

STATE OF INDIANA)	IN THE MARION COUNTY SUPERIOR COURT
) SS:	CIVIL DIVISION, ROOM NO:
COUNTY OF MARION)	CAUSE NO:

JERMAINE VAUGHN)
)
 Plaintiffs,)

vs.)

CITY OF INDIANAPOLIS,)
 INDIANAPOLIS METROPOLITAN)
 POLICE DEPARTMENT, CHIEF)
 RANDAL TAYLOR, in his capacity as)
 Chief of Police, INDIANAPOLIS)
 CITY-COUNTY COUNCIL, MAYOR)
 JOSEPH HOGSETT, in his capacity as)
 Mayor, SERGEANT ERIC HUXLEY,)
 Individually and in his capacity as a Police)
 Officer, SERGEANT CHRISTOPHER)
 KIBBEY, Individually and in his capacity)
 as a Police Officer, OFFICER MATTHEW)
 SHORES, Individually and in his capacity)
 as a Police Officer, and other unknown)
 police officers)
)
 Defendants,)

COMPLAINT AND REQUEST FOR TRIAL BY JURY

Plaintiff, JERMAINE VAUGHN, by Counsel, and for a cause of action against the above identified Defendants, and alleges and states:

JURISDICTION, VENUE, AND CAUSE OF ACTION STATEMENT

1. The Court has jurisdiction over this cause of action pursuant to Ind. Code 34-13-3.
2. Venue is proper in this judicial district pursuant to Ind. Trial Rule 75(A)(4) and (5).
3. This cause of action is brought for personal injuries suffered at the hands of government officials.

4. This cause of action seeks damages against private individuals for their tortious conduct against Plaintiff Jermaine Vaughn.

PARTIES

5. Plaintiff, JERMAINE VAUGHN (hereinafter “Vaughn”), at all times relevant herein, is an adult citizen of the State of Indiana, with residence in Indianapolis, Marion County, Indiana.

6. Defendant, CITY OF INDIANAPOLIS, is a governmental entity whose officers, agents and/or employees at all times relevant herein, acted under color and title of Indiana State law.

7. Defendant, INDIANAPOLIS METROPOLITAN POLICE DEPARTMENT (hereinafter the “IMPD”), is a governmental entity whose officers, agents, or employees at all times relevant herein, acted under color and title of Indiana State law.

8. Defendant, INDIANAPOLIS METROPOLITAN POLICE CHIEF RANDAL TAYLOR (hereinafter “Chief Taylor”), at all times relevant herein, is and has been responsible for the supervision of officers of the IMPD and for promulgation and implementation of police policies, procedures, and practices of the City of Indianapolis.

9. Defendant, INDIANAPOLIS CITY-COUNTY COUNCIL is a governmental entity whose officers, agents and employees at all times relevant herein, acted under color and title of Indiana State law.

10. Defendant MAYOR JOSEPH HOGSETT (hereinafter “Mayor Hogsett”) is the Mayor of the City of Indianapolis, a governmental elected official, and at all times relevant herein, acted under color and title of Indiana State law.

11. Defendant, SEARGEANT ERIC HUXLEY (hereinafter “Sgt. Huxley”), was at all times relevant herein, is a natural person and a duly appointed police officer of the Indianapolis

Metropolitan Police Department and under the supervision and direction of Defendant, City of Indianapolis.

12. Defendant, SERGEANT CHRISTOPHER KIBBEY (hereinafter “Sgt. Kibbey”), was at all times relevant herein, a natural person and a duly appointed police officer of the Indianapolis Metropolitan Police Department and under the supervision and direction of Defendant, City of Indianapolis.

13. Defendant, PATROL OFFICER MATTHEW SHORES (hereinafter “Officer Shores”), was at all times relevant herein a natural citizen and a duly appointed police officer of the Indianapolis Metropolitan Police Department and under the supervision and direction of Defendant, City of Indianapolis.

14. Plaintiff Vaughn brings this cause of action against all the above public employees in their official and/or individual capacities.

FACTS

15. On or about September 24, 2021, Plaintiff Vaughn was hanging out in downtown Indianapolis near the Monument Circle.

16. On or about the same date, Plaintiff Vaughn was approached and arrested based on allegations of disorderly conduct by police officers with the Indianapolis Metropolitan Police Department acting under color and title of Indiana State law and in their official capacity as police officers, including Defendants Sgt. Huxley, Sgt. Kibbey, Officer Shores, and other unknown police officers.

17. Defendants Sgt. Huxley, Sgt. Kibbey, Officer Shores, and other unknown police officers were acting either individually or as a unit when approaching and arresting Plaintiff Vaughn.

18. Defendants Sgt. Huxley, Sgt. Kibbey, Officer Shores, and other unknown police officers, either acting individually or as a unit, ordered Plaintiff Vaughn to “lean back” so that they could handcuff Plaintiff Vaughn.

19. After Plaintiff Vaughn was in handcuffs, Defendants Sgt. Huxley, Sgt. Kibbey, Officer Shores and other unknown police officers, either acting individually or as a unit, pushed Plaintiff Vaughn up the concrete steps of Monument Circle.

20. Defendants Sgt. Huxley, Sgt. Kibbey, Officer Shores and other unknown police officers, either acting individually or as a unit, forcibly pushed Plaintiff Vaughn down on the concrete at a plateau of the steps.

21. Defendants Sgt. Huxley, Sgt. Kibbey, Officer Shores and other unknown police officers, either acting individually or as a unit, forcibly pinned Plaintiff Vaughn down on the concrete so that he was unable to move, escape, and/or defend himself.

22. Defendant Sgt. Huxley proceeded to viciously attack Plaintiff Vaughn while he was pinned down on the concrete and kicked Plaintiff in the head, face, and mouth.

23. Defendant Sgt. Huxley used excessive and unlawful force when he viciously attacked and kicked Plaintiff Vaughn.

24. After the attack, Defendants Sgt. Huxley, Sgt. Kibbey, Officer Shores and other unknown police officers, either acting individually or as a unit, and acting under the color and title of Indiana State law arrested Plaintiff Vaughn and took him into custody.

25. At all times relevant herein, Defendants Sgt. Huxley, Sgt. Kibbey, Officer Shores and other unknown police officers were acting in their capacity as police officers and under the color and title of Indiana State law.

26. Defendants Sgt. Huxley, Sgt. Kibbey, Officer Shores and other unknown police officers' were recorded on police body camera footage as Plaintiff Vaughn was pushed to the ground and kicked in his head, particularly the body camera footage of Officer Shores.

27. Plaintiff Vaughn was arrested and charged by IMPD Officers with disorderly conduct and resisting law enforcement under Cause No. 49D36-2109-CM-029701.

28. On or about October 8, 2021, the charges against Plaintiff Vaughn under Cause No. 49D36-2109-CM-029701, were dismissed.

29. As a result of the above outlined attack and arrest, Plaintiff Vaughn sustained extensive physical injuries, mental anguish, medical expenses, damage to his reputation, future medical expenses, and other damages.

COUNT I: INTENTIONAL BATTERY

30. Plaintiff Vaughn repeats, alleges, and incorporates, as though set forth fully herein all paragraphs, facts and allegations set forth in this Complaint.

31. At all times relevant herein, the conduct of the Defendants was subject to Ind. Code Section 34-51-2-10.

32. Defendants Sgt. Huxley, Sgt. Kibbey, Officer Shores, and other unknown police officers, either acting individually or as a unit, knowingly touched Plaintiff Vaughn's person in a rude, insolent, and angry manner outside the bounds of proper law enforcement.

33. Defendants Sgt. Huxley, Sgt. Kibbey, Officer Shores, and other unknown police officers, used unlawful and excessive force against Plaintiff Vaughn with the intent to cause harm to Plaintiff Vaughn's person.

34. Due to the unlawful conduct of all the Defendants, Plaintiff Vaughn sustained extensive physical injuries, mental anguish, medical expenses, loss of reputation, future medical expenses, and other damages.

WHEREFORE, Plaintiff Vaughn respectfully requests that the Court enter and Order of Judgement in favor of Plaintiff Vaughn against all Defendants named herein jointly and severally, for actual, general, special and compensatory damages. Plaintiff Vaughn further demands judgment against each Defendant, jointly and severally, for monetary damages, in an amount to commensurate with damages, punitive damages, costs of this action, prejudgment interest, post judgement interest, injunctions, reasonable attorney fees and all other just and proper relief in the premises.

COUNT II: UNLAWFUL ARREST

35. Plaintiff Vaughn repeats, alleges, and incorporates, as though set forth fully herein all paragraphs, facts and allegations set forth in this Complaint.

36. At all times relevant herein, the conduct of the Defendants was subject to Ind. Code Section 35-33-1-1.

37. Defendants Sgt. Huxley, Sgt. Kibbey, Officer Shores, and other unknown police officers, either acting individually or as a unit, did not have probable cause to arrest Plaintiff Vaughn thereby violating Plaintiff Vaughn's rights and Ind. Code Section 34-33-1-1.

38. Due to the unlawful conduct of all the Defendants, Plaintiff Vaughn sustained extensive physical injuries, mental anguish, medical expenses, loss of reputation, future medical expenses, and other damages.

WHEREFORE, Plaintiff Vaughn respectfully requests that the Court enter and Order of Judgement in favor of Plaintiff Vaughn against all Defendants named herein jointly and severally,

for actual, general, special and compensatory damages. Plaintiff Vaughn further demands judgment against each Defendant, jointly and severally, for monetary damages, in an amount to commensurate with damages, punitive damages, costs of this action, prejudgment interest, post judgement interest, injunctions, reasonable attorney fees and all other just and proper relief in the premises.

COUNT III: UNLAWFUL AND EXCESSIVE FORCE

39. Plaintiff Vaughn repeats, alleges, and incorporates, as though set forth fully herein all paragraphs, facts and allegations set forth in this Complaint.

40. At all times relevant herein, the conduct of the Defendants was subject to Ind. Code Section 35-41-3-3 and the Indiana Constitution.

41. Defendants Sgt. Huxley, Sgt. Kibbey, Officer Shores, and other unknown police officers, either acting individually or as a unit, used excessive force against Plaintiff Vaughn by pinning Plaintiff Vaughn to the concrete and Sgt. Huxley viciously kicked Plaintiff Vaughn in the face, head, and mouth.

42. Due to the unlawful conduct of all the Defendants, Plaintiff Vaughn sustained extensive physical injuries, mental anguish, medical expenses, loss of reputation, future medical expenses, and other damages.

WHEREFORE, Plaintiff Vaughn respectfully requests that the Court enter an Order of Judgment in favor of Plaintiff Vaughn against all Defendants named herein jointly and severally, for actual, general, special and compensatory damages. Plaintiff Vaughn further demands judgment against each Defendant, jointly and severally, for monetary damages, in an amount to commensurate with damages, punitive damages, costs of this action, prejudgment interest, post

judgement interest, injunctions, reasonable attorney fees and all other just and proper relief in the premises.

COUNT IV: OFFICIAL MISCONDUCT

43. Plaintiff Vaughn repeats, alleges, and incorporates, as though set forth fully herein all paragraphs, facts and allegations set forth in this Complaint.

44. At all times relevant herein, the conduct of the Defendants was subject to Ind. Code Section 35-44.1-1-1.

45. Defendants Sgt. Huxley, Sgt. Kibbey, Officer Shores, and other unknown police officers, either acting individually or as a unit, under the color and title of Indiana State law, knowingly or intentionally, violated Plaintiff Vaughn's rights by unlawfully arresting Plaintiff Vaughn and by committing an intentional and unlawful assault and battery upon Plaintiff Vaughn.

46. Due to the unlawful conduct of all the Defendants, Plaintiff Vaughn sustained extensive physical injuries, mental anguish, medical expenses, loss of reputation, future medical expenses, and other damages.

WHEREFORE, Plaintiff Vaughn respectfully requests that the Court enter an Order of Judgement in favor of Plaintiff Vaughn against all Defendants named herein jointly and severally, for actual, general, special and compensatory damages. Plaintiff Vaughn further demands judgment against each Defendant, jointly and severally, for monetary damages, in an amount to commensurate with damages, punitive damages, costs of this action, prejudgment interest, post judgment interest, injunctions, reasonable attorney fees and all other just and proper relief in the premises.

COUNT V: NEGLIGENCE

47. Plaintiff Vaughn repeats, alleges, and incorporates, as though set forth fully herein all paragraphs, facts and allegations set forth in this Complaint.

48. Defendants City of Indianapolis, Mayor Hogsett, Chief Taylor, IMPD, and the Indianapolis City-County Council failed to train and supervise and/or negligently trained and supervised all Defendant police officers named in this cause of action.

49. Due to the unlawful conduct of all the Defendants, Plaintiff Vaughn sustained extensive physical injuries, mental anguish, medical expenses, loss of reputation, future medical expenses, and other damages.

WHEREFORE, Plaintiff Vaughn respectfully requests that the Court enter an Order of Judgement in favor of Plaintiff Vaughn against all Defendants named herein jointly and severally, for actual, general, special and compensatory damages. Plaintiff Vaughn further demands judgment against each Defendant, jointly and severally, for monetary damages, in an amount to commensurate with damages, punitive damages, costs of this action, prejudgment interest, post judgment interest, injunctions, reasonable attorney fees and all other just and proper relief in the premises.

COUNT VI: FAILURE TO PROTECT

50. Plaintiff Vaughn repeats, alleges, and incorporates, as though set forth fully herein all paragraphs, facts and allegations set forth in this Complaint.

51. At all relevant times herein, Defendants City of Indianapolis, Mayor Hogsett, Chief Taylor, IMPD, and the Indianapolis City-County Council, acting under the color and title of Indiana State law and pursuant to official policy and custom, knowingly, recklessly, and/or with gross negligence failed to instruct, supervise, control and/or discipline on a continuing basis any and all

police officers as to their duties to Protect the Public from Unlawful Police Assault and/or Injury, by ensuring that Public Servants act to intervene and terminate the unlawful and illegal actions of fellow police officers committed upon citizens during an arrest or illegal assault upon a citizen. Defendants in this matter intentionally failed to comply with the law and/or with fundamental concepts of human compassion by unlawfully failing to comply with the law regarding protecting the health and safety of each citizen of the State of Indiana.

52. Defendants City of Indianapolis, Mayor Hogsett, Chief Taylor, IMPD, and the Indianapolis City-County Council had knowledge, or had they deliberately exercised their duties to instruct, supervise, control and discipline IMPD Police Officers on a continuing basis as to their “Duty to Protect the Public” and to intervene to terminate the unlawful actions of other police officers who may commit an assault and/or battery upon a citizen, should have had knowledge that the unlawful actions alleged herein were about to be committed and that the above named Defendants who had the power to prevent or aid in preventing the commission of said unlawful actions could have done so by the exercise of reasonable diligence as a product of appropriate training and discipline , but failed to do so in this matter thereby acting recklessly and/or with gross negligence.

53. Defendants City of Indianapolis, Mayor Hogsett, Chief Taylor, IMPD, and the Indianapolis City-County Council, directly or indirectly, under color and title of Indiana State law, approved and/or ratified the unlawful, deliberate, malicious, reckless, and wanton conduct of Defendants Sgt. Huxley, Sgt. Kibbey, Officer Shores, and other unknown police officers.

54. Due to the unlawful conduct of all the Defendants, Plaintiff Vaughn sustained extensive physical injuries, mental anguish, medical expenses, loss of reputation, future medical expenses, and other damages.

WHEREFORE, Plaintiff Vaughn respectfully requests that the Court enter an Order of Judgment in favor of Plaintiff Vaughn against all Defendants named herein jointly and severally, for actual, general, special and compensatory damages. Plaintiff Vaughn further demands judgment against each Defendant, jointly and severally, for monetary damages, in an amount to commensurate with damages, punitive damages, costs of this action, prejudgment interest, post judgment interest, injunctions, reasonable attorney fees and all other just and proper relief in the premises.

COUNT VII: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

55. Plaintiff Vaughn repeats, alleges, and incorporates, as though set forth fully herein all paragraphs, facts and allegations set forth in this Complaint.

56. All of the Defendants deliberately and intentionally inflicted emotional distress on Plaintiff Vaughn by failing to protect him from the unlawful and vicious arrest and attack by Defendants Sgt. Huxley, Sgt. Kibbey, Officer Shores and other unknown police officers, either acting individually or as a unit.

57. The actions and conduct of the Defendants' were extreme and outrageous, beyond all reasonable bounds of decency and utterly intolerable in a civilized society.

58. The unreasonable, extreme, outrageous and unlawful actions of the Defendants were the cause of Plaintiff Vaughn's distress.

59. The emotional distress sustained by Plaintiff Vaughn was severe and of a nature that no reasonable person could be expected to endure.

60. Plaintiff Vaughn is a reasonable person.

61. Due to the unlawful conduct of all the Defendants, Plaintiff Vaughn sustained extensive physical injuries, mental anguish, medical expenses, loss of reputation, future medical expenses, and other damages.

WHEREFORE, Plaintiff Vaughn respectfully requests that the Court enter an Order of Judgment in favor of Plaintiff Vaughn against all Defendants named herein jointly and severally, for actual, general, special and compensatory damages. Plaintiff Vaughn further demands judgment against each Defendant, jointly and severally, for monetary damages, in an amount commensurate with damages, punitive damages, costs of this action, prejudgment interest, post judgment interest, injunctions, reasonable attorney fees and all other just and proper relief in the premises.

COUNT VIII: NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

62. Plaintiff Vaughn repeats, alleges, and incorporates, as though set forth fully herein all paragraphs, facts and allegations set forth in this Complaint.

63. All of the Defendants negligently caused emotional distress to Plaintiff Vaughn, by either individually or as a unit, viciously attacking Plaintiff Vaughn and/or failing to protect him from the unlawful arrest and the use of unlawful and excessive force against him.

64. The combined actions of each Defendant were the cause of Plaintiff Vaughn's emotional and mental distress.

65. The emotional distress sustained by Plaintiff Vaughn was predictable and would be reasonably expected under the circumstances based on the actions of all the Defendants.

66. Due to the unlawful conduct of all the Defendants, Plaintiff Vaughn sustained extensive physical injuries, mental anguish, medical expenses, loss of reputation, future medical expenses, and other damages.

WHEREFORE, Plaintiff Vaughn respectfully requests that the Court enter and Order of Judgement in favor of Plaintiff Vaughn against all Defendants named herein jointly and severally, for actual, general, special and compensatory damages. Plaintiff Vaughn further demands judgment against each Defendant, jointly and severally, for monetary damages, in an amount to commensurate with damages, punitive damages, costs of this action, prejudgment interest, post judgement interest, injunctions, reasonable attorney fees and all other just and proper relief in the premises.

REQUEST FOR TRIAL BY JURY

Plaintiff Vaughn respectfully requests a trial by jury.

Respectfully submitted,

/s/ Robert B. Turner
Robert B. Turner #2288-49
Attorney for Plaintiff

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