



PP-MD-002-007

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

ROBERT L. WILKINS,
individually and on behalf of
all other persons similarly
situated,
1620 Fuller Street, N.W.
Apartment #505
Washington, D.C., 20009,

NORMAN SCOTT EL-AMIN,
individually and on behalf of
all other persons similarly
situated,
15271 Waterwheel Terrace
Woodbridge, Virginia 22191,

NU'MAN W. EL-AMIN,
individually and on behalf of
all other persons similarly
situated,
5761 Harwich Court
Apartment #222
Alexandria, Virginia 22311,

and

AQUILA ABDULLAH,
individually and on behalf of
all other persons similarly
situated,
5761 Harwich Court
Apartment #222
Alexandria, Virginia 22311,

Plaintiffs,

v.

MARYLAND STATE POLICE,
SERVE:
Colonel Larry W. Tolliver
Superintendent,
Maryland State Police
1201 Reisterstown Road
Pikesville, Maryland 21208,

Civil No. MJG 93 468

TFC. BRYAN W. HUGHES,
Badge #1817,
individually and in his official
capacity,
Barrack "C" Cumberland
1125 National Highway
Cumberland, Maryland, 21502,

TFC. EDWARD V. SYRACUSE,
Badge #3152,
individually and in his official
capacity,
Aviation Division
Cumberland Section
Rt. 1, Box 100
Wiley Ford, West Virginia 26767,

DEPUTY SHERIFF RONALD BROWN,
individually and in his official
capacity,
708 Furnace Street
Cumberland, Maryland 21502,

JOHN W. STOTLER,
in his official capacity as
President of the Allegany
County Commissioners,
County Office Building
701 Kelly Road
Cumberland, Maryland 21502,

BERNARD L. LOAR,
in his official capacity as an
Allegany County Commissioner,
County Office Building
701 Kelly Road
Cumberland, Maryland 21502,

ADRIENNE L. OTTAVIANI,
in her official capacity as an
Allegany County Commissioner,
County Office Building
701 Kelly Road
Cumberland, Maryland 21502

and

ALLEGANY COUNTY,
County Office Building
701 Kelly Road
Cumberland, Maryland 21502,

Defendants.

COMPLAINT

I. NATURE OF THE ACTION

1. Plaintiffs, four African-American citizens of the United States, bring this lawsuit seeking declaratory, injunctive and monetary relief to redress the injuries they suffered as a result of the defendants' racially-based detention, seizure and search of them on May 8, 1992. In the manner detailed herein, the defendants under color of state law, detained, seized and searched the car in which plaintiffs, a lawyer employed by the District of Columbia Public Defender Service and three of his relatives, were traveling, falsely imprisoned plaintiffs on the basis of their race, and intentionally treated them differently on account of their race in violation of the Fourth and Fourteenth Amendments to the United States Constitution, Maryland common law, Title VI of the Civil Rights Act of 1964 and 42 U.S.C. § 1983. Apparently, the African-American named plaintiffs were detained, seized and searched pursuant to a "drug courier profile" employed by defendants, which targets persons of African-American race. In addition to seeking individual compensatory and punitive damages, plaintiffs seek to represent all those African-Americans who have been or will be stopped on highways in Maryland pursuant to the Maryland State Police's drug courier profile in a class action for declaratory and injunctive relief requiring defendants to desist from and remedy their illegal race-based conduct.

9. Defendant Bernard L. Loar, sued here in his official capacity, is a Commissioner and member of the Allegany County Commissioners which, upon information and belief, is the governing body for Allegany County.

10. Defendant Adrienne L. Ottaviani, sued here in her official capacity, is a Commissioner and member of the Allegany County Commissioners which, upon information and belief is the governing body for Allegany County.

11. Defendant Allegany County is a municipal corporate body politic which provides a number of services to those residing within its borders, including provision of police protection, and is a person within the meaning of 42 U.S.C. § 1983.

12. Defendant Maryland State Police, headquartered in Pikesville, Maryland, is in charge of patrolling Maryland state highways. Upon information and belief, Maryland State Police receive federal funds through federal grants from the United States Department of Justice's Bureau of Justice Assistance via sub-grants from the Maryland Governor's Drug and Alcohol Abuse Commission.

13. Upon information and belief, defendant Trooper Bryan W. Hughes, sued here in both his individual and official capacity, is a white male and a resident of Maryland who is employed by the Maryland State Police. All actions taken by Trooper Hughes while working as a Maryland State Trooper were taken under color of state law.

14. Upon information and belief defendant Trooper Edward V. Syracuse, sued here in both his individual and official capacity, is a white male and a resident of either Maryland or West

Virginia who is employed by the Maryland State Police. All actions taken by Trooper Syracuse while working as a Maryland State Trooper were taken under color of state law.

15. Upon information and belief defendant Deputy Sheriff Ronald Brown, sued here in both his individual and official capacity, is a white male and a resident of Maryland who is employed by Allegany County. All actions taken by Deputy Sheriff Brown while working as an Allegany County Deputy Sheriff were taken under color of state law.

IV. FACTS GIVING RISE TO THIS ACTION

16. On May 8, 1992, while returning from the funeral of a relative in Chicago, plaintiffs were stopped in the rental car in which they were traveling and detained on U.S. Interstate 68 in Cumberland, Maryland by defendant Hughes. At the time of the stop, plaintiff Norman Scott El-Amin was driving, plaintiff Robert Wilkins was in the front passenger seat and plaintiffs Nu'Man El-Amin and Aquila Abdullah occupied the rear seats.

17. Initially, plaintiffs were told by defendant Hughes that the car had been "paced" doing sixty miles per hour in a forty miles per hour zone.

18. Defendant Hughes asked plaintiff Norman Scott El-Amin for his license and returned to his police vehicle.

19. Soon thereafter defendant Hughes asked Norman Scott El-Amin to step out of his car and to sign a release form consenting to a search of the car.

20. One of the passengers in the car was plaintiff Robert L. Wilkins, a graduate of Harvard Law School and a lawyer in the District of Columbia office of the Public Defender Service. Mr. Wilkins identified himself to defendant Hughes and explained that he had a court appearance in the District of Columbia Superior Court early that morning and that plaintiffs were returning from the funeral of a relative in Chicago. Mr. Wilkins also informed defendant Hughes that he had no right to search the car unless he was arresting Norman Scott El-Amin and searching the car incident to that arrest. Defendant Hughes replied that such searches were "routine" and stated that if plaintiffs had "nothing to hide, then what [was] the problem?"

21. Upon information and belief, defendant Hughes detained plaintiffs for a search of their car because he believed they fit a "drug courier profile" that targets persons of African-American race. Upon information and belief, a drug courier profile routinely is utilized in lieu of probable cause or reasonable, articulable suspicion by Maryland State Police engaged in patrolling state highways. Individuals fitting this profile are stopped, detained and subjected to searches of their persons and vehicles. Upon information and belief the drug courier profile includes the following characteristics: 1) young, black males wearing expensive jewelry; 2) driving expensive cars, usually sports cars; 3) carrying beepers; and 4) possessing lists of telephone numbers.

22. Defendant Hughes was joined at the scene by defendant Syracuse. Defendants Hughes and Syracuse detained plaintiffs for a period of one-half hour while a narcotics dog was brought to the scene. The detention was without probable cause or reasonable, articulable suspicion and for no reason other than plaintiffs' race.

23. During this period of racially-motivated detention, plaintiff Nu'Man El-Amin asked defendant Hughes whether he intended to write a ticket. Defendant Hughes responded that he was only going to give plaintiff Norman Scott El-Amin a warning. Nu'Man El-Amin requested that defendant Hughes write the warning so that plaintiffs could be on their way. Hughes refused, ignoring plaintiff Robert Wilkins' citation to legal authority that detention for a dog search was illegal absent reasonable, articulable suspicion that plaintiffs were carrying drugs.

24. Defendant Brown arrived with the dog and plaintiffs were ordered out of the car by defendants Hughes and Syracuse.

25. Plaintiffs initially refused to exit the car, noting that it was raining outside and that they feared the German Shepherd dog brought by defendant Brown.

26. After being told by defendants Brown and Hughes that the detention would continue until they exited the car, plaintiffs got out of the car and stood in the rain as the German Shepherd sniffed around the car without visible reaction.

27. Plaintiffs were then allowed to get back inside their car while defendant Hughes wrote out and issued a \$105.00 ticket to plaintiff Norman Scott El-Amin. In all, plaintiffs were detained

for approximately forty-five minutes, which caused them to hit the peak of rush hour traffic on I-270 and the Washington, D.C. Beltway and caused plaintiff Robert Wilkins to miss his 9:30 a.m. court appearance.

V. CLASS ACTION PREREQUISITES

28. For the purpose of all declaratory and injunctive relief, plaintiffs Robert L. Wilkins, Norman Scott El-Amin, Nu'Man W. El-Amin, and Aquila Abdullah bring this action pursuant to Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure, on behalf of themselves and all other persons similarly situated.

29. The class which plaintiffs seek to represent consists of all African-Americans who have been in the past, or who will be in the future, unconstitutionally stopped, detained and searched on Maryland highways by Maryland State Troopers pursuant to a race-based drug courier profile.

30. The number of African-Americans who have in the past or will in the future be discriminated against by the Maryland State Troopers' arbitrary and race-based policy is too numerous for practicable joinder.

31. There are questions of law and fact common to all members of the class and all class members are and/or will be directly affected by the challenged actions of the defendants. Each putative class member has been or will be subjected to arbitrary, race-based stops, detention and searches on Maryland highways. These common questions predominate over any minor potential variances in the circumstances of the individual detentions.

32. The claims of the representative plaintiffs are typical of the claims of the class as a whole. Each named plaintiff has in the past and will in the future travel on Maryland state highways. Each named plaintiff has experienced in the past and may likely again experience in the future defendants' pattern and practice of race-based detention, seizures and searches of African-Americans. The experiences of plaintiffs at the hands of Maryland State Troopers and their risk of future harm from defendants' policy render their claims typical of those faced by the class of African-Americans they seek to represent.

33. Plaintiffs will be adequate representatives of the class in that all of the relevant questions of fact and law applicable to the class also apply to each of them. They are adequately represented by counsel who have tried numerous civil rights cases in this Court and who are familiar with the applicable law.

34. The prosecution of separate actions by individual members of the class would create a risk of adjudications which would be inconsistent or varying with respect to the individual class members, establishing incompatible standards of conduct for the defendants, or which would as a practical matter be dispositive of the interests of other members of the class who are not parties to the adjudication.

35. Separate actions would create a risk of adjudications disposing of interests of unnamed parties or impairing their ability to protect their interests. Unnamed African-Americans who have

previously been stopped, detained and searched, and whose identities are as yet unknown and those who will in the future be stopped, detained and searched under defendants' arbitrary and discriminatory policy, should be protected from the unconstitutional implementation of a race-based drug courier profile.

36. This action is properly maintained as a class action inasmuch as the questions of law and fact common to the members of the class predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy. The defendants have acted on grounds generally applicable to the class by enforcing a race-based policy that improperly restricts plaintiffs' Fourth and Fourteenth Amendment rights to be secure in their persons and free from unreasonable searches and seizures. Moreover, defendants threaten to repeat these unconstitutional practices and policies in the future, toward both named plaintiffs and the class of unnamed and as yet unidentified African-Americans.

COUNT I

Violation of Civil Rights -- 42 U.S.C. § 1983
(Fourth and Fourteenth Amendments)
(All Defendants)

37. Plaintiffs hereby reallege Paragraphs 1 through 36, and incorporate them herein by reference.

38. Defendants, under color of statute, ordinance, regulation, custom and usage have subjected and caused plaintiffs and the class they represent, on account of their race as

African-American citizens of the United States, to be subjected to the deprivation of rights, privileges and immunities secured by the Constitution and laws, in the following particulars:

- (a) their right to liberty protected by the Fourteenth Amendment;
- (b) their right to be secure as persons against unreasonable seizures, secured to them by the Fourth and Fourteenth Amendments;
- (c) their right to be secure in their property against unreasonable searches and seizures, secured to them by the Fourth and Fourteenth Amendments;
- (d) their right to be free from unlawful detention and imprisonment as secured by the Fourth and Fourteenth Amendments; and
- (e) their right to equal protection of the laws as enjoyed by similarly situated Caucasian citizens of the United States secured to them by the Fourteenth Amendment.

39. At no time did defendants Hughes, Syracuse or Brown have probable cause, reasonable, articulable suspicion or any ground, to believe that a crime had been committed or that plaintiffs were carrying drugs of any kind.

40. Defendants Hughes, Syracuse and Brown, acting under color of law, in concert with one another, intentionally discriminated against plaintiffs on the basis of race and failed to afford them equal protection of the law.

41. Defendants Stotler, Loar, Ottaviani and Allegany County are aware of the Maryland State Police policy of utilizing a race-based drug courier profile and these

defendants provide manpower and other resources in support of the state police's race-based policy.

42. Defendants Maryland State Police, Stotler, Loar, Ottaviani and Allegany County acting under color of law, institute, authorize, tolerate, ratify, permit and acquiesce in policies, practices and customs of detention, searches and seizures which involve intentional discrimination in the provision of law enforcement services based on race.

43. The defendants' acts were done in knowing violation of plaintiffs' legal and constitutional rights, as to which defendants were accurately advised by plaintiff Robert Wilkins, and have directly and proximately caused plaintiffs humiliation, mental pain and suffering.

44. To the extent that defendants' policy of employing a race-based drug courier profile authorizes and causes state law enforcement officials, without probable cause or reasonable, articulable suspicion to believe any crime has been committed, to detain and search African-Americans, it violates the Fourth and Fourteenth Amendments to the United States Constitution, on its face and as applied, and gives rise to plaintiffs' claims for redress under 42 U.S.C. Section 1983.

COUNT II

(Disparate Racial Impact In Violation of Title VI)
(Defendant Maryland State Police)

45. Plaintiffs hereby reallege Paragraphs 1 through 44 and incorporate them herein by reference.

46. Title VI of the Civil Rights Act of 1964, 42 U.S.C.

§ 2000d, provides:

[N]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

47. Federal regulations provide that no Department of Justice program receiving federal financial assistance shall:

[U]tilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the program as respect [to] individuals of a particular race, color, or national origin.

28 C.F.R. § 42.104 (b)(2).

48. Defendant Maryland State Police receives federal financial assistance through federal grants from the United States Department of Justice's Bureau of Justice Assistance via sub-grants from the Maryland Governor's Drug and Alcohol Abuse Commission.

49. The race-based drug courier profile has a discriminatory and disproportionate impact on African-Americans. Federal financial assistance, earmarked for drug abuse enforcement by defendant Maryland State Police, is being misused in the unlawful detention, search and seizure of African-Americans based on this race-based policy.

50. Defendant Maryland State Police's violation of 42 U.S.C. § 2000d has caused and will cause African-American members of the plaintiff class to suffer tremendous harm and public humiliation in that they have been and will continue to be subjected to this race-based policy.

COUNT III

False Imprisonment
(Defendants Hughes, Syracuse, Brown, Stotler, Loar, Ottaviani
and Allegany County)

51. Plaintiffs hereby reallege Paragraphs 1 through 50 and incorporate them herein by reference.

52. This Count is brought by the named plaintiffs only.

53. At this time, this Count is brought against defendants Hughes and Syracuse in their individual capacities only, against defendant Brown in both his individual and official capacities, against defendants Stotler, Loar and Ottaviani in their official capacities and against defendant Allegany County.

54. On November 3, 1992, plaintiffs provided notice of their claims to the State of Maryland pursuant to the Maryland Tort Claims Act which prohibits the institution of a state tort action against the state or state officials acting in their official capacities until either the State Treasurer denies the claim or a period of 180 days elapses. As of May 2, 1993, plaintiffs plan to amend this Complaint to include defendant Maryland State Police in this Count.

55. By their acts, defendants Hughes, Syracuse, and Brown willfully, knowingly, and with malice, restricted plaintiffs' freedom of movement, despite plaintiff Robert Wilkins' accurate statements to defendants that they had no probable cause or reasonable, articulable suspicion to detain plaintiffs for a drug search by a drug-sniffing dog, thereby falsely imprisoning plaintiffs.

56. By providing the drug-sniffing dog as well as manpower resources in support of the detention, seizure and search of plaintiffs, defendants Stotler, Loar, Ottaviani and Allegany County willfully, knowingly, and with malice restricted plaintiffs' freedom of movement, despite the complete lack of probable cause or reasonable, articulable suspicion to detain plaintiffs for a search by a drug-sniffing dog, thereby falsely imprisoning plaintiffs.

57. The defendants' acts were done with malice and deliberate indifference for plaintiffs' legal rights and have directly and proximately caused plaintiffs loss of liberty, humiliation and mental pain and suffering.

V. PRAYER FOR RELIEF

WHEREFORE, plaintiffs request that this Court;

- (a) Certify, for the purpose of declaratory and injunctive relief, a class of all African-Americans who have been in the past, or who will be in the future, stopped, detained and searched on Maryland highways by Maryland State Troopers pursuant to a race-based drug courier

- profile, with named plaintiffs Robert L. Wilkins,
Norman Scott El-Amin, Nu'Man W. El-Amin and Aquila
Abdullah as representatives for the plaintiff class;
- (b) Declare, pursuant to 28 U.S.C. Sections 2201 and 2202,
that defendant Maryland State Police's policy of
stopping African-Americans pursuant to a race-based
drug courier profile is unconstitutional, on its face
and as applied, because it denies the guarantee of the
right to be free from unreasonable searches and
seizures of the Fourth and Fourteenth Amendments to
the United States Constitution, 42 U.S.C. § 1983 and
the guarantee of equal protection of the laws in the
Fourteenth Amendment to the United States Constitution.
- (c) Enjoin defendants immediately to discontinue utilizing
a race-based drug courier profile and to desist from
ever employing such discriminatory means in the future;
- (d) Award the named plaintiffs compensatory and
consequential damages in an amount to be determined at
trial, against defendants Stotler, Loar, Ottaviani and
Allegany County and defendants Hughes, Syracuse and
Brown, jointly and severally, against defendants
Hughes and Syracuse in their individual capacities
only and against defendant Brown in both his
individual and official capacities;

- (e) Award plaintiffs punitive damages in an amount to be
determined at trial against defendants Stotler, Loar,
Ottaviani and Allegany County and defendants Hughes,
Syracuse and Brown, jointly and severally, against
defendants Hughes and Syracuse in their individual
capacities only and against defendant Brown in both
his individual and official capacities;
- (f) Award plaintiffs their attorneys' fees and costs
incurred in bringing this action, as provided in
42 U.S.C. Section 1988;
- (g) Grant such other and further relief as the Court may
deem just and proper.

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VI. JURY DEMAND

Plaintiffs hereby demand a trial by jury.

Respectfully submitted,

HOGAN & HARTSON

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