



and members of the proposed class who travel in, through, or near Tenaha. The Defendants undertake this practice without legal justification, in violation of the citizens' rights, not for any legitimate law enforcement purpose but to enrich their offices and perhaps themselves, by seizing and converting cash and other valuable personal property they can find during the course of the illegal stop and seize practice.

2. The Defendants' actions challenged herein are in violation of at least the 4<sup>th</sup> and 14<sup>th</sup> Amendments to the United States Constitution, made actionable by 42 U.S.C §1983.

3. Plaintiffs Morrow, Watson, Busby, Dismukes, Dorman, Pearson, Boatwright and Henderson, on their own behalf and on behalf of a putative class of similarly situated persons, seek only equitable relief sufficient to remedy the practices complained of, along with all costs of suit authorized by 42 U.S.C. § 1988.

#### JURISDICTION

4. This Court has jurisdiction of these disputes pursuant to 28 U.S.C. § 1331.

#### PARTIES

5. Plaintiff James Morrow is a United States citizen and a resident of Pine Bluff, Arkansas.

6. Plaintiff Stephen Stuart Watson is a United States citizen and a resident of Washington, D.C.

7. Plaintiff Amanee Busby is a United States citizen and a resident of Maryland.

8. Plaintiff Yuselff Dismukes is a United States citizen and a resident of Wisconsin.

9. Plaintiff Linda Dorman is a United States citizen and a resident of Ohio.

10. Plaintiff Marvin Pearson is a United States citizen and a resident of Ohio.

11. Plaintiff Jennifer Boatwright is a United States citizen and a resident of Texas.

12. Plaintiff Ronald Henderson is a United States citizen and a resident of Texas.

13. The putative class that the Plaintiffs seek to represent consists of racial and ethnic minorities, and those in their company, traveling in, through or near Tenaha, Texas who are targeted by one or more of the Defendants to be stopped and detained without legal justification, questioned whether they have money or valuables without any legitimate reason for doing so, and/or searched for same without legal justification. Members of the putative class are then often coerced, without legal justification, to forfeit their cash and/or valuable property.

14. Defendant Barry Washington is at this time sued in his official capacity as a City of Tenaha Deputy Marshal, and in his individual capacity. Defendant Washington lives in Panola County, Texas. He can be served at his office at 122 N. Center St., Tenaha, Texas 75974.

15. Defendant George Bowers is at this time sued only in his official capacity as the Mayor of the City of Tenaha. He can be served at 122 N. Center St., Tenaha, Texas 75974.

16. Defendant Linda K. Russell is at this time sued in her official capacity as the District Attorney of Shelby County, Texas and in her individual capacity. She can be served at her office at 200 San Augustine Street, Center, Texas 75935.

17. Defendant Danny Green is an investigator for the District Attorney of Shelby County and is sued in his individual capacity. He can be served at his place of business, the Shelby County District Attorney's office, 200 San Augustine Street, Center, Texas 75935.

18. Defendant Randy Whatley is at this time sued in his official capacity as the Shelby County Precinct 4 Constable and in his individual capacity. He can be served at 368 FM 2669, Tenaha, Texas 75974.

#### COMMON FACTS

19. Each of the Plaintiffs, and each member of the putative class has the following circumstances in common:

- (a) they appeared to be other than a white Anglo, or were in the company of someone who appeared to be other than a white Anglo,
- (b) they were traveling in, through or near Tenaha, Texas,
- (c) they were traveling in either rental vehicles and/or with out of state license plates,
- (d) they were stopped, detained and interrogated without legal justification by one, or more, Defendants, pursuant to the Defendants' policy and practice of stopping and detaining such persons to determine whether they had cash money or any other valuable property, and then taking it for the Defendants' own use and purposes.

MORROW FACTS

20. Plaintiff Morrow is a black African American.

21. On or about August 31, 2007, Plaintiff Morrow was driving through Tenaha, Texas, when he was observed and stopped by Defendant Washington, who had no legal justification for the stop.

22. Defendant Washington ordered Plaintiff Morrow to get out of his car.

23. Defendant Washington had no legal justification for ordering Plaintiff Morrow to get out of his car.

24. Defendant Washington then searched Plaintiff Morrow's car.

25. Defendant Washington had no legal justification for searching Plaintiff Morrow's car.

26. Defendant Whatley arrived on the scene with a dog and also searched Plaintiff's car.

27. Defendant Whatley was also without legal justification for searching Plaintiff Morrow's car.

28. Defendant Washington interrogated Plaintiff Morrow.

29. Defendant Washington had no reasonable legitimate reason for interrogating Plaintiff Morrow.

30. Defendant Washington discovered no evidence suggesting any criminal activity as a result of the searches and interrogation.

31. Defendant Washington asked Plaintiff Morrow if he had any money.

32. Defendant Washington was without any reasonable legal reason for asking Plaintiff Morrow about whether he had money.

33. Plaintiff Morrow conceded he had about \$3900 in his wallet.

34. Defendants Washington and Whatley then seized, without legal justification, approximately \$3969 as well as two cell phones from Plaintiff Morrow.

35. Defendant Washington arrested Plaintiff Morrow, for what he claimed was "money laundering." Defendant Washington had no reason to believe Plaintiff Morrow was guilty of money laundering.

36. Defendants Washington and Russell told Plaintiff Morrow they would hold him prisoner and prosecute him for money laundering unless he would agree to forfeit the \$3969. Under this duress and these threats, Defendants Washington and Russell coerced Plaintiff Morrow to execute documents memorializing the forfeiture, and released him, and warned him to not hire a lawyer or try to get his money back.

37. Defendants never had reason to, or really intended to, prosecute Plaintiff Morrow. Any charges have been dismissed, “in the interest of justice.”

WATSON and BUSBY FACTS

38. Plaintiffs Stephen Stuart Watson and Amanee Busby are black African Americans.

39. On or about August 13, 2007 Defendant Washington observed Plaintiffs Watson and Busby traveling on Highway 59 in, or near, the City of Tenaha. Defendant Washington stopped Plaintiffs Watson and Busby.

40. Defendant Washington had no legal justification for stopping Plaintiffs Watson and/or Busby.

41. Defendant Washington then detained Plaintiffs Watson and Busby for a significant amount of time.

42. Defendant Washington had no legal justification for detaining Plaintiffs Watson and/or Busby.

43. Defendant Washington interrogated Plaintiffs Watson and Busby, asking them if they had money or valuable property.

44. Defendant Washington ha no legal justification or even legitimate reason for asking Plaintiffs Watson and/or Busby about their money or valuable property. Defendant Washington’s sole purpose in doing so was to improperly seize any such money or valuable property and convert it to his own use and/or that of the other Defendants.

45. In response to Defendant Washington’s interrogation, Plaintiffs Watson and Busby conceded they had over \$50,000.

46. Defendant Washington seized \$50,291.00 and valuable personal property from Plaintiffs Watson and/or Busby.

47. Defendant Washington had no legal justification for the seizure.

48. Defendant Washington threatened Plaintiffs Watson and/or Busby with charges of money laundering and lengthy sentences if they would not execute documents allowing the seizure or if they otherwise contested the seizure.

49. Defendant Washington did not charge Plaintiffs Watson and/or Busby with any criminal offense, nor did he have legal justification to do so.

#### DISMUKES FACTS

50. Plaintiff Dismukes is a black African American.

51. On or about June 11, 2008 Defendant Washington observed Plaintiff Dismukes traveling on Highway 59 in, or near, the City of Tenaha, Texas. Defendant Washington stopped Plaintiff Dismukes.

52. Defendant Washington had no legal justification for stopping Plaintiff Dismukes.

53. Defendant Washington detained Plaintiff Dismukes for a significant amount of time.

54. Defendant Washington had no legal justification for his detention of Plaintiff Dismukes.

55. Defendant Washington interrogated Plaintiff Dismukes about whether he had any cash money.

56. Defendant Washington had no legitimate reason to question Plaintiff Dismukes about his money.

57. In response to Defendant Washington's questions, Plaintiff Dismukes conceded that he had about \$13,000, which Defendant Washington seized.

58. Defendant Washington had no real reason to think that Plaintiff Dismukes had committed any crime.

59. Defendant Washington threatened to bring money laundering charges against Plaintiff Dismukes, and to prosecute him on those charges, if he did not execute documents permitting Defendant Washington's seizure and forfeiture of the money. Under this coercion, Plaintiff Dismukes signed the documents.

#### DORMAN and PEARSON FACTS

60. Linda Dorman and Marvin Pearson are black African Americans.

61. On or about April 18, 2007 Defendant Washington observed Plaintiffs Dorman and Pearson to be traveling on Highway 59 in or near Tenaha. Defendant Washington stopped Plaintiffs Dorman and Pearson.

62. Defendant Washington had no legal justification for the stop.

63. Defendant Washington detained Plaintiffs Dorman and Pearson for a significant amount of time.

64. Defendant Washington had no legal justification for detaining Plaintiffs Dorman and Pearson for a significant amount of time.

65. Defendant Green questioned Plaintiffs Dorman and Pearson about whether they had any cash.

66. Defendant Green had no legitimate reason to question Plaintiffs Dorman and Pearson about their cash.

67. Plaintiffs Dorman and Pearson conceded to Defendant Green that they had about \$4,500, which Defendant Green then seized.

68. Defendant Green had no legal justification for seizing the \$4,500 from Plaintiffs

Dorman and Pearson.

69. Defendant Green had no reason to suspect that Plaintiffs Dorman or Pearson had committed any crime.

70. Defendant Green threatened to bring money laundering charges against Plaintiffs Dorman and Pearson if they would not sign documents authorizing the seizure and forfeiture of the money. Under this coercion, they executed the documents prepared by Defendant Green.

71. Defendant Green then documented that he seized only \$4,000, not the full \$4,500 he actually took.

72. Defendant Green has not, nor does he have legitimate reason to have, brought any criminal charges against Plaintiffs Dorman or Pearson.

#### BOATWRIGHT and HENDERSON FACTS

73. Plaintiff Jennifer Boatwright is white; Plaintiff Ronald Henderson is a black African American.

74. On or about April 26, 2007 Defendant Washington observed Plaintiffs Boatwright and Henderson traveling together on Highway 59 in or near Tenaha. Defendant Washington stopped them.

75. Defendant Washington had no legal justification for stopping Plaintiffs Boatwright and/or Henderson.

76. Defendants Washington and Green detained Plaintiffs Boatwright and Henderson for a significant amount of time.

77. Defendants Washington and Green had no legal justification for detaining Plaintiffs Boatwright and Henderson for a significant amount of time.

78. Defendants Washington and Green interrogated Plaintiffs Boatwright and Henderson about whether they had any cash.

79. In response to the questions, Plaintiffs Boatwright and Henderson conceded that they had about \$6,000 in cash. Defendant Danny Green then seized approximately \$6,037 from them.

80. Defendant Green had no legal justification for seizing the money from Plaintiffs Boatwright and Henderson.

81. Defendant Green had no reason to believe that Plaintiffs Boatwright or Henderson had committed any crime.

82. Defendant Green threatened to bring money laundering charges against Plaintiffs Boatwright and Henderson, and to take their children and put them in foster care if Plaintiffs Boatwright and Henderson would not sign papers prepared by Defendant Green to authorize the seizure. Under coercion, Plaintiffs Boatwright and Henderson complied.

83. Defendants have not brought any criminal charges against Plaintiffs Boatwright and/or Henderson.

84. Defendants' actions and omissions described above were undertaken under color of state law, although their actions represent an abuse of authority.

85. Plaintiff Morrow, and others similarly situated, have suffered harm and continue to suffer harm as a result of the Defendants' actions described above.

86. Defendants' conduct described above constitutes violations of 4<sup>th</sup> and 14<sup>th</sup> Amendment rights to be free from unreasonable seizures.

RELIEF SOUGHT

87. Plaintiffs on their own behalf and others in the proposed class seek the full measure of equitable relief, including declaratory, injunctive and equitable monetary relief, and the full measure of legal monetary relief, including compensatory and punitive damages, consistent with the Court's rulings on class certification, to vindicate the rights of the Plaintiffs and prohibit the Defendants' wrongful conduct in the future.

88. Plaintiffs seek all costs of suit authorized by 42 U.S.C. § 1988.

Respectfully submitted,

/S/ DAVID J. GUILLORY

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/S/ TIMOTHY B. GARRIGAN

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

1 I hereby certify that I have served all parties of record in this case including the following with a true and correct copy of the foregoing PLAINTIFF'S SECOND AMENDED COMPLAINT by sending same electronically and/or via FAX/hand delivery/U. S. mail, postage

prepaid:

1 Corey D. McGaha / Leisa B. Pearlman / Reid Miller  
Patton Roberts  
2900 St. Michael Dr., Ste 400, P. O. Box 6128  
Texarkana TX 75505-6128

Robert S. Davis / Chad C. Rook  
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1021 ESE Loop 323, Ste 200  
Tyler TX 75701

Robert Alderman, Jr.  
Zeleskey Cornelius et al.  
P O Drawer 1728  
Lufkin TX 75902-1728

on this the 30<sup>th</sup> day of June, 2009.

/S/ TIMOTHY B. GARRIGAN

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Attorney for Plaintiffs