

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS**

ROBERT FULLERTON,)	
)	
)	
Plaintiff,)	
)	
v.)	
)	
DEE BURGIN, individually, JEFF D.)	
WOOD, Sheriff of Edgar County and)	
COUNTY OF EDGAR,)	
)	
Defendants.)	

COMPLAINT

Plaintiff, ROBERT FULLERTON, by and through his attorney, brings this action against Defendants, DEE BURGIN, individually, JEFF D. WOOD, in his official capacity as Sheriff of Edgar County and the COUNTY OF EDGAR seeking to recover damages for violation of his Constitutional Rights and for Intentional Infliction of Emotional Distress, Battery and Negligence in the Alternative.

JURISDICTION AND VENUE

1. This action is brought pursuant to 42 U.S.C. § 1983 and Illinois law to redress tortious conduct and deprivation of Plaintiff's rights secured by the U.S. Constitution.
2. This Court has jurisdiction of Plaintiff's federal claims pursuant to 28 U.S.C. § 1331 and supplemental jurisdiction of his state-law claims pursuant to 28 U.S.C. § 1367.
3. Venue is proper under 28 U.S.C. § 1391(b) because the events and omissions giving rise to Plaintiff's claims occurred within this judicial district.

PARTIES

4. Plaintiff Robert Fullerton is a citizen of Illinois.
5. Defendant Dee Burgin is a Deputy Sheriff of Edgar County. At all times relevant hereto, Defendant Burgin was acting under color of law and within the scope of his employment as an Edgar County Sheriff Deputy.
6. Defendant Jeff D. Wood is sued in his official capacity as Sheriff of Edgar County.
7. Defendant County of Edgar, Illinois is sued as a necessary party in interest to a civil rights lawsuit seeking monetary damages alleged against a deputy of an independently elected county sheriff. *Carver v. Sheriff of LaSalle County*, 324 F.3d 946 (7th Cir. 2003).

FACTS

8. On July 18, 2016, Plaintiff's son was in a single truck accident in Plaintiff's truck.
9. An ambulance came and took his injured 17 year old son to Paris Hospital.
10. Sheriff Deputy Dee Burgin arrived on scene.
11. Plaintiff requested a police report from Defendant Burgin.
12. Deputy Bergin refused to provide a report.
13. When Plaintiff insisted on receiving a report, Defendant Bergin grabbed Plaintiff and cuffed him.
14. Plaintiff asked why Defendant Bergin was cuffing Plaintiff, Defendant Bergin said, "you're under arrest for obstructing a criminal investigation".

15. Defendant Bergin squeezed the cuffs as tightly as he could.
16. Plaintiff told him it hurt that they were too tight.
17. Defendant Bergin then tightened the cuffs even more.
18. Plaintiff's hands began turning purple.
19. Defendant Burgin then threw Plaintiff in his squad car.
20. Defendant Burgin eventually released Plaintiff for the squad car and uncuffed Plaintiff.
21. Defendant Burgin caused severe pain, loss of full use of Plaintiff's wrist and numbness in his left wrist, hand, and fingers.
22. Plaintiff sought medical treatment for injuries.
23. Plaintiff suffered emotional distress and loss of liberty.

Count I - 42 U.S.C. § 1983 – False Arrest Against Bergin

24. Plaintiff incorporates each paragraph of this Complaint as if fully restated here.
25. The actions of Defendant Burgin in falsely and unreasonably arresting Plaintiff was done knowingly without probable cause and violated Plaintiff's Fourth Amendment right to be free from unreasonable arrest, search and seizure.
26. As a result of the misconduct described in this Count, Plaintiff suffered injuries, including but not limited to personal physical injury and emotional distress, as more fully alleged above.

Count II - 42 U.S.C. § 1983 – Excessive Force Against Bergin

27. Plaintiff incorporates each paragraph of this Complaint as if fully restated

here.

28. The actions of Defendant Burgin in cuffing and hurting Plaintiff by tightening the handcuffs violated Plaintiff's Fourth Amendment and Fourteenth rights.

29. As a result of the misconduct described in this Count, Plaintiff suffered injuries, including but not limited to personal physical injury and emotional distress, as more fully alleged above.

Count III –Intentional Infliction of Emotional Distress Against Bergin

30. Plaintiff incorporates each paragraph of this Complaint as if fully restated here.

31. In the manner described above, the actions, omissions, and conduct of the Defendant Burgin was extreme and outrageous. These actions were rooted in an abuse of power and authority and were undertaken with the intent to cause, or were in reckless disregard of the probability that their conduct would cause, severe emotional distress to Plaintiff, as is more fully alleged above.

32. As a result of the misconduct described in this Count, Plaintiff suffered injuries of the type of severe emotional distress that wrongful arrest causes.

Count IV –Battery Against Bergin

33. Plaintiff incorporates each paragraph of this Complaint as if fully restated here.

34. In the manner described above, Defendant Burgin committed an unlawful and offensive touching by tightening the hand cuffs as much as possible and then after knowing that the handcuffs were hurting Plaintiff tightening the handcuffs more.

35. As a result of the misconduct described in this Count, Plaintiff suffered injuries.

Count V –Negligence Against Bergin (In the Alternative)

36. Plaintiff incorporates each paragraph of this Complaint as if fully restated here.

37. In the manner described above, Defendant Burgin negligently applied the handcuffs to Plaintiff.

38. As a result of the conduct described in this Count, Plaintiff suffered injuries.

Count VI –Respondeat Superior Against Sheriff

39. Plaintiff incorporates each paragraph of this Complaint as if fully restated here.

40. While committing the misconduct alleged in the preceding paragraphs, the

41. Defendant Burgin was an employee and agent of Defendant Jeff D. Wood, Sheriff of Edgar County acting at all relevant times within the scope of his employment.

42. Defendant Sheriff of Edgar County is liable as principal for all state law tort committed by its agent.

Count VII – Indemnification Against County

43. Plaintiff incorporates each paragraph of this Complaint as if fully restated here.

44. Defendant Burgin was an employee of the County of Edgar, acting at all relevant times within the scope of their employment in committing the misconduct described herein such that the County of Edgar is obligated to pay

any judgment entered against Defendant Officers.

PRAYER FOR RELIEF

- A. Award compensatory damages;
- B. Award punitive damages;
- C. Award reasonable attorneys' fees and costs of suit; and
- D. Any other relief the Court deems just.

RESPECTFULLY SUBMITTED,

/s/ Mark T. Lavery
One of Plaintiff's Attorneys

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