

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

)
ANDRE VERDIER)
9121 Susan Lane)
Clinton, Maryland 20735)
)
Plaintiff,)
)
v.)
)
CORPORAL STEPHEN DOWNEY)
Prince George’s County)
Police Department)
County Administration Building)
14741 Governor Oden Bowie Drive)
Upper Marlboro, Maryland 20772)
)
Defendant.)
)

Case No.: _____

**COMPLAINT AND JURY DEMAND
(Battery, Intentional Infliction of Emotional Distress,
Gross Negligence, and Violation of Civil Rights)**

Plaintiff Andre Verdier (“Mr. Verdier”) states as follows for his Complaint against Defendant Corporal Stephen Downey (“Corporal Downey”). This action arises out of the senseless beating of Mr. Verdier, an African American man, by Corporal Downey, a Caucasian police officer, as Mr. Verdier sat handcuffed and seat belted in a police cruiser. At all relevant times, Corporal Downey was acting under color of law and within the scope of his employment/agency with the Prince George’s County Police Department. Corporal Downey was criminally charged, convicted, and imprisoned for his brutal attack on Mr. Verdier.

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction over this action pursuant to 28 U.S. Code § 1331, in that claims under 42 U.S.C. § 1983 and the U.S. Constitution involve a "federal question." In addition, this Court has subject matter jurisdiction over Mr. Verdier's § 1983 claim pursuant to 28 U.S.C. § 1343. This Court has supplemental jurisdiction over Mr. Verdier's state law claims pursuant to 28 U.S.C. § 1367.

2. Venue is proper pursuant to 28 U.S.C. § 1391, in that all the principal events giving rise to this action took place in Prince George's County, Maryland, which is included in the United States District Court of Maryland's Southern Division.

THE PARTIES

3. Plaintiff Andre Verdier is an adult resident of the State of Maryland, currently residing at 9121 Susan Lane, Clinton, Maryland 20735. At all relevant times, Mr. Verdier was slight of build, 5'2" tall, and weighing approximately 140 pounds.

4. Defendant Corporal Downey is an adult resident of the State of Maryland. Defendant Corporal Downey was at all relevant times a Prince George's County Police Department Corporal and was at all relevant times acting within the scope of his employment and/or agency with Prince George's County, Maryland, and under color of law. Defendant Corporal Downey is sued in his individual capacity.

FACTUAL BACKGROUND

5. On or about the early morning of October 29, 2018, Mr. Verdier entered a storage container outside the CVS Pharmacy located at 3714 Branch Avenue, Temple Hills, Maryland 20748, in Prince George's County, Maryland (hereafter referred to as "the CVS"). At the time, Mr. Verdier was homeless, hungry and simply searching for a place to sleep.

6. When Mr. Verdier entered the storage container at approximately 2:04 a.m., he triggered a silent alarm which alerted the Prince George's County Police Department of someone's presence inside the container.

7. Three Prince George's County police officers – Carl Harper (“Officer Harper”), Nicholas Milner (“Officer Milner”), and Corporal Downey – went to the CVS in response to the alarm. Officer Milner and Corporal Downey arrived prior to Officer Harper. Officer Milner and Corporal Downey searched the CVS, and then Officer Harper searched the storage container behind the store.

8. Officer Harper entered the storage container and found Mr. Verdier asleep. Officer Harper woke Mr. Verdier from his slumber and peacefully led him from the storage container. The interaction was so cordial that Officer Harper apologized to Mr. Verdier for having given harsh verbal commands, and he told Mr. Verdier: “Hey, my bad. I’m not trying to be mean. You startled me.” In response, Mr. Verdier apologized, saying: “Oh, I’m okay. I’m sorry. I was looking for a place to sleep.”

9. At Officer Harper's verbal direction, Mr. Verdier placed his hands on his head. Officer Harper searched Mr. Verdier for weapons and found none. Officer Harper then placed Mr. Verdier under arrest for fourth degree burglary, and handcuffed Mr. Verdier's hands behind his back. At all times Mr. Verdier was compliant, respectful, and cooperative.

10. Following Mr. Verdier's cuffing, Officer Harper placed Mr. Verdier in the front right passenger seat of Officer Harper's police cruiser. Mr. Verdier's hands remained cuffed behind his back and he was restrained by the police cruiser's seat belt across his body, which Officer Harper had put in place because Mr. Verdier's hands remained cuffed behind his back.

11. Mr. Verdier was respectful and fully cooperative towards Officer Harper throughout the entirety of his arrest, and at no time did Mr. Verdier resist his arrest in any manner, nor did he raise his voice or make any threatening gestures.

12. While in the front passenger seat of the police cruiser, due to the tightness of his handcuffs, Mr. Verdier began making slight body adjustments to make himself comfortable. Because of Mr. Verdier's compliance, Officer Harper told Mr. Verdier that he would adjust his cuffs after Officer Harper completed a phone call.

13. Mr. Verdier continued to try to make himself comfortable in the front passenger seat of the police cruiser. His movements apparently attracted the attention of Corporal Downey, who approached the vehicle from the driver's side while Officer Harper was on the phone. Corporal Downey then opened the driver's door of the vehicle.

14. After opening the driver's door, and with no reason or justification, Corporal Downey leaned in and squeezed Mr. Verdier's left shoulder at a pressure point, and shoved Mr. Verdier's head down, torquing his neck up. Corporal Downey inflicted such severe pain on Mr. Verdier that he cried out.

15. After inflicting this pain on Mr. Verdier, Corporal Downey walked around the front of the vehicle to the passenger side – where Mr. Verdier was restrained – and opened Mr. Verdier's door. Corporal Downey demanded that Mr. Verdier “stop fucking moving.” When Mr. Verdier asked Corporal Downey why he had “to talk to [him] like that,” Corporal Downey replied: “you're going to jail either way. Shut the fuck up.”

16. After berating Mr. Verdier, Corporal Downey asked Officer Harper whether he had a camera in his police cruiser, clearly signaling to Mr. Verdier his premeditated intent to do

something that Corporal Downey did not want caught on any recording. Officer Harper responded that his vehicle did not have a camera.

17. Corporal Downey then donned black gloves over both his hands, reached into the vehicle, grabbed Mr. Verdier by his coat, told him to “shut the fuck up, you little piece of shit,” and began violently striking Mr. Verdier in the face and head.

18. Corporal Downey delivered approximately five or six closed fist punches to Mr. Verdier’s face and head, while Mr. Verdier’s hands were still cuffed behind his back, and his body remained restrained and trapped by the police cruiser’s seat belt.

19. Corporal Downey beat Mr. Verdier so brutally that his strikes resulted in lacerations to Mr. Verdier’s face and caused Mr. Verdier to bleed profusely onto his clothes and the interior of the police cruiser.

20. Mr. Verdier’s injuries were so severe that Officer Harper called for an ambulance to take Mr. Verdier to Southern Maryland Hospital for medical treatment.

21. The sole charge brought against Mr. Verdier arising out of this incident, fourth-degree burglary, was dismissed approximately one month later. Mr. Verdier was never charged with resisting arrest or assaulting a police officer.

22. Mr. Verdier has no history of violent crimes.

23. Mr. Verdier stands at just five feet, two inches tall (5’2”) and at the time of the incident weighed only approximately 140 pounds.

24. At no point prior or during the incident did Corporal Downey have any reason to believe that he, or anyone else, was in danger of any kind from Mr. Verdier.

25. Corporal Downey’s intentional and vicious beating of a calm, cooperative, restrained, defenseless man was excessive, reckless, contrary to the United States Constitution,

the Maryland Declaration of Rights, and any other applicable statutes. Corporal Downey's actions were so outrageous in character, and so extreme in degree, that they shock the conscience and cannot be tolerated by a decent society. Corporal Downey was charged with two felonies arising out of his beating of Mr. Verdier, namely, second degree assault and misconduct in office. He was tried, convicted on both counts, and was incarcerated.

26. As a direct and proximate result of Corporal Downey's use of excessive force, Mr. Verdier suffered severe injuries to his face and head, as well as pain, suffering, and emotional distress. At no time did Mr. Verdier act negligently or assume the risk of Corporal Downey's unlawful behavior, and at no time did Mr. Verdier do anything to provoke a brutal beating or violence of any kind.

COUNT I
Battery

27. Paragraphs 1-26 are incorporated by reference as though fully set forth herein.

28. Corporal Downey delivered approximately five or six closed fist strikes to Mr. Verdier's head and face, while Mr. Verdier's hands were cuffed behind his back and his body was restrained by the police cruiser's seat belt.

29. Mr. Verdier did not consent to Corporal Downey's punches in any way at any time.

30. Corporal Downey used unreasonable and excessive force against Mr. Verdier for the intentional, sadistic, and malicious purpose of causing physical harm to him. As a direct result of this intentional, harmful, and offensive conduct, Mr. Verdier suffered and will continue to suffer from severe pain, fear, mental anguish, distress, and has incurred and will in the future incur medical and other expenses.

31. Corporal Downey acted with actual malice in intending to injure Mr. Verdier, thereby entitling Mr. Verdier to punitive damages.

WHEREFORE, Plaintiff demands judgment against Defendant Corporal Downey, as follows:

- (1) For compensatory damages in the amount of not less than \$25,000,000.00, which amount shall be proven at trial;
- (2) For punitive damages in the amount of not less than \$25,000,000.00;
- (3) For costs and expenses associated with this suit; and
- (4) For such other and further relief as this Court deems appropriate.

COUNT II
Intentional Infliction of Emotional Distress

32. Paragraphs 1-31 are incorporated by reference as though fully set forth herein.
32. Corporal Downey's brutal beating of Mr. Verdier was intentional or reckless.
33. Corporal Downey's brutal beating of Mr. Verdier was extreme and outrageous.
34. As a direct result Corporal Downey's outrageous conduct, Mr. Verdier suffered and will continue to suffer from severe pain, fear, mental anguish and distress, and has incurred and will in the future incur medical and other expenses.
35. There is a causal connection between Corporal Downey's wrongful conduct and Mr. Verdier's emotional distress.
36. Mr. Verdier's emotional distress is severe.
37. Corporal Downey acted with actual malice in intending to injure Mr. Verdier, thereby entitling Mr. Verdier to punitive damages.

38. WHEREFORE, Plaintiff demands judgment against Defendant Corporal Downey, as follows:

- (1) For compensatory damages in the amount of not less than \$25,000,000.00, which amount shall be proven at trial;
- (2) For punitive damages in the amount of not less than \$25,000,000.00;
- (3) For costs and expenses associated with this suit; and
- (4) For such other and further relief as this Court deems appropriate.

COUNT III
Gross Negligence

39. Paragraphs 1-38 are incorporated by reference as though fully set forth herein.

40. Corporal Downey owed a duty of care to Mr. Verdier to use reasonable measures in his treatment of Mr. Verdier. This duty of care included protecting Mr. Verdier from bodily harm through the use of only reasonable and necessary force.

41. Corporal Downey breached his duty of care when he acted with reckless indifference and/or willful disregard for Mr. Verdier's health and safety by intentionally beating Mr. Verdier's face and head with his closed fists, while Mr. Verdier's hands were cuffed behind his back, and his body was restrained inside a police cruiser.

42. As a proximate result of Corporal Downey's gross negligence towards Mr. Verdier, Mr. Verdier suffered and will continue to suffer from severe pain, fear, mental anguish and distress, and has incurred and will in the future incur medical and other expenses.

43. The proximate cause of the aforementioned damages was Corporal Downey's breach of his duty to Mr. Verdier.

44. Corporal Downey intentionally inflicted these injuries on Mr. Verdier or was so utterly indifferent to Mr. Verdier's rights that he acted as if those rights did not exist.

45. Corporal Downey acted with actual malice in intending to injure Mr. Verdier, thereby entitling Mr. Verdier to punitive damages.

WHEREFORE, Plaintiff demands judgment against Defendant Corporal Downey, as follows:

(1) For compensatory damages in the amount of not less than \$25,000,000.00, which amount shall be proven at trial;

(2) For punitive damages in the amount of not less than \$25,000,000.00;

(3) For costs and expenses associate with this suit; and

(4) For such other and further relief as this Court deems appropriate.

COUNT IV

Violation of Andre Verdier's Civil Rights Under Article 24 of the Maryland Declaration of Rights

46. Paragraphs 1-45 are incorporated by reference as though fully set forth herein.

47. At all relevant times, Defendant Corporal Downey acted under color of the laws of the State of Maryland.

48. At all relevant times, Mr. Verdier enjoyed the protections of Article 24 of the Maryland Declaration of Rights, prohibiting egregious deprivations of his freehold, liberties or privileges, including the rights to safety, bodily integrity, and personal security, without due process of law (i.e., by the judgment of his peers, or by the Law of the land).

49. Throughout the aforementioned incident, Corporal Downey was subject to the constitutional obligation to take all reasonable measures to guarantee Mr. Verdier's clearly established rights to safety, bodily integrity, and personal security.

50. Corporal Downey violated Mr. Verdier's rights to safety, bodily integrity, and personal security when he repeatedly beat him in the face and head with his closed fist, while

Mr. Verdier's hands were cuffed behind his back and he was seat belted in Officer Harper's police cruiser.

51. Corporal Downey's beating of Mr. Verdier served no countervailing governmental interest.

52. Mr. Verdier was not a threat to Corporal Downey or anyone else's safety. Mr. Verdier's hands were cuffed behind his back and he was seat-belted and restrained in the front seat of a police cruiser. No weapons were discovered on Mr. Verdier's person and Mr. Verdier made no attempts to resist or evade arrest.

53. As a proximate result of Corporal Downey's violation of his rights to safety, bodily integrity, and personal security, Mr. Verdier suffered and will continue to suffer from severe pain, fear, mental anguish and distress, and has incurred and will in the future incur medical and other expenses.

54. Corporal Downey acted with actual malice in intending to injure Mr. Verdier, thereby entitling Mr. Verdier to punitive damages.

WHEREFORE, Plaintiff demands judgment against Defendant Corporal Downey, as follows:

- (1) For compensatory damages in the amount of not less than \$25,000,000.00, which amount shall be proven at trial;
- (2) For punitive damages in the amount of not less than \$25,000,000.00;
- (3) For costs and expenses associate with this suit; and
- (4) For such other and further relief as this Court deems appropriate.

COUNT V
Violation of Andre Verdier's Civil Rights
Under Article 26 of the Maryland Declaration of Rights

55. Paragraphs 1-54 are incorporated by reference as though fully set forth herein.
56. At all relevant times, Corporal Downey acted under color of the laws of the State of Maryland.
57. At all relevant times, Mr. Verdier enjoyed the protections of Article 26 of the Maryland Declaration of Rights, prohibiting unreasonable seizures.
58. Throughout the aforementioned incident, Corporal Downey was subject to the constitutional obligation to take all reasonable measures to guarantee Mr. Verdier's clearly established right to be free from unreasonable seizures.
59. Mr. Verdier was seized when Officer Harper placed him under arrest and handcuffed Mr. Verdier's hands behind his back. Mr. Verdier continued to be seized when he was placed in Officer Harper's police cruiser, and remained seized during Corporal Downey's brutal, unprovoked beating of his head and face.
60. Mr. Verdier was not a threat to Corporal Downey or anyone else's safety. No weapons were discovered on Mr. Verdier's person and Mr. Verdier made no attempts to resist or evade arrest.
61. Corporal Downey's beating of Mr. Verdier constituted an unreasonable seizure.
62. Corporal Downey's beating of Mr. Verdier served no legitimate governmental interest.
63. As a proximate result of Corporal Downey's violent and unreasonable seizure, Mr. Verdier suffered and will continue to suffer from severe pain, fear, mental anguish and distress, and has incurred and will in the future incur medical and other expenses.

64. Corporal Downey acted with actual malice in intending to injure Mr. Verdier, thereby entitling Mr. Verdier to punitive damages.

WHEREFORE, Plaintiff demands judgment against Defendant Corporal Downey, as follows:

- (1) For compensatory damages in the amount of not less than \$25,000,000.00, which amount shall be proven at trial;
- (2) For punitive damages in the amount of not less than \$25,000,000.00;
- (3) For costs and expenses associate with this suit; and
- (4) For such other and further relief as this Court deems appropriate.

COUNT VI

Violation of Andre Verdier's Civil Rights Under the 14th Amendment to the United States Constitution

65. Paragraphs 1-64 are incorporated by reference as though fully set forth herein.
66. This Count arises under 42 U.S.C. § 1983 and the Fourteenth Amendment to the United States Constitution.
67. This Count is brought against Defendant Corporal Downey in his individual capacity.
68. At all relevant times, Corporal Downey acted under color of the laws of the State of Maryland.
69. At all relevant times, Mr. Verdier enjoyed the protections of the Due Process Clauses of the Fourteenth Amendment to the United States Constitution, prohibiting egregious deprivations of the rights to safety, bodily integrity, and personal security without due process.

70. Corporal Downey personally acted with deliberate indifference to deprive Mr. Verdier of his rights to safety, bodily integrity, and personal security when he repeatedly and maliciously beat Mr. Verdier. Corporal Downey's actions were inspired by malice rather than merely careless or unwise excess of zeal such that they amounted to an abuse of official power that shocks the conscious.

71. Corporal Downey's outrageous and unconscionable conduct was a willful and callous disregard of Mr. Verdier's constitutionally and/or federally protected rights to safety, bodily integrity, and personal security.

72. Corporal Downey's actions caused injury to Mr. Verdier.

73. Corporal Downey's actions were grossly disproportionate to the need for action under the circumstances, i.e., none.

74. Corporal Downey's actions were inspired by malice, rather than merely careless or unwise excess of zeal so that it amounted to an abuse of official power that shocks the conscience.

75. As a proximate result of Corporal Downey's violation of his rights to safety, bodily integrity, and personal security, Mr. Verdier suffered and will continue to suffer from severe pain, fear, mental anguish and distress, and has incurred and will in the future incur medical and other expenses.

76. Corporal Downey's conduct involved reckless or callous indifference to Mr. Verdier's federal protected rights to safety, bodily integrity, and personal security, or were motivated by evil motive or intent, thereby entitling Mr. Verdier to punitive damages.

77. For the foregoing deprivations of Mr. Verdier's rights to safety, bodily integrity, and personal security, Corporal Downey is liable in his individual capacity for compensatory

damages, as well as reasonable attorneys' fees and costs, as permitted under 42 U.S.C. §§ 1983 and 1988.

WHEREFORE, Plaintiff demands judgment against Defendant Corporal Downey, as follows:

- (1) For compensatory damages in the amount of not less than \$25,000,000.00, which amount shall be proven at trial;
- (2) For punitive damages in the amount of not less than \$25,000,000.00;
- (3) For costs and attorneys' fees incurred in connection with this suit, which are recoverable pursuant to 42 U.S.C. § 1988; and
- (4) For such other and further relief as this Court deems appropriate.

COUNT VII
Violation of Andre Verdier's Civil Rights
Under the 4th Amendment to the United States Constitution

78. Paragraphs 1-77 are incorporated by reference as though fully set forth herein.
79. This Count arises under 42 U.S.C. § 1983 and the Fourth Amendment to the United States Constitution and is brought against Corporal Downey in his individual capacity.
80. At all relevant times, Corporal Downey acted under color of the laws of the State of Maryland.
81. At all relevant times, Mr. Verdier enjoyed the protections of the Fourth Amendment to the United States Constitution, prohibiting unreasonable seizures.
82. Throughout the aforementioned incident, Corporal Downey was subject to the constitutional obligation to take all reasonable measures to guarantee Mr. Verdier's clearly established right to be free from unreasonable seizures.

83. Mr. Verdier was first seized when Officer Harper placed Mr. Verdier under arrest and handcuffed Mr. Verdier's hands behind Mr. Verdier's back.

84. Mr. Verdier remained seized during his beating by Corporal Downey, in which he was handcuffed and seat-belted into the front seat of a police cruiser.

85. Mr. Verdier was not a threat to Corporal Downey or anyone else's safety. No weapons were discovered on Mr. Verdier's person and Mr. Verdier made no attempts to resist or evade arrest.

86. Corporal Downey's beating of Mr. Verdier constituted an unreasonable seizure.

87. Corporal Downey's brutal beating of Mr. Verdier served no legitimate governmental interest.

88. As a proximate result of Corporal Downey's violent and unreasonable seizure, Mr. Verdier suffered and will continue to suffer from severe pain, fear, mental anguish and distress, and has incurred and will in the future incur medical and other expenses.

89. Corporal Downey's conduct involved reckless or callous indifference to Mr. Verdier's federal protected right to be free from unreasonable seizures, or were motivated by evil motive or intent, thereby entitling Mr. Verdier to punitive damages.

90. For the foregoing deprivations of Mr. Verdier's right to be free from unreasonable seizures, Corporal Downey is liable in his individual capacity for compensatory damages, as well as reasonable attorneys' fees and costs, as permitted under 42 U.S.C. §§ 1983 and 1988.

WHEREFORE, Plaintiff demands judgment against Defendant Corporal Downey, as follows:

(1) For compensatory damages in the amount of not less than \$25,000,000.00, which amount shall be proven at trial;


- (2) For punitive damages in the amount of not less than \$25,000,000.00;
- (3) For costs and attorney's fees associated with this suit, which are recoverable pursuant to 42 U.S.C. § 1988; and
- (4) For such other and further relief as this Court deems appropriate.

JURY TRIAL REQUESTED

Plaintiff respectfully requests a jury trial in this action to the maximum extent permitted by law.

Respectfully submitted,

By:



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Dated: February 3, 2020