortification, past and future;
- D. Loss of personal liberty and dignity, past and future;
- E. Injury to their feelings, past and future.

COUNT II

GROSS NEGLIGENCE

(CHARLES BROWN, JOHN AND JANE DOE DEFENDANTS ONLY)

34. Plaintiffs reincorporate each and every paragraph above as though fully stated herein.

35. That Defendants Charles Brown, John Doe and Jane Doe owed Plaintiffs a duty of due and reasonable care.

36. Defendants conduct as described herein constituted a breach of their its duties owed to Plaintiffs and said conduct of Defendants Charles Brown, John Doe, and Jane Doe constituted "gross negligence" as that term is defined in MCLA §691.1707(2c):in that "The conduct was so reckless as to demonstrate a substantial lack of concern for whether injuries result."

37. That Defendants Charles Brown, John Doe, and Jane Doe's grossly negligent conduct caused all of the aforesaid events and injuries set forth herein with particularity.

38. Plaintiffs sustained damages from the aforesaid injuries as more fully described herein.

COUNT III

INVASION OF PRIVACY

(CHARLES BROWN, JOHN AND JANE DOE ONLY)

39. Plaintiffs reincorporate each and every paragraph above as though fully stated herein.

40. That Defendants' conduct/actions wrongfully invaded Plaintiffs' privacy, seclusion, solitude, and/or private affairs.

41. The Plaintiffs' naked bodies is a matter private to them.

42. Defendants invaded Plaintiffs' privacy by the illegal conduct, e.g. custom, policy, practice of punitive, malicious, intentional, and/or gratuitous stripping of their clothing in full view of officers and trustees, male and female alike.

43. That Defendants used the viewing of Plaintiffs' naked bodies for their own advantage.

44. Defendants disclosed Plaintiffs' naked bodies to both male and female officers and jail trustees alike in a manner that was highly offensive to a reasonable person.

45. The exhibition of Plaintiffs' naked bodies is of no legitimate concern to the public, officers and jail trustees of the opposite sex.

46. The exposure of the Plaintiffs' naked bodies placed Plaintiffs in a false light.

47. Plaintiffs sustained damages from the aforesaid injuries as more fully described herein.

COUNT IV

ASSAULT AND BATTERY

(CHARLES BROWN, JOHN DOE, JANE DOE ONLY)

48. Plaintiffs reincorporate each and every paragraph above as though fully stated herein.

49. Defendants herein intended to cause the harmful or offensive contact described more fully herein.

50. Plaintiffs experienced imminent apprehension.

51. Defendants herein did in fact engage in and/or direct un-permitted offensive and/or harmful bodily contact with Plaintiffs as more fully described herein.

52. Plaintiffs sustained damages from the aforesaid injuries as more fully described herein.

COUNT V

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

(DEFENDANTS CHARLES BROWN, JOHN DOE, AND JANE DOE)

53. Plaintiffs reincorporate each and every paragraph above as though fully stated herein.

54. The wrongful stripping of Plaintiffs as more fully described herein is a clear example of extreme and outrageous conduct that exceeds all bounds of decency.

55. The Defendants' wrongful conduct as described more fully herein was intentional and/or reckless.

56. The Defendants knew or should have known the aforesaid conduct by Defendants would cause Plaintiffs to suffer emotional distress then and in the future.

57. The aforesaid conduct by Defendants resulted in severe emotional distress, embarrassment, and/or anguish in the past and will continue well into the future.

58. Plaintiffs sustained damages from the aforesaid injuries as more fully described herein.

COUNT VI

VIOLATION OF THE ELLIOTT LARSON CIVIL RIGHTS ACT

MCLA 37.2302(A); MSA 3.548(302) (A)

59. Plaintiffs reincorporate each and every paragraph above as though fully stated herein.

60. This is an action to enforce the civil rights of the Plaintiff's herein which arises out of their relationship as detainees of the Saginaw County Jail.

61. MCLA 37.2302(a); MSA 3.548(302) (a) is a Michigan Civil Rights victim protection statute that provides that: a person shall not deny the individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation or public service because of religion, race, color, national origin, age, sex or marital status.

62. Under the circumstances of this case, Defendants herein violated the aforesaid victim protection law by engaging in a

discriminating custom, policy, and/or practice of stripping the Plaintiffs of their clothing and exposing their naked bodies to male and female deputies and jail trustees alike in the manner more fully described herein, in a place of public accommodation and/or public service.

63. Plaintiffs herein are members of a protected class.

64. Defendants herein were predisposed to discriminate against persons in the class, and Defendants acted upon that predisposition when the discrimination occurred.

65. The Saginaw County Jail is a place of public accommodation and/or public service.

66. Plaintiffs herein were treated differently than male detainees for same or similar conduct.

67. As a result of Defendants' aforementioned conduct, Plaintiffs suffered damages as more fully described herein.

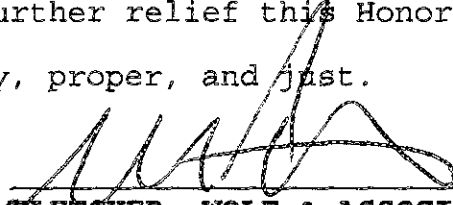
WHEREFORE, Plaintiffs pray for certification of this action as a class action and judgment against Defendants herein, jointly and severally as follows:

- A. For compensatory damages in an amount proved at trial.
- B. For punitive damages against Defendants in an amount proved at trial.
- C. For all actual costs and attorney fees allowable under USC §1983 and 1988 and other appropriate

laws together with any other relief the Court
deems necessary and proper.

D. For whatever further relief this Honorable Court
deems necessary, proper, and just.

DATED: 9/3/02

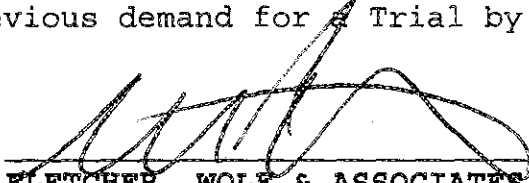

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DEMAND FOR TRIAL BY JURY

NOW COME Plaintiffs, by and through their Attorneys,

FLETCHER, WOLF & ASSOCIATES, BY: CHRISTOPHER J. PIANO, P-59160
and hereby relies on their previous demand for a Trial by Jury in
this within cause of action.

DATED: 9/2/02


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EASTERN DISTRICT OF MICHIGAN

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