

UNITED STATES DISTRICT COURT

for the

Denver District of Colorado

Civil Division

Case No.

1:24-cv-02187-RTG
(to be filled in by the Clerk's Office)

Andre M. Clark (PS)

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Wolford et al

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

OCT 16 2024

JEFFREY P. COLWELL
CLERK

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

1st Amended Complaint

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Andrea M. Clark

All other names by which
you have been known:

Enki Supreme

ID Number

642124

Current Institution

Denver Sheriff Department

Address

P.O. Box 1108

Denver

City

Colo.

State

80201

Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Jacob J. Wolford

Job or Title (*if known*)

Denver Police Officer

Shield Number

Unknown

Employer

City and County of Denver

Address

1331 Cherokee St

Denver

City

Colo.

State

80202

Zip Code



Individual capacity



Official capacity

Defendant No. 2

Name

Doyle Duman

Job or Title (*if known*)

Denver Police Officer

Shield Number

Unknown

Employer

City and County of Denver

Address

1331 Cherokee St

Denver

City

Colo.

State

80202

Zip Code



Individual capacity



Official capacity

Defendant No. 3

Name

Job or Title (if known)

Shield Number

Employer

Address

City and County of Denver
Employee's Police Officers

Mike Johnston

201 W. Colfax Ave, Dept- 1109

Denver

Colo

80202

City

State

Zip Code

☐

Individual capacity

☒

Official capacity

Defendant No. 4

Name

Job or Title (if known)

Shield Number

Employer

Address

City

State

Zip Code

☐

Individual capacity

☐

Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐

Federal officials (a *Bivens* claim)

☒

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Paragraph 6

See Attached Affidavit for Prisoner Complaint

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

See Attached affidavit for Prisoner Complaint

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☒ Pretrial detainee
☐ Civilly committed detainee
☐ Immigration detainee
☐ Convicted and sentenced state prisoner
☐ Convicted and sentenced federal prisoner
☐ Other (explain) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.
In the City and County of Denver Colorado, Near Parker and I-17th, On Dec. 31, 2022 --
See Attached Affidavit of Prisoner Complaint
- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

C. What date and approximate time did the events giving rise to your claim(s) occur?

On December 31st of 2022 around 4 P.M

See Affidavit

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

See Attached Affidavit of Prisoner Complaint

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

I sustained a large laceration in the middle of my face and above the right eye. My 2 front bottom teeth were broke in half. I was recently diagnosed with P.T.S.D. and short term memory loss due to the events leading to this claim. Plaintiff continues to have headaches and migraines which makes it hard for him to function properly. He now suffers Blurred Vision, a constant low ringing in his right ear and suffers from recurring nightmares of the Events of this Case of action

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

See attached affidavit of Prisoner Complaint under Prayer for Relief

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☐ Yes

☒ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☐ Yes

☐ No

☐ Do not know

N/A

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes

☐ No

☐ Do not know

N/A

If yes, which claim(s)?

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☐ Yes

☐ No

N/A

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☐ No

N/A

- E. If you did file a grievance:

1. Where did you file the grievance?

N/A

2. What did you claim in your grievance?

N/A

3. What was the result, if any?

N/A

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. *(Describe all efforts to appeal to the highest level of the grievance process.)*

N/A

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

N/A

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

I notified both internal affairs and the office of Independent Monitor. They Investigated. I notified The Denver Police Dept and The District Attorney declined to file Criminally.

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

N/A

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The “three strikes rule” bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has “on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this “three strikes rule”?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

N/A

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s)

Defendant(s)

N/A

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition.

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

N/A

C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

N/A

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

☐ Yes

☒ No

N/A

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

N/A

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: Oct. 4th 2024

Signature of Plaintiff

Printed Name of Plaintiff

Prison Identification #

Prison Address

Mr. Andre M. Clark
Andre M. Clark
#642124
P.O. Box 1108
Denver Colo 80201
City State Zip Code

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City State Zip Code

Telephone Number

E-mail Address

In The United States District
Court for The District
of Colorado

(1:24-cv-02187-RTG / Clark (ps) v. Wolford et al)

Pursuant to 42 U.S.C § 1983 and C.R.S. § 13-21-131
and C.R.S. § 24-10-108

Comes now Andre Matthew of the Clark family,
Sui Juris and In Propria Persona, herein known as the
Plaintiff to present the elements for this Cause of Action
by way of Plaintiff's affidavit to his 1st Amended Complaint.

(Affidavit of Amended Complaint)

- 1) Plaintiff Andre M. Clark, proper, for his complaint
States as follows:
- 2) Plaintiff Andre M. Clark is, and was at all times
mentioned herein, an adult citizen of the United
States and a resident of the State of Colorado.
- 3) Defendant Jacob J. Wolford was at all times relevant
times herein an Officer of the Denver Police Department.
- 4) Defendant Doyle Dorman was at all times relevant times
herein an Officer of the Denver Police Department.

- 5) Defendant "City and County of Denver" was at all relevant times herein a Municipality and employer of its agents Officer Wolfard and Officer Dunnam.
- 6) This action arises under and is brought pursuant to 42 U.S.C. §1983, and 13-21-131 and 24-10-108 of the C.R.S. to remedy the deprivation, under color of State law of rights guaranteed by The Fourth, Fifth, Eighth and Fourteenth amendments to the United States Constitution along with rights guaranteed under article II Sections Three, Six, Seven, Twenty four, Twenty Five of The Colorado Constitution.
- 7) This court has Jurisdiction over This action pursuant to 28 U.S.C. Sections 1331, 1343 and 1367.
- 8) This cause of action arose in the City and County of Denver, District of Colorado. Therefore, venue is proper under 28 U.S.C. Section 1391(b).
- 9) Plaintiff has filed no other lawsuits dealing with the same facts involved in this action or otherwise relating to the redress for violation of his protected State and Federal Constitutional Rights
(Statement of Claim)
- 10) At all relevant times herein, defendants were "persons" for purposes of 42 U.S.C. Section 1983 and acted under color of State law to deprive plaintiff of his Constitutional Rights as set forth more fully below.

("Supporting Facts")

- 11) Plaintiff alleges that on December 31st of 2022 in the city and county of Denver in the District of Colorado near the cross streets of Parker and Illiff and around the time of 4. P.M. Both officers Jacob Wolford and Doyle Dunnam of The Denver Police Department who were on duty violated several of plaintiff Andre Matthew Clark's United States Constitutional Rights along with several of his Colorado Constitutional Rights, due to conduct they displayed in their individual capacities while acting in concert under the Color of State Law.
- 12) Plaintiff claims that both defendants Wolford and Dunnam used excessive and unreasonable force against plaintiff's person by violently seizing him in their attempt to effectuate an unlawful arrest without a warrant, sufficient probable cause, or reasonable suspicion to do so.
- 13) Plaintiff claims that on this day (Dec. 31st of 2022) at the time this transaction took place between him and the defendants, that he was a sleeping occupant in a friend's vehicle with a rightful and reasonable expectation of space and place of privacy and security, in which was being used to move him and his family's belongings from one residence to another.
- 14) Plaintiff claims that while he was asleep and resting from moving all morning that without fair notice or adequate warning he was suddenly awakened to threats of deadly force upon his person and had guns pointed directly in his face by both of the defendants placing him in an instant state of fear and duress.

- 15) Plaintiff claims that when he awoke he was immediately in fear for his life believing his life was in imminent danger due to the threats being directed at his person and due to the violent conduct of both defendants Wolford and Dunnan which subsequently led to the plaintiff ~~violently~~ being violently assaulted, permanently disfigured and emotionally traumatized.
- 16) Plaintiff claims that defendant Wolford threatened him multiple times by saying "Your gonna get shot" and "if you keep on moving Ima shoot your fucking ass". The plaintiff claims that the only type of commands or orders he heard from his assailants were threats of physical harm upon his person.
- 17) Plaintiff claims that during this transaction he was unaware of any alleged violations of the law that may have warranted any kind of intrusion of his rights by law enforcement and that at the time this intrusion was taking place, the plaintiff was not in the act of committing a crime nor was he preparing to commit a crime being that he was asleep, when he was attacked.
- 18) Plaintiff further alleges that during this transaction while in fear of being shot and killed, not sure of who his assailants were, in an attempt to receive some type of notice or information as to why this intrusion was taking place, the plaintiff asks loud and clear "what are yall doing" only to receive no reply. Not once during this transaction did either defendants Wolford or Dunnan attempt to state their intentions or authority affording the plaintiff with articulable knowledge, proof or belief that they were officers of the law and that they weren't there to either rob him or kill him.

- 19) Plaintiff further alleges that after failing to receive any notice of intent or statement of authority, that defendant officer wolford provoked and with blatant disregard to the safety and rights of the plaintiff jumps into the vehicle and violently hits the plaintiff in his face about 3 or 4 times with his service pistol while the other defendant officer Duran continued to point his firearm at plaintiff's face and head leaving the plaintiff in fear of imminent loss of his life.
- 20) The previous statements are a short and concise description of the transaction and conduct of the defendants in support of the plaintiff's claims against the defendants causing this action by way of 42 U.S.C. 1983 and C.R.S. 13-21-131 for violations of the plaintiff's U.S. Constitutional Rights and his Colo. Constitutional Rights. Plaintiff further acknowledges his initial complaint for a more detailed explanation of the events causing this civil action.
- 21) Plaintiff claims that the actions of both officer wolford and Duran and/or their failing to act in specific manners were committed within the scope of their employment yet in contradiction of department regulations and policies.
- 22) As where pertains defendant "City and County of Denver." There exists policy where is concerned the use of both excessive force as well as deadly force by police officers which establishes constitutional limitations upon police encounters with citizens. The constitutional duty of the individual officer is clear, and it is equally clear that failure to train or inform or supervise city personnel of that duty will create an extremely high risk that constitutional violations will ensue. Furthermore the Denver police department has a shoot first ask questions later custom that has been the cause of many situations leading to excessive use of force and ending in constitutional deprivations in our recent history.

- 23) Accordingly. After this transaction took place where plaintiff was willfully and wantonly assaulted by an officer who works for the city and county of Denver, an internal investigation was conducted and the department failed to reprimand both defendants officer Wolford and Officer Dunnam for their blatant disregard for and violation of police policy and procedure and for their violation of plaintiffs rights showing extreme and deliberate indifference on their parts.
- 24) Note! Plaintiff acknowledges "The Denver Police Operations Manual" as proof of policy, acknowledges "Body worn camera's" of both officer Wolford and Dunnam as proof of violations of policy and plaintiffs rights and acknowledges a letter by the D.P.D in response to plaintiffs letter of intent failing to hold its employees accountable for their conduct proving deliberate indifference which will be placed ~~in~~ before an impartial jury to determine the merits of my claim of Vicarious Liability and or Respondent Superior, which is plaintiffs 1st U.S Const. Right
- 25) The acts of both defendants Wolford and Dunnam which plaintiff believes to be extreme negligence were in the course of their employment and were in furtherance of and represent official policy therefore making the City and county of Denver liable.

(Claims)

- 26) Therefore... Plaintiff asserts the following claims for relief by way of Monetary damages pursuant to 42 U.S.C. 1983 and 13-21-131 of the C.R.S.
- a) Claim for false arrest. Plaintiff alleges that defendants Wolford and Dunnam while acting ^(and upon) under color of state law violated plaintiffs constitutional right (U.S. 4th) to be secure in his person and wrongfully deprived him of his liberty. plaintiff seeks money damages.

- b) Claim for unreasonable seizure. Plaintiff alleges that defendants Wolford and Dunnam while acting under color of State law violated plaintiff's Constitutional rights (U.S. 4th and 14th) to be free from unreasonable seizure and wrongfully deprived him of his liberty. Plaintiff seeks money damages.
- c) Claim for Excessive Use of Force. Plaintiff alleges that defendants Wolford and Dunnam while acting under color of State law violated plaintiff's Constitutional rights (U.S. 4th and 14th) to be secure in his person and wrongfully deprived him of his liberty. Plaintiff seeks money damages.
- d) Claim for willful and wanton conduct and battery. Plaintiff alleges that defendant Wolford while acting under color of State law ^{violated} (and 14th) plaintiff's Constitutional rights (Colo. art II sec 25) and (U.S. 8th and 14th) to be free from cruel and unusual punishment, to be secure in his person, and to Due Process of Law and wrongfully deprived him of his liberty. Plaintiff seeks money damages.
- e) Claim for Deliberate indifference to detainees needs and safety. Plaintiff alleges defendant Wolford while acting under Color of State law violated plaintiff's Constitutional rights of Due Process (U.S. 5th and 14th) and (Colo. art II sec. 25) for excessive use of force and excessive punishment and wrongfully deprived him of his liberty. Plaintiff seeks Money damages.
- f) Claim for Police Brutality. Plaintiff alleges that defendant Wolford while acting under Color of State law violated plaintiff's Constitutional rights (U.S. 4th and 14th) to be secure in his person and free from unreasonable seizure by striking plaintiff in the face with his pistol and wrongfully deprived him of his liberty. Plaintiff seeks money damages.

- g) Claim for deprivation of Life and Liberty, as well as a denial of Due Process and Equal Protection claim. Plaintiff alleges that both defendants Wolford and Dunnam while acting under Color of State Law violated plaintiff's Constitutional rights (U.S. 14th) and (Colo. art. II Sec 25) for their deliberate acts taken against plaintiff's person when they unlawfully seized and failed to give notice of their intent and wrongfully deprived him of his liberty. Plaintiff seeks money damages.
- h) Claim for substantive Due Process violation, and a disproportionately excessive use of force that shocks the conscience claim. Plaintiff alleges that both defendants Wolford and Dunnam while acting under Color of State Law violated plaintiff's constitutional rights (U.S. 14th and 4th) and (Colo. art. II Sec 25) by waking plaintiff up in an illegal/violent manner without fair notice and without a warrant to do so, and by striking plaintiff in the face with a service pistol, by threatening his life and failing to intervene or protect and wrongfully depriving him of his liberty. Plaintiff seeks money damages.
- i) Vicarious Liability Claim. Plaintiff alleges a Vicarious Liability claim against defendant "City and County of Denver" a municipality and Respondent/Employer of Defendants Wolford and Dunnam for the acts of its agents negligence and willful and wanton battery upon plaintiff's person which were committed under Color of State Law, within the scope of their employment and for failing to properly train both officers Wolford and Dunnam regarding key issues such as the imminence of harm and the common-sense need to provide suspects with reasonable commands, warnings, and opportunities to surrender and/or comply. For wrongfully depriving him of his liberty. Plaintiff seeks money damages.
- 27) Plaintiff adopts any claims properly asserted in his original complaint dealing with defendants Wolford, Dunnam, City and County of Denver.
- 28) Plaintiff withdraws any claim against Ron Thomas the Police Chief and removes him as a defendant in his Prisoner Complaint.

(Plaintiff's response to Younger Abstention)

- 29) Firstly, Plaintiff believes the younger abstention doctrine to be asserted only when a plaintiff is seeking an injunction or declaration where is concerned the continued prosecution of that plaintiff in an ongoing criminal proceeding or where is concerned the judgment of a criminal proceeding. Plaintiff asserts that the type of injunctive or declaratory relief he requested in his original complaint would not interfere or disrupt any ongoing criminal proceeding this plaintiff is engaged in.
- 30) Based off of this belief plaintiff believes he can prevent any bar based off of the Younger Abstention Doctrine by:
- a) withdrawing his requested relief in the forms of an injunction or declaration, and by:
 - b) Stating that the transaction that caused this cause of action which was predicated on the alleged belief that there existed probable cause to arrest the plaintiff without a warrant, for suspected auto theft. This charge was dismissed at preliminary hearing, meaning the facts in which plaintiff bases his cause of action upon are no longer in dispute in the plaintiff's remaining Criminal proceedings.
- 31) Plaintiff further believes Younger Abstention doesn't apply to his cause of action for his claims are based off of alleged violations to the plaintiff's federally protected constitutional rights and that the State Forum provides inadequate protection of those rights. In support of this understanding plaintiff would like to point to a few specific cases having precedent where is concerned.
- a) In general, Exhaustion of State remedies "is not a pre-requisite to an action under 42 U.S.C. 1983.
See *Patsy v Board of Regents of Fla.* 457 U.S. 496

b) "We have repeatedly noted that 42 U.S.C. 1983 Creates a Species of tort liability":

See Memphis Comm School Dist v. Stachura, 477 U.S. 299

c) "Over the centuries the common law of torts has developed a Set of rules to implement the principle that a person should be compensated fairly for injuries caused by the violation of his legal rights. These rules, defining the elements of damages and the pre-requisites for their recovery, provide the appropriate starting point for the inquiry under § 1983 as well."

See Carey v. Piphus, 435 U.S. 247

32) As to this Plaintiffs Criminal Proceedings which are pending. Plaintiff is being prosecuted on allegations that come about that are derivative and subsequent to the charge that got dismissed though arising from the same events. These charges should have been dismissed when the Original allegation that led to plaintiffs rights being violated got dismissed at preliminary hearing as they are Fruits of the Poisonous Tree and were tainted due to the Unlawful Seizure on plaintiffs person.

33) Though plaintiff is still being prosecuted for these alleged charges which are derivative of an unlawful seizure based on a faulty assumption that never made it past plaintiffs Preliminary Hearing, plaintiff maintains his innocence and is scheduled for Trial within the next 2 months.

34) Not only does plaintiff believe he will be equited or proven innocent at trial, plaintiff also believes that his prosecution was in fact commenced in bad faith in order to cover up the actions of defendants Wolford and Dunnam and that it given a chance he could prove these allegations.

35) Plaintiff further claims that the charges pending against him are frivolous and undertaken with no reasonably objective hope of success. That certain elements needed to prove Plaintiff's guilt could never be proven at trial.

a) Plaintiff is charged with 1st degree assault for an injury he ^(Wolford) sustained when pistol whipping Plaintiff in the face. The element of intent can't be proven because in order to do so a threat by plaintiff would have to be proven and this plaintiff never threatened but was himself threatened.

b) Plaintiff is charged with resisting arrest but can't be proven cause plaintiff was never told he was under arrest or given any type of lawful order that would state the intentions of his assailants or their authority.

36) The pending charges in plaintiff's criminal proceedings based off of the events of Dec 31st 2022 were only filed in order to cover up the violent and illegal acts of Officer Wolford and should have no bearing on this plaintiff's rights to seek redress for the deprivation of his rights. Plaintiff is no longer seeking an injunction or Declaratory relief and his claims are due to the transaction based off of a charge that was already dismissed. Plaintiff can prove these allegations orally and after discovery proceedings.

37) Furthermore in defense of Plaintiff's claim against younger abstention, Plaintiff would like to make reference to a few recent decisions and analysis concerning Younger abstention...

1:24-cv-02187-RTC / Clark v. Welford et al

a) In *Yang v. Tsui*, 416 F.3d 199 (3d Cir 2005) discussing *Younger*. "Younger abstention is only ~~only~~ appropriate in 3 types of underlying State cases: (1) Criminal prosecutions, (2) Civil enforcement proceedings, and (3) Civil proceedings, involving "orders" in furtherance of the State courts judicial function

b) In *Marks v. Stinson*, 19 F.3d 873 (3d Cir 1994) "A Federal court will only consider Younger Abstention when the requested "relief" would constitute federal interference in state judicial or quasi-judicial proceedings.

38) Therefore Plaintiff would like to reassert his withdrawal of any previous ~~relief~~ relief seeking injunction or declaratory relief, re-affirm that this cause of action is based off of events where is concerned a Criminal Charge plaintiff is no longer facing which was ruled in his favor and lastly to state that Plaintiff Clark's civil rights claims seeks money damages, relief that is unavailable in any state court proceedings, where is concerned his federally protected civil rights.

(Prayer for Relief)

Plaintiff request Money Damages whether compensatory, punitive and exemplary. Plaintiff is unsure as to if he should put an amount but if so it can be determined by his initial money Damage relief requested. Plaintiff request a jury trial on the merits. Plaintiff request any other relief this court deems appropriate and necessary -

I declare under penalty of perjury that the foregoing is true and correct

Anelre M. Clark, Signed This 4th day of October 2024

x Anelre M. Clark (Anelre)

(EQUALITY BEFORE THE LAW)

Andre M. Clark
#642124
Denver Sheriff's Dept.
P.O. Box 1108
Denver Colo 80201

Andre M. Clark #642124
Denver Sheriff Department
P.O. Box 1108
Denver, CO 80201

Legal Mail

Legal Mail

Official Busi

1:24-cv-02187-RIC/Clark v. Wolford et al.
Office of the Clerk
United States District Court

Alfred A. Arroyo Courthouse
901-19th St., Room A105
Denver Colo 80204-3589
OFFICIAL BUSINESS

Denver, Co. 80204-3589



X *Mr. Andrew Clark*
10-14-2024