

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
URBANA DIVISION

COREY KILGORE)
)
Plaintiff,)
)
vs.)
)
SHON M. JOHNSON,)
)
Defendant.)

FILED

No.: 11-2145

JUN - 3 2011

CLERK OF THE COURT
U.S. DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS

COMPLAINT

NOW COMES the Plaintiff, COREY KILGORE, by his attorneys HELLER, HOLMES & ASSOCIATES, P.C., and for his Complaint says:

1. This is a civil action for damages brought pursuant to the United States Constitution and 42 U.S.C.A. § 1983 and resulting from deprivations, under color of law, of Plaintiff's rights under the fourth, fifth, sixth and eighth Amendments to the United States Constitution.

2. This Court has jurisdiction over these claims pursuant to Article III, Section 1 of the Constitution and 28 U.S.C. Sections 1331, 1332, and 1343.

3. Venue is properly established in this judicial district pursuant to 28 U.S.C. Section 1391(b). Venue is appropriate because Defendant resides in this judicial district and the instance complained of occurred in this judicial district.

PARTIES

4. COREY KILGORE, Plaintiff, is a citizen of the United States and a resident of Iroquois County, Watseka, Illinois.

5. Defendant was at all times relevant to the incidents that are subject of this lawsuit, an officer of the Iroquois County Sheriff's Department. The acts of Defendant, which are the subject of this lawsuit, were undertaken in the regular course of his employment for

the Iroquois County Sheriff's Department. Defendant is sued individually. Upon information and belief, Defendant is a resident of Watseka, Illinois.

FACTS

6. On January 5, 2011, Plaintiff was arrested and transported by a State Police Officer to the Iroquois County jail.
7. Upon arrival at the County jail, Defendant was present outside the jail.
8. Defendant opened the police car door to remove Plaintiff. Plaintiff alleged that his feet were caught underneath the front seat, but Defendant forcibly removed Defendant from the car.
9. Plaintiff claims to have been dragged up the stairs of the County jail, dragged down the hallway, and placed in the holding cell at said jail.
10. Defendant then asked Plaintiff to remove his two shirts and boots. Before being able to finish what Defendant had asked, Defendant had pushed Plaintiff and shoved Plaintiff's head into the steel bench.
11. Defendant began to choke Plaintiff, giving Plaintiff a sharp pain on his outer ear from Defendant's fingers around Plaintiff's neck.
12. Plaintiff asked to use the restroom, and when his plea went ignored, Plaintiff was forced to urinate in the drain of the holding cell floor.
13. Defendant came to the cell door again later. Plaintiff retreated, fearing Defendant's wrath again and feeling threatened. Defendant charged at Plaintiff, grabbing him from behind and choking him. Plaintiff could not breathe and lost consciousness.
14. Once Plaintiff had regained consciousness, he was then taken to perform a Breathalyzer test. Plaintiff claims that the assault on him by Defendant made it hard and painful to swallow and blow for said test.
15. When Plaintiff complained of the abuse to a different State Police Officer at said

jail, that State Police Officer claimed he did not see or know about the incident Plaintiff complained of, and therefore, did not stop the abuse.

16. After the test, Plaintiff was taken back to his cell. While in the cell, Plaintiff claims Defendant approached the door of the cell numerous times, insulting and berating Plaintiff.

17. During Plaintiff's checkout through the bail process from said jail, Defendant was verbally excessive with Plaintiff. Defendant was taunting Plaintiff with extreme verbal demands. Furthermore, Plaintiff complied with Defendant's questions, even through threats of being put back in said jail cell.

18. Defendant was acting under the color of law. At such time, the Defendant officer intentionally, and with deliberate indifference to Plaintiff's rights, violated Plaintiff's Constitutional rights, including but not limited to those under the fourth, fifth, sixth and eighth Amendments by:

- a. Using a degree of force that was unreasonable under the circumstances, and in violation of Plaintiff's rights to be free from an unreasonable search and seizure under the Fourth Amendment;
- b. Depriving Plaintiff of his liberty by subjecting him to unwarranted and unreasonable restraint on his person without due process in violation of his rights under the Fifth Amendment;
- c. Subjecting Plaintiff to punishment without the benefit of a trial by jury in violation of his rights under the Sixth and Eighth Amendments.

19. Plaintiff's injuries and deprivation of his Constitutional rights were proximately caused by the municipality's inadequate supervision of the training and conduct of Defendant Officer and their failure to promulgate proper rules and regulations.

RELIEF REQUESTED

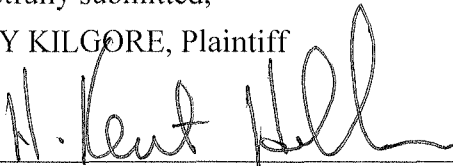
WHEREFORE, Plaintiff, COREY KILGORE, prays that this Court:

1. Award to Plaintiff compensatory damages in a sum not less than \$100,000.00;
2. That this Court award Plaintiff punitive damages in the amount of \$100,000.00;
3. That this Court award Plaintiff such reasonable attorney's fees and costs as are incurred;
4. That this Court grant such other and further relief as this Court deems just and proper.

Respectfully submitted,

COREY KILGORE, Plaintiff

By



Of Heller, Holmes & Associates, P.C.

Attorneys for Plaintiff

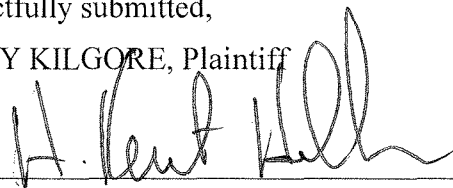
DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby demands trial by jury in this action for all issues so triable.

Respectfully submitted,

COREY KILGORE, Plaintiff

By



Of Heller, Holmes & Associates, P.C.

Attorneys for Plaintiff

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The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I (a) PLAINTIFFS

Corey Kilgore

DEFENDANTS

Shon M. Johnson

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Iroquois (EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Iroquois (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) Heller, Holmes & Associates, P.C. P.O. Box 889, Mattoon, IL 61938 (217) 235-2700

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
Incorporated or Principal Place of Business in This State
Incorporated and Principal Place of Business in Another State
Foreign Nation

IV. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

42 USC 1983 claim for unreasonable force and cruel and unusual punishment.

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

Table with 6 columns: CONTRACT, REAL PROPERTY, PERSONAL INJURY, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation
7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ 1,000,000.00

JURY DEMAND: FILED

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE DOCKET NUMBER JUN - 3 2011

DATE 5/27/11

SIGNATURE OF ATTORNEY OF RECORD

Handwritten signature of H. Kent Hill

CLERK OF THE COURT U.S. DISTRICT COURT CENTRAL DISTRICT OF ILLINOIS