

SCANNED

UNITED STATES DISTRICT COURT
District of Maine

U.S. DISTRICT COURT
PORTLAND, MAINE
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2003 JAN 30 PM 3:33
Docket No. 02-251-PC

BY MO
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LAURIE TARDIF,

Plaintiff

v.

KNOX COUNTY, DANIEL DAVEY,

JANE DOE and JOHN DOE,

Defendants

**DEFENDANTS' FIRST AMENDED ANSWER TO PLAINTIFF'S
FIRST AMENDED COMPLAINT**

NOW COME Defendants, by and through undersigned counsel, and consistent with and pursuant to the provisions of F.R.Civ.P. 15(a), hereby amend their answer to Plaintiff's First Amended Complaint as follows:

AFFIRMATIVE DEFENSES

1. One or more counts of Plaintiff's Amended Complaint fail to state a cause of action upon which relief may be granted.
2. This Court does not have personal jurisdiction over fictitious Defendants Jane Doe and John Doe.
3. Plaintiff's Amended Complaint is barred due to insufficiency of service of process as to fictitious Defendants Doe.
4. Any individual defendants are entitled to qualified immunity.
5. The claims of one or more members of the proposed class are barred by the applicable statute of limitations.

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ANSWER

INTRODUCTION

1. Defendant admits that Plaintiff brings a civil rights action against defendants identified therein, but denies that any unconstitutional searches of Plaintiff occurred and denies that Plaintiff sustained any damages as a result of any searches.

2. Defendant admits that the named Plaintiff seeks to represent a class of plaintiffs, but denies that any members of the potential class sought to be certified by Plaintiff were improperly searched.

3. Defendants deny the allegations contained in Paragraph 3 of Plaintiff's Amended Complaint.

4. Defendants admit that Plaintiff seeks to obtain a declaratory judgment and injunction relative to searches conducted by Defendants, but further and specifically denies that any search conducted by Defendants were unconstitutional or otherwise unlawful.

JURISDICTION

5. The allegations contained in Paragraph 5 of Plaintiff's Amended Complaint do not require a response.

PARTIES

6. Upon information and belief, Defendants admit the allegations contained in Paragraph 6 of Plaintiff's Amended Complaint.

7. Defendants admit the allegations contained in Paragraph 7 of Plaintiff's Amended Complaint.

8. Defendants admit that Daniel Davey is currently and has been the duly-elected Sheriff of Knox County, but are without sufficient knowledge or information so as to form a belief as to whether he was said Sheriff at "all times relevant to this Amended Complaint", as the Amended Complaint does not identify those times. Defendants have insufficient knowledge or information so as to form a belief as to whether each and every action of Defendant Davey, as alleged in the Amended Complaint, was taken under color of law and therefore deny that allegation.

9. Defendants have insufficient knowledge or information so as to form a belief as to the truth of the allegations contained in Paragraph 9 of Plaintiff's Amended Complaint and therefore deny same.

10. Defendants have insufficient knowledge or information so as to form a belief as to the truth of the allegations contained in Paragraph 10 of Plaintiff's Amended Complaint and therefore deny same.

11. Defendants have insufficient knowledge or information so as to form a belief as to the truth of the allegations contained in Paragraph 11 of Plaintiff's Amended Complaint and therefore deny same.

FACTS

12. Defendants have insufficient knowledge or information so as to form a belief as to the truth of the specific allegations contained in Paragraph 12 of Plaintiff's Amended Complaint and therefore deny same. Upon information and belief, Defendants believe these allegations to be generally correct.

13. Defendants have insufficient knowledge or information so as to form a belief as to the truth of the specific allegations contained in Paragraph 13 of Plaintiff's Amended Complaint and

therefore deny same. Upon information and belief, Defendants believe these allegations to be generally correct.

14. Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in Paragraph 14 of Plaintiff's Amended Complaint and therefore deny same.

15. Defendants admit the allegations contained in Paragraph 15 of Plaintiff's Amended Complaint.

16. Defendants admit the allegations contained in Paragraph 16 of Plaintiff's Amended Complaint.

17. Defendants have insufficient knowledge or information so as to form a belief as to the truth of the allegations contained in Paragraph 17 of Plaintiff's Amended Complaint and therefore deny same.

18. Defendants have insufficient knowledge or information so as to form a belief as to the truth of the allegations contained in Paragraph 18 of Plaintiff's Amended Complaint and therefore deny same.

19. Defendants deny the allegations contained in Paragraph 19 of Plaintiff's Amended Complaint.

20. Defendants deny the allegations contained in Paragraph 20 of Plaintiff's Amended Complaint.

21. Defendants deny the allegations contained in Paragraph 21 of Plaintiff's Amended Complaint.

22. Defendants are without sufficient knowledge or information so as to form a belief to the truth of the allegations contained in Paragraph 22 of Plaintiff's Amended Complaint and therefore deny same.

23. Defendants are without sufficient knowledge or information so as to form a belief to the truth of the allegations contained in Paragraph 23 of Plaintiff's Amended Complaint and therefore deny same.

24. Defendants are without sufficient knowledge or information so as to form a belief to the truth of the allegations contained in Paragraph 24 of Plaintiff's Amended Complaint and therefore deny same.

25. Defendants are without sufficient knowledge or information so as to form a belief to the truth of the allegations contained in Paragraph 25 of Plaintiff's Amended Complaint and therefore deny same.

26. Defendants are without sufficient knowledge or information so as to form a belief to the truth of the allegations contained in Paragraph 26 of Plaintiff's Amended Complaint and therefore deny same.

27. Defendants are without sufficient knowledge or information so as to form a belief to the truth of the allegations contained in Paragraph 27 of Plaintiff's Amended Complaint and therefore deny same.

28. Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the specific allegations contained in Paragraph 28 of Plaintiff's Amended Complaint, but upon general information and belief, do believe that the Plaintiff would have been held and/or released on bail as per the instructions of an officer of the court with authority to make bail

determinations.

29. Defendants deny the allegations contained in Paragraph 29 of Plaintiff's Amended Complaint.

30. Defendants deny the allegations contained in Paragraph 30 of Plaintiff's Amended Complaint.

31. Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in Paragraph 31 of Plaintiff's Amended Complaint and therefore deny same.

32. Defendants deny the allegations contained in Paragraph 32 of Plaintiff's Amended Complaint.

33. Defendants deny the allegations contained in Paragraph 33 of Plaintiff's Amended Complaint.

34. Defendants deny the allegations contained in Paragraph 34 of Plaintiff's Amended Complaint.

35. Defendants deny the allegations contained in Paragraph 35 of Plaintiff's Amended Complaint.

36. Defendants deny the allegations contained in Paragraph 36 of Plaintiff's Amended Complaint.

37. Defendants deny the allegations contained in Paragraph 37 of Plaintiff's Amended Complaint.

38. Defendants deny the allegations contained in Paragraph 38 of Plaintiff's Amended Complaint.

39. The allegations contained in the first sentence of Paragraph 39 of Plaintiff's Amended Complaint state a legal conclusion to which no response is required. With regard to the allegations contained in the second sentence of Paragraph 39 of Plaintiff's Amended Complaint, the documents referred to therein speak for themselves. To the extent that the allegations contained in Paragraph 39 of Plaintiff's Amended Complaint differ in any way from the content of the documents referred to therein, the Defendants deny those allegations.

40. Defendants deny the allegations contained in the first sentence of Paragraph 40 of Plaintiff's Amended Complaint. Defendants admit the allegations contained in the second sentence of Paragraph 40 of Plaintiff's Amended Complaint. Defendants admit the allegations contained in the third sentence of Paragraph 40 of Plaintiff's Amended Complaint. Defendants further and specifically aver that they played no role in the referenced motor vehicle stop. Defendants admit the allegations contained in the fourth sentence of Paragraph 40 of Plaintiff's Amended Complaint but further and specifically aver that they played no role in the license check or the outstanding warrant and also further and specifically aver that Miller had been charged with and convicted of operating under the influence of intoxicating liquor, had failed to pay her fine in a timely fashion, and had valid warrants issued for her arrest in connection with her failure to pay her fine and/or to appear in court as required. Defendants admit the allegations contained in the fifth sentence of Paragraph 40 of Plaintiff's Amended Complaint insofar as they assert that she was jailed over the Patriot's Day weekend, and the Defendants admit that Miller was subjected to certain searched procedures during her period of incarceration, but are without sufficient knowledge or information so as to form a belief as to the precise nature and number of such searches and therefore deny those allegations. Defendants are without sufficient knowledge or information so as to form a belief as to the truth of

the allegations contained in the sixth sentence of Paragraph 40 of Plaintiff's Amended Complaint and therefore deny same. Defendants admit that Knox County settled Carmen Miller's claim in early 2001, but deny that such settlement was made after a jury was selected. Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in the last sentence of Paragraph 40 of Plaintiff's Amended Complaint with respect to the chronology of events and therefore deny same. Defendants deny that Plaintiff Tardiff was unconstitutionally strip searched at any time at the Knox County Jail.

CLASS ACTION ALLEGATIONS

41. Defendants admit that Plaintiff seeks to have a class certified of the nature alleged in Paragraph 41 of Plaintiff's Amended Complaint, but further and specifically deny that this case and/or the proposed class is appropriate for certification under governing law.

42. Defendants deny the allegations contained in Paragraph 42 of Plaintiff's Amended Complaint.

43. Defendants deny the allegations contained in Paragraph 43 of Plaintiff's Amended Complaint.

44. Defendants deny the allegations contained in Paragraph 44 of Plaintiff's Amended Complaint.

45. Defendants deny the allegations contained in Paragraph 45 of Plaintiff's Amended Complaint.

46. Defendants deny the allegations contained in Paragraph 46 of Plaintiff's Amended Complaint.

47. Defendants deny the allegations contained in Paragraph 47 of Plaintiff's Amended Complaint.

48. Defendants deny the allegations contained in Paragraph 48 of Plaintiff's Amended Complaint.

49. Defendants deny the allegations contained in Paragraph 49 of Plaintiff's Amended Complaint.

COUNT I: 42 U.S.C. § 1983 DEFENDANT, KNOX COUNTY

50. Defendants repeat and reassert each and every response provided to the allegations contained in Paragraphs 1 through 49 of Plaintiff's Amended Complaint as if fully set forth herein.

51. Defendants deny the allegations contained in Paragraph 51 of Plaintiff's Amended Complaint.

52. Defendants deny the allegations contained in Paragraph 52 of Plaintiff's Amended Complaint.

53. Defendants deny the allegations contained in Paragraph 53 of Plaintiff's Amended Complaint.

54. Defendants deny the allegations contained in Paragraph 54 of Plaintiff's Amended Complaint.

55. Defendants deny the allegations contained in Paragraph 55 of Plaintiff's Amended Complaint.

WHEREFORE, Defendants pray for judgment in their favor on Count I of Plaintiff's Amended Complaint in all respects, including a denial of Plaintiff's request that the proposed class be certified.

COUNT II: 42 U.S.C. § 1983 DEFENDANT, SHERIFF DANIEL DAVEY

56. Defendants repeat and reassert each and every response provided to the allegations contained in Paragraphs 1 through 55 of Plaintiff's Amended Complaint as if fully set forth herein.

57. Defendants admit that Defendant Daniel Davey is currently the Sheriff of Knox County and has the authority to make certain decisions with respect to operation of the Knox County Jail.

58. Defendants deny the allegations contained in Paragraph 58 of Plaintiff's Amended Complaint.

59. Defendants deny the allegations contained in Paragraph 59 of Plaintiff's Amended Complaint.

60. Defendants deny the allegations contained in Paragraph 60 of Plaintiff's Amended Complaint.

61. Defendants deny the allegations contained in Paragraph 61 of Plaintiff's Amended Complaint.

62. Defendants deny the allegations contained in Paragraph 62 of Plaintiff's Amended Complaint.

63. Defendants deny the allegations contained in Paragraph 63 of Plaintiff's Amended Complaint.

64. Defendants deny the allegations contained in Paragraph 64 of Plaintiff's Amended Complaint.

65. Defendants deny the allegations contained in Paragraph 65 of Plaintiff's Amended Complaint.

66. Defendants deny the allegations contained in Paragraph 66 of Plaintiff's Amended Complaint.

WHEREFORE, Defendants pray for judgment in their favor on Count II of Plaintiff's Amended Complaint in all respects, including a denial of Plaintiff's request that the proposed class be certified.

COUNT III: PUNITIVE DAMAGES

67. Defendants repeat and reassert each and every response provided to the allegations contained in Paragraphs 1 through 66 of Plaintiff's Amended Complaint as if fully set forth herein.

68. Defendants deny the allegations contained in Paragraph 68 of Plaintiff's Amended Complaint.

69. Defendants deny the allegations contained in Paragraph 69 of Plaintiff's Amended Complaint.

WHEREFORE, Defendants pray for judgment in their favor on Count III of Plaintiff's Amended Complaint, plus their costs.

COUNT IV: 42 U.S.C. § 1983 DEFENDANT, JANE DOE

70. Defendants repeat and reassert each and every response provided to the allegations contained in Paragraphs 1 through 69 of Plaintiff's Amended Complaint as if fully set forth herein.

71. Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in Paragraph 71 of Plaintiff's Amended Complaint and therefore deny same.

72. Defendants deny the allegations contained in Paragraph 72 of Plaintiff's Amended Complaint.

73. Defendants deny the allegations contained in Paragraph 73 of Plaintiff's Amended Complaint.

74. Defendants deny the allegations contained in Paragraph 74 of Plaintiff's Amended Complaint.

75. Defendants deny the allegations contained in Paragraph 75 of Plaintiff's Amended Complaint.

WHEREFORE, Defendants pray for judgment in their favor on Count IV of Plaintiff's Amended Complaint in all respects, including a denial of Plaintiff's request that the proposed class be certified.

COUNT V: PUNITIVE DAMAGES

77. Defendants repeat and reassert each and every response provided to the allegations contained in Paragraphs 1 through 75 of Plaintiff's Amended Complaint as if fully set forth herein.

77. Defendants deny the allegations contained in Paragraph 77 of Plaintiff's Amended Complaint.

78. Defendants deny the allegations contained in Paragraph 78 of Plaintiff's Amended Complaint.

WHEREFORE, Defendants pray for judgment in their favor on Count V of Plaintiff's Amended Complaint, plus their costs.

COUNT VI: 42 U.S.C. § 1983 DEFENDANT, JOHN DOE

79. Defendants repeat and reassert each and every response provided to the allegations contained in Paragraphs 1 through 78 of Plaintiff's Amended Complaint as if fully set forth herein.

80. Defendants are without sufficient knowledge or information so as to form a belief as to

the truth of the allegations contained in Paragraph 80 of Plaintiff's Amended Complaint and therefore deny same.

81. Defendants deny the allegations contained in Paragraph 81 of Plaintiff's Amended Complaint.

82. Defendants deny the allegations contained in Paragraph 82 of Plaintiff's Amended Complaint.

83. Defendants deny the allegations contained in Paragraph 83 of Plaintiff's Amended Complaint.

84. Defendants deny the allegations contained in Paragraph 84 of Plaintiff's Amended Complaint.

WHEREFORE, Defendants pray for judgment in their favor on Count VI of Plaintiff's Amended Complaint in all respects, including a denial of Plaintiff's request that the proposed class be certified.

COUNT V(sic): PUNITIVE DAMAGES

85. Defendants repeat and reassert each and every response provided to the allegations contained in Paragraphs 1 through 84 of Plaintiff's Amended Complaint as if fully set forth herein.

86. Defendants deny the allegations contained in Paragraph 86 of Plaintiff's Amended Complaint.

87. Defendants deny the allegations contained in Paragraph 87 of Plaintiff's Amended Complaint.

WHEREFORE, Defendants pray for judgment in their favor on Count V(sic) of Plaintiff's
Amended Complaint, plus their costs.

Dated: January 29, 2003



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