

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

STEVEN WILKERSON

CIVIL ACTION NO.:

VERSUS

JUDGE:

SUSPENDED LAFAYETTE CITY MARSHAL BRIAN POPE in his individual and official capacities as the former and now suspended Marshal of the City of Lafayette, LA; LAFAYETTE CITY MARSHAL DEPUTY PAUL TOCE in his individual and official capacities as a deputy for the Lafayette City Marshal; UNIDENTIFIED LAFAYETTE CITY MARSHAL DEPUTY X in his individual and official capacities as a deputy for the Lafayette City Marshal; UNIDENTIFIED LAFAYETTE CITY MARSHAL DISPATCHER Y in his individual and official capacities as a dispatcher for the Lafayette City Marshal; UNIDENTIFIED LAFAYETTE CITY MARSHAL WARRANTS SUPERVISOR Z in his individual and official capacities as the Warrants Supervisor for the Lafayette City Marshal; and INTERIM LAFAYETTE CITY MARSHAL C. MICHAEL HILL only in his official capacity as the Interim Marshal of the City of Lafayette, LA

MAGISTRATE JUDGE:

COMPLAINT FOR DAMAGES

NOW COMES, STEVEN WILKERSON, a person of the full age of majority, domiciled in New Mexico, (hereinafter collectively, "Plaintiffs"), who with respect represents and further alleges that:

1.

Made defendants in this matter are:

- a. **SUSPENDED LAFAYETTE CITY MARSHAL BRIAN POPE** (hereinafter “MARSHAL POPE”) Former and now Suspended Marshal for the City of Lafayette, La., in both his individual and official capacities as the duly elected Marshal for the City of Lafayette, LA, in which capacity he was serving at the time of the events alleged herein and giving rise to this litigation, but who was suspended from public office without compensation on October 3, 2018 pending appellate review of four felony convictions on that date. MARSHAL POPE can be served at 212 Brickell Way, Lafayette LA 70508;
- b. **LAFAYETTE CITY MARSHAL DEPUTY PAUL TOCE** (hereinafter, “DEPUTY TOCE”) in his individual and official capacities as a deputy for the Lafayette City Marshal who can be served at his place of employment, the Lafayette City Marshal’s Office at 105 E Convent St. Lafayette, LA 70501;
- c. **UNIDENTIFIED LAFAYETTE CITY MARSHAL DEPUTY “X”** (hereinafter, “DEPUTY X”) in his individual and official capacities as a deputy for the Lafayette City Marshal on and prior to December 11, 2017;
- d. **UNIDENTIFIED LAFAYETTE CITY MARSHAL DISPATCHER “Y”** (hereinafter, “DISPATCHER Y”) in his individual and official capacities as a dispatcher for the Lafayette City Marshal on and prior to December 11, 2017;
- e. **UNIDENTIFIED LAFAYETTE CITY MARSHAL WARRANTS SUPERVISOR “Z”** (hereinafter, “SUPERVISOR Z”) in his individual and official capacities as the Warrants Supervisor for the Lafayette City Marshal on and prior to December 11, 2017; and
- f. **INTERIM LAFAYETTE CITY MARSHAL C. MICHAEL HILL** (hereinafter, “MARSHAL HILL”) only in his official capacity as the duly appointed Interim Marshal of the City of Lafayette, LA who can be served at his place of employment, the Lafayette City Marshal’s Office at 105 E Convent St. Lafayette, LA 70501.

2.

Unless otherwise expressly stated herein, the term “Defendants” shall refer only to MARSHAL POPE, DEPUTY TOCE, DEPUTY X, DISPATCHER Y, and SUPERVISOR Z and excludes MARSHAL HILL. MARSHAL HILL was not the acting Marshal at the time of the acts alleged herein. In fact, he was appointed Interim Marshal on or about October 5, 2018, after the

conviction of MARSHAL POPE on four felonies (one count of perjury and three counts of malfeasance in office) on October 3, 2018 under the provisions of La. R.S. 42:1411. MARSHAL HILL is thus sued only in his official capacity as the sitting Marshal for the City of Lafayette due to the present procedural posture presented by MARSHAL POPE's suspension from public office.

3.

MARSHAL HILL in his official capacity as the sitting Marshal for the City of Lafayette due to the present procedural posture presented by MARSHAL POPE's suspension from public office, is vicariously responsible for the negligence and intentional acts and omissions of the Defendants, MARSHAL POPE, DEPUTY TOCE, DEPUTY X, DISPATCHER Y, SUPERVISOR Z, and other unidentified employees of the Lafayette City Marshal's Office under the doctrine of *Respondeat Superior* for the reasons that follow.

4.

This Honorable Court has diversity jurisdiction under 28 USC § 1332 as all Defendants are diverse from Plaintiff and the amount in controversy in this matter exceeds the sum of \$75,000 exclusive of legal interest and costs. The Court further has federal question jurisdiction over the subject matter of this claim pursuant to 28 USC §§ 1331 and 1343. The substantive claims in this action arise under 42 U.S.C. §§ 1983, 1985, 1986, the First, Fourth, Fifth, Sixth, and Fourteenth Amendments of the US Constitution.

5.

This Court further has supplemental and pendent jurisdiction over all state law claims asserted herein pursuant to 28 USC § 1367 (a).

6.

Plaintiff brings this civil rights action to redress the deprivation under color of state law of

rights, privileges and immunities secured him by provisions of the First, Fourth, Fifth, Sixth, and Fourteenth Amendments to the United States Constitution and Article I, Sections 2, 3, 4, 5, 6, 7, 9, and 13 of the Louisiana Constitution.

7.

Venue is proper with this Honorable Court as at all material times, the events giving rise to this litigation occurred in Lafayette Parish, which is within the territorial jurisdiction of this District.

8.

In the latter part of 2014, MARSHAL POPE was elected to the position of City Marshal for the City of Lafayette, Louisiana. He was sworn into office in January of 2015. Upon taking office, he took an oath of office and swore to uphold the US Constitution, the Louisiana Constitution, and all federal and state laws.

9.

During his first year in office, 2015, a hotly contested election took place for the office of the Sheriff of Lafayette Parish.

10.

MARSHAL POPE openly supported one of the leading candidates during the election process, appearing on commercials as well as traditional and social media in support of that candidate.

11.

In October of 2015, prior to the Lafayette Parish Sheriff's election, MARSHAL POPE held a press conference in the Lafayette City Courthouse while acting in an official capacity as the City Marshal, flanked by several of his deputies all in uniform, wherein he openly leveled accusations against the opposing candidate in an open and obvious attempt at a political attack on said to benefit

himself and others.

12.

A local media outlet immediately submitted Public Records Requests to the Marshal's Office as well as the Lafayette Consolidated Government, seeking information relative to the Marshal's involvement in the aforementioned press conference and the Sheriff's election as a whole. Due to perceived inadequacies in MARSHAL POPE's public records response, the media outlet filed suit against MARSHAL POPE in the Louisiana 15th Judicial District Court for Lafayette Parish, seeking a complete and accurate production of the records.

13.

During the course of this litigation, MARSHAL POPE gave testimony, filed pleadings, submitted evidence, filed appeals, hired several attorneys, and utilized funds and resources of the Marshal's Office in his defense throughout much of the litigation. In the process, numerous other legal and factual issues surfaced with regard to the method and manner with which the Marshal's Office was being operated under MARSHAL POPE. In addition to the initial suit, the information exposed lead to a myriad of additional civil litigation and ultimately, multiple criminal charges were brought against MARSHAL POPE by the 15th Judicial District Attorney.

14.

As a result, MARSHAL POPE became embroiled in civil and criminal litigation on multiple fronts. This litigation was covered in detail by most local media outlets and even by some national media outlets as well. On October 3, 2018, MARSAHL POPE was found guilty of one count of perjury and three counts of malfeasance in office by a Lafayette Parish jury.

15.

As a concerned citizen of the City of Lafayette and former law enforcement agent, Plaintiff,

STEVEN WILKERSON, organized with other concerned citizens of Lafayette and together initiated an effort to legally recall MARSHAL POPE. On or about June 12, 2017, Plaintiff and his fellow organizers on the recall effort filed the necessary paperwork with the Louisiana Secretary of State to initiate the recall process.

16.

Plaintiff acted as a chairperson for the effort along with a co-chair, Aimee Boyd Robinson. Under Louisiana law, once the initial recall petition was filed, Plaintiff and the recall organizers had one hundred eighty (180) days to secure the appropriate amount of signatures from the voters of Lafayette in order to effectuate a recall election. The deadline to obtain the signatures fell on December 11, 2017.

17.

The recall effort was likewise well covered by local media outlets. Just days after the recall petition was initiated, Plaintiff and his co-chair were identified in a local publication by name and photograph as the “leaders” of the recall effort.

18.

The recall petition filed of record with the Louisiana Secretary of State identified Plaintiff as the Vice Chairman and provided his home address in Lafayette, La.

19.

Upon discovering the identities of Plaintiff and his fellow organizers, MARSHAL POPE immediately began planning revenge against Plaintiff and the organizers for their recall efforts in an attempt to intimidate and embarrass them personally and to otherwise exact retribution against those opposed to him and to quash any further challenges to his position as Marshal. Specifically, MARSHAL POPE ordered SUPERVISOR Z and/or other unidentified employees of the Marshal’s

office to run criminal background and outstanding warrant checks on Plaintiff and his fellow organizers in hopes of finding information that could be used for retaliatory purposes. Upon information and belief, MARSHAL POPE and other unidentified employees of the Lafayette City Marshal's office, pursuant to MARSHAL POPE's direction also engaged in unauthorized and unlawful snooping and investigation of Plaintiff and his fellow organizers without probable cause in hopes of generating cause for a pre-textual and public arrest of same so as to embarrass and intimidate the Plaintiff and hold him up to public ridicule and otherwise publicly destroy Plaintiff's reputation.

20.

MARSHALL POPE, SUPERVISOR Z, and/or other unidentified employees of the Marshal's Office knew Plaintiff's identity and address shortly after the filing of the recall petition by way of local media coverage and public records readily available to them.

21.

Apparently, by way of their unlawful and illicit investigation, MARSHAL POPE, SUPERVISOR Z, and/or other unidentified employees of the Marshal's Office obtained information that a bench warrant had been issued by the Lafayette City Court for Plaintiff in August of 1997 in connection with his failure to appear for arraignment on misdemeanor criminal charges in 1997 (approximately 20 years earlier).

22.

By way of three bills of information filed on March 24, May 9, and July 10, 1997, respectively, the Lafayette City Prosecutor's office alleged that in January and February of 1997, Plaintiff had issued worthless checks in the City of Lafayette to Little Caesars Pizza in the amount of \$17.09; Piggly Wiggly in the amount of \$76.03; Albertson's in the amount of \$21.71; and

Delchamps in the amount of \$83.63.

23.

Plaintiff grew up in Lafayette, La. Prior to 1997, Plaintiff had moved out from his parent's home to Baton Rouge for a brief while for work and family. In early 1997, Plaintiff returned home to Lafayette with the intentions of returning to college in Lafayette.

24.

A notice of arraignment and summons for court was issued in 1997 and to be served by the Lafayette City Marshal's office in connection with the charges. The Marshal's office placed the summons in the US mail directed to Plaintiff at his former address in Baton Rouge.

25.

Under Louisiana Law, a summons for an arraignment had to be served via personal or domiciliary service. Placing the summons in the US mail rendered service defective from the start.

26.

Regardless of the defective method of service, the summons was returned in the mail as undelivered.

27.

On the date of the arraignment, Plaintiff, who had no knowledge of the charges obviously failed to appear.

28.

Despite the record reflecting the failed attempt at serving the Plaintiff improperly through the mail, a bench warrant was improperly issued on August 28, 1997 by the Lafayette City Court.

29.

The 1997 warrant was fatally defective in that on its face it reflects that: (1) the Marshal's

office in 1997 attempted to serve the notice of arraignment by way of US mail (State law required personal or domiciliary service of the summons); and (2) regardless of the method, the mailed summons was returned by the US Post Office undelivered (the court record indicates the mail was returned stamped, "Return to Sender... Attempted not known Baton Rouge, La 70817-9998").

30.

Under Louisiana law, the statute of limitations for prosecution to be instituted on misdemeanor charges runs two years from the date when the offenses are allegedly committed. In this case, at the latest, prosecution had to be instituted by February 25, 1999.

31.

In Plaintiff's case, the three bills of information were filed on March 24, May 9, and July 10, 1997, respectively. Thus, the prosecution had been instituted by way of the timely filing of bills of information. Under Louisiana law, no trial shall be commenced in misdemeanor cases after one year from the date of institution of the prosecution.

32.

In the year following the filing of each bill, Plaintiff did not with the purpose to avoid detection, apprehension, or prosecution, flee from the state, reside outside the state, nor was he absent from his usual place of abode within the state. Plaintiff did not suffer from insanity nor was there any reason his presence for trial could not be obtained by legal process. Lastly, Plaintiff never failed to appear at any proceeding pursuant to actual notice, proof of which appeared of record.

33.

In fact, Plaintiff never had notice of these charges, formal or otherwise, until nearly twenty years later as a result of the events giving rise to this litigation.

34.

As a result of the failure to bring charges against Plaintiff to trial within one year from each of the bills of information, the time limits to try each of the charges expired on each bill on March 24, May 9, and July 10, 1998, respectively.

35.

Under any circumstance, the time for prosecution of the charges against Plaintiff for alleged issuing of worthless checks in 1997 had long expired under the law by December of 2017.

36.

MARSHAL POPE, who is charged with knowledge of the law which he enforces under oath of office, knew or should have known that these charges had long expired based on the face of the documentation he had gathered. Nonetheless, with retaliatory intent, malice, and gross, wilful, conscious, and wanton disregard for the Plaintiff's constitutional rights and with intent to inflict emotional harm, MARSHAL POPE planned to execute on the ancient, invalid, and fatally defective warrant in order to exact revenge and retribution against the Plaintiff for his part in the recall effort.

37.

To accomplish his goal, prior to December 11, 2017, MARSHAL POPE enlisted the help of, directed, and conspired with several of his employees, including but not limited to DEPUTY TOCE, DEPUTY X, DISPATCHER Y, SUPERVISOR Z, and/or other unidentified employees of the Marshal's Office to execute on the ancient and fatally flawed warrant in order to exact retribution against the Plaintiff for his part in the recall effort. MARSHAL POPE engendered a custom and unspoken policy of this sort of retaliatory behavior within the Marshal's office at the time.

38.

All involved knew or should have known that the charges against Plaintiff had long expired

based on the face of the documentation they had gathered or had been provided by their co-conspirators. Nonetheless, with retaliatory intent, malice, and gross, wilful, conscious, and wanton disregard for the Plaintiff's constitutional rights, each Defendant involved conspired and pressed forward with a scheme to arrest the Plaintiff on the ancient charges in direct retaliation for his role in the recall effort.

39.

Each of the individuals who were enlisted to help MARSHAL POPE was aware of the Marshal's goals and intentions, and each one of them conspired with the other named defendants herein to accomplish those goals. The expenses, labor, resources, and costs in accomplishing the goals were paid for in whole or in part by the Lafayette City Marshal's Office, a legitimate enterprise. The wrongful arrest, unlawful detention, and violation of Plaintiff's civil rights complained of herein were in part, the result of MARSAHL POPE's personal vendetta against the Plaintiff as a result of Plaintiff's exercise of his First Amendment rights to petition the government for redress. All Defendants involved, including but not limited to DEPUTY TOCE, DEPUTY X, DISPATCHER Y, SUPERVISOR Z, and/or other unidentified employees of the Marshal's Office consciously, knowingly,, and intentionally participated in the scheme to further MARSHAL POPE's vendetta as mentioned above.

40.

Despite having knowledge of the defective warrant, and knowledge of the Plaintiff's home address and whereabouts within weeks of the filing of the recall petition in the summer of 1997, MARSHAL POPE and/or other unidentified employees of the Marshal's Office made no attempt to re-issue the summons or notify the Plaintiff in any way of the 1997 charges for several months. MARSHAL POPE, in collusion with DEPUTY TOCE, DEPUTY X, DISPATCHER Y,

SUPERVISOR Z, and/or other unidentified employees of the Marshal's Office, intentionally held the invalid warrant and did not act upon same until after the recall process was completed. This was done in an attempt to maximize the public spectacle he intended to create when arresting the Plaintiff and in a misguided attempt to show that he was vindicated.

41.

This was also done in a deliberate attempt to convey the message to the community at large that those who would oppose or seek redress against MARSHAL POPE would face consequences and retribution for their actions. Defendants involved were all aware of and consciously desired and intended this result.

42.

On December 11, 2017, the recall effort fell short of its goal of obtaining the necessary amount of signatures, thus failing to effect a recall election. Aware of the inevitable failure, chairperson of the recall effort, Aimee Boyd Robinson, made a release on social media on December 10, 2017, that the recall effort had failed. Local Media outlets reported the recall's shortcoming the following morning on December 11, 2017.

43.

At all times pertinent, Defendants were actively monitoring the recall effort and knew, based upon the foregoing releases of information on social media and traditional media, that the recall effort had failed. Observing the failure of the recall, MARSHAL POPE initiated his plan for retaliation against the Plaintiff.

44.

Per MARSHAL POPE's scheme, at approximately 5:20 p.m. on December 11, 2017, less than 24 hours from when it became public knowledge that the recall effort had failed, DEPUTY

TOCE and DEPUTY X were dispatched to and arrived at Plaintiff's home in Lafayette to arrest him in connection with the above referenced expired charges dating back to 1997.

45.

DEPUTY TOCE and DEPUTY X acted upon orders from MARSHAL POPE, and were guided by and in constant contact with DISPATCHER Y throughout the entire arrest. DISPATCHER Y, also acting upon orders of MARSHAL POPE and with personal malice and intent, had knowledge of the defects in proceeding with the arrest and nonetheless intentionally played his/her part in confecting the arrest in furtherance of MARSHAL POPE's illicit goal of retaliating against the Plaintiff.

46.

SUPERVISOR Z had reviewed the 1997 warrant in furtherance of MARSHAL POPE's scheme, and/or directly with MARSHAL POPE prior to the arrest and knew that the charges had long since expired. He/she nonetheless, and in furtherance of MARSHAL POPE's scheme of retribution, prepared documentation to effectuate a dispatch for the arresting officers, DEPUTY TOCE and DEPUTY X, to utilize in conducting the arrest.

47.

In connection therewith, SUPERVISOR Z, pursuant to and in conspiracy with MARSHAL POPE's orders, prepared a "Warrant Confirmation" document which is a document utilized by the Lafayette City Court system to ensure that old warrants are still in good order before being executed upon. This document is to be endorsed by the Clerk of the City Court confirming that the warrant is still valid. This process should take place *before* the warrant is executed upon. As discussed below, the Clerk of Court did not endorse the Warrant Confirmation until the day *after* the arrest.

48.

All involved knew or should have known that the arrest would be defective on multiple fronts. Each Defendant involved had actual and constructive knowledge that the Warrant Confirmation and other arresting documentation was incomplete and otherwise lawfully ineffective. With actual and constructive knowledge, each Defendant involved intentionally proceeded with the arrest in furtherance of MARSHAL POPE's scheme of retribution against and harm to Plaintiff.

49.

Prior to the arrest, DEPUTY TOCE and DEPUTY X parked down the street from the Plaintiff's home to avoid detection and approached the home on foot.

50.

DEPUTY TOCE and DEPUTY X both had copies of the unendorsed Warrant Confirmation in their possession at the time of the arrest and knew or should have known what they were doing was unlawful and in direct violation of Plaintiff's Constitutional rights.

51.

They also knew what Plaintiff looked like and had knowledge of his address prior to the arrest, despite the absence of such information from the Warrant Confirmation. Defendants had obtained Plaintiff's photograph and address in the course of their illicit investigation during the month preceding the arrest.

52.

As the warrant and the documentation related thereto was defective, and Defendant's had actual and constructive knowledge of the defect prior, DEPUTY TOCE and DEPUTY X knowingly and intentionally trespassed and entered Plaintiff's private property without probable cause or lawful authority in violation of Plaintiff's Fourth, Fifth, and Fourteenth Amendment rights.

53.

While DEPUTY TOCE knocked on the front door, DEPUTY X unlawfully trespassed upon and entered the Plaintiff's side yard and peered through a bedroom window of the Plaintiff's home, thereby unlawfully invading Plaintiff and his family's privacy, again without probable cause or lawful authority to do so in violation of Plaintiff's Fourth, Fifth, and Fourteenth Amendment rights.

54.

DEPUTY TOCE forcefully knocked on the door of Plaintiff's home. Plaintiff came to the door and without opening same, addressed DEPUTY TOCE through a small window in the door.

55.

In a loud, threatening, and intimidating voice and posture, DEPUTY TOCE issued unlawful commands to the Plaintiff through the door to come out of the home for his arrest.

56.

Plaintiff inquired through the door the reason he was being arrested and requested to see the warrant for his arrest at which time DEPUTY TOCE shoved a folded copy of the incomplete "Warrant Confirmation" against the window.

57.

DEPUTY TOCE knew or should have known that placing the folded and incomplete Warrant Confirmation against the window was not presenting a valid or lawful warrant. In doing so, he knowingly and unlawfully tricked the Plaintiff into believing that a valid warrant had been issued for his arrest.

58.

Plaintiff relied to his detriment on the DEPUTY TOCE's misleading actions. Mistakenly believing that a valid warrant had been issued based upon this interaction with DEPUTY TOCE, the

Plaintiff peacefully submitted to the arrest, calmly and obediently exiting his home with his arms placed behind his back for the arresting officers to take him into custody.

59.

At not time throughout the entire arrest did DEPUTY TOCE or DEPUTY X issue Miranda warnings to the Plaintiff in violation of his Fourth, Fifth, Sixth, and Fourteenth Amendment rights.

60.

During the arrest, Plaintiff inquired multiple times of both arresting officers about why he was being arrested. At some point during the exchange, he was advised that he was being arrested for issuing worthless checks.

61.

Plaintiff then inquired multiple times of *when* the checks were issued and *when* the charges had been brought. Despite both arresting officers having in each's possession copies of documents reflecting the exact dates requested, both officers intentionally avoided providing and otherwise withheld the requested information, and proceeded with the intentional unlawful arrest, all in furtherance of MARSHAL POPE's scheme of retribution against the Plaintiff and in violation of his Fourth, Fifth, Sixth, and Fourteenth Amendment rights.

62.

The arresting officers advised the Plaintiff that the Marshal's Office had attempted to call him on the phone and to mail him information on the charges prior to his arrest. These assertions were false and intended to mislead the Plaintiff and otherwise justify the unlawful arrest through subterfuge in violation of Plaintiff's Constitutional rights.

63.

By failing to Mirandize the Plaintiff, DEPUTY TOCE and DEPUTY X knowingly violated

Plaintiff's constitutional rights by obtaining information from the Plaintiff throughout the arrest.

64.

Plaintiff was handcuffed and frisked on his front porch and walked down the street by the arresting officers to their waiting squad units in full view of Plaintiff's neighborhood. He was then restrained in the rear of DEPUTY TOCE's squad unit and transported to Lafayette Parish Correctional Center where he was booked and unlawfully detained for several hours before he could bond out.

65.

DEPUTY TOCE and DEPUTY X were not required to arrest Plaintiff as he was not likely to cause injury to himself, another, or property; he had no prior convictions, and he was likely to appear on an issued summons. DEPUTY TOCE documented this upon his affidavit of arrest, and nonetheless arrested the Plaintiff when the issuance of a simple summons could have just as easily and lawfully sufficed.

66.

Instead, DEPUTY TOCE and DEPUTY X, in collusion with MARSHAL POPE, DISPATCHER Y, SUPERVISOR X, and other unidentified employees of the Lafayette Marshal's office in a calculated and infamous move, opted to arrest the Plaintiff for the specific and intentional purposes of retaliating against, embarrassing, and intimidating him, and to create a public spectacle aimed at exacting revenge, ridicule, and retribution against the Plaintiff for exercising his First Amendment Rights of Petition and as a show of force for the general public that MARSHAL POPE was not to be challenged or opposed.

67.

Defendant's actions confectioned the wrongful arrest, wrongful detention, and effective

wrongful restrained transport of the Plaintiff.

68.

DEPUTY TOCE, DEPUTY X, DISPATCHER Y, SUPERVISOR Z, and/or other unidentified employees of the Marshal's Office reported to MARSHAL POPE that the arrest had occurred, in celebratory fashion, and to communicate their compliance with his orders in furtherance of the conspiracy to deprive the Plaintiff of his civil rights, reputation, and freedom.

69.

Shortly following the arrest, MARSHAL POPE and/or the other Defendants involved directly and/or indirectly leaked information of the arrest to media and through social media in an overt attempt to publicize the arrest. Local media covered the arrest in minute detail as a result. This was done in furtherance of his scheme to intimidate and embarrass the Plaintiff and otherwise send the message to the community as a whole that those who opposed MARSHAL POPE or sought redress against him would face similar consequences.

70.

Social media posts linked directly or indirectly to MARSHAL POPE and his office publicly taunted Plaintiff for his arrest and suggested that his co-chair, Aimee Boyd Robinson might also be "next", meaning she too would be arrested.

71.

The following day after the arrest, December 12, 2017, the Warrant Confirmation was presented by DEPUTY TOCE to the Lafayette City Clerk's office for confirmation. The Lafayette City Clerk affixed its signature to the document on that date. Thus at all times pertinent, the documentation upon which the arrest was based was defective and invalid. Defendant's had actual knowledge of this defect and intentionally proceeded with the unlawful arrest of Plaintiff in

furtherance of MARSHAL POPE's scheme.

72.

As a result of his unlawful arrest, Plaintiff was required to post bail for his release, and to obtain legal counsel for his defense.

73.

Shortly thereafter, the 15th Judicial District Attorney's office summarily refused the charges due to the open and obvious legal expiration of the charges, formally nol-prossing the charges on February 7, 2018.

74.

As a result of the foregoing events, Plaintiff was caused to suffer humiliation and damages including a deprivation of his civil rights under the US and Louisiana Constitutions, severe mental anguish, inconvenience, invasion of privacy, public humiliation, embarrassment, fear and fright. In fact, due to his fear that he and/or his family remain a target of the Marshal's office, Plaintiff moved out of the State of Louisiana.

75.

As City Marshal for the City of Lafayette, MARSHAL POPE had at all times an affirmative duty to ensure that his officers and deputies were at all times engaged in law enforcement in Lafayette in conformity with citizens', including the Plaintiffs, constitutional and civil rights by way of training, education, policy, procedure, supervision, and/or orders, standing, special, or otherwise. By planning and executing this scheme with DEPUTY TOCE, DEPUTY X, DISPATCHER Y, SUPERVISOR Z, and/or other unidentified employees of the Marshal's Office, all Defendants involved violated their training and education and otherwise knowingly and intentionally played their part in the conspiracy to exact revenge against the Plaintiff. The actions of Defendants as alleged

herein reflect a custom and unspoken policy with the Marshal's Office at the time of intentional, wanton and reckless disregard for the constitutional rights of and contempt for those who opposed MARSHAL POPE.

76.

MARSHAL POPE's actions, inactions, omissions, and intentional conduct combined with that of DEPUTY TOCE, DEPUTY X, DISPATCHER Y, SUPERVISOR Z, and/or other unidentified employees of the Marshal's Office, in collusion with one another and the MARSHAL himself reflect the custom and policy of the Lafayette City Marshal's office at the time of Plaintiff's arrest and the events giving rise to this Complaint, coupled with the actions and inactions of Defendants in regards to the other organizers of the recall evidence a custom, culture, and practice within the Lafayette City Marshal's office of use of illegal, unethical, and unsavory means to intimidate citizens from exercising their constitutional rights to confront and oppose elected officials or to petition their government for redress under the First Amendment.

77.

Because of the Defendant's actions stated above, statements and overt public threats, and the perceived authority with which they were made, Plaintiff has feared arrest or other further unlawful criminal retaliatory action from MARSHAL POPE and his employees, thus prompting him to move out of the State of Louisiana.

78.

Each Defendant involved had taken an oath of office as law enforcement agents and were sworn to uphold the law of the United States and the State of Louisiana. Each Defendant involved violated and conspired to violate their oaths and failed to intervene where necessary to prevent MARSHAL POPE and their co-conspirators from effecting this unlawful arrest.

79.

Each of the Defendants conspired together to commit the acts described above. By virtue of this conspiracy, they are all jointly and severally liable for the damages caused.

80.

Upon information and belief, Defendants have intentionally destroyed, alienated, or secreted information and evidence necessary for Plaintiff to prosecute his claims in this matter when they had a duty to preserve such evidence, particularly in light of Louisiana Public Records laws. Plaintiff accordingly claims damages for Defendants' intentional spoliation of evidence and further prays for an adverse presumption and any other general or equitable relief to which he is or may be entitled.

CAUSES OF ACTION

I. Civil Rights Violations

81.

Plaintiff adopts by reference and incorporates herein for all purposes the allegations contained in the foregoing paragraphs of this Complaint as if restated herein.

82.

All of the foregoing intentional acts, negligence, and other acts and omissions of Defendants as stated herein were done in violation of Plaintiffs' rights, privileges and immunities secured him by provisions of the First, Fourth, Fifth, and Fourteenth Amendments to the United States Constitution.

83.

All Defendants conspired under color of state law to deprive Plaintiff of his rights, privileges and immunities secured by the First, Fourth, Fifth, Sixth, and Fourteenth Amendments to the United

States Constitution.

84.

Plaintiff specifically alleges pursuant to the First, Fourth, Fifth, Sixth, and Fourteenth Amendments of the U. S. Constitution, he is guaranteed the right to petition, the right to be free from unreasonable searches and seizures, the right to due process, the right to property, and the right to due process as an accused. Defendants, collectively, intentionally and knowingly violated and/or conspired to violate the constitutional rights of the Plaintiff as set out in the First, Fourth, Fifth, Sixth, and Fourteenth Amendments to the U. S. Constitution while acting under the color of state law as set out in 42 U. S. C. § 1983 and 1985.

85.

Defendants, with knowledge of Plaintiffs' Due Process and personal liberty rights and his rights as an accused, and with deliberate indifference to same, intentionally acted or failed to act in such a way as to provide, ensure, and/or safeguard the same, in violation of rights secured to Plaintiff by the First, Fourth, Fifth, Sixth, and Fourteenth Amendments to the United States Constitution and indeed consciously and intentionally intended to violate those rights as retribution for his role in the recall effort against MARSHAL POPE.

86.

Defendants' intentional acts, negligence, and other acts and omissions of Defendants as stated herein were done in open and egregious violation of Plaintiffs' procedural and substantive due process rights protected by the Fourth, Fifth, Sixth, and Fourteenth Amendments.

87.

Those intentional actions described herein, in combination with the callous indifference to the due process and property rights displayed by Defendants, collectively, caused and/or contributed

to Plaintiff's injury and damages as specified herein. Defendants' above-mentioned actions and/or omissions were negligent and/or reckless and/or intentional. Defendants' above-mentioned actions and/or omissions were committed under color of state law.

88.

Accordingly, Plaintiff prays for any and all damages cognizable under 42 USC § 1983 and 1985 including damages, attorneys fees, costs, punitive damages, and interest.

89.

The conduct described above constitutes a violation of 42 U.S.C. §1983 and §1985. These civil rights violations were a proximate cause, or, alternatively a producing cause of Plaintiff's damages.

90.

Furthermore, each Defendant, excluding MARSHAL HILL, had knowledge that the wrongs conspired to be done by MARSHAL POPE and their co-conspirators were about to be committed, and had power to prevent or aid in preventing the commission of the same. Each Defendant, excluding MARSHAL HILL, neglected and/or refused to do so, failing to prevent the wrongful acts complained of herein from being committed. Thus each Defendant, excluding MARSHAL HILL, is liable to the Plaintiff for all damages caused by the wrongful acts complained of herein. Each Defendant, excluding MARSHAL HILL, intentionally failed to exercise reasonable diligence which would have prevented the Plaintiff's damages. Thus Plaintiff brings additional claims against Defendants under 42 USC § 1986.

II. Violation of State Civil Rights

91.

Plaintiff adopts by reference and incorporates herein for all purposes the allegations contained in the foregoing paragraphs of this Complaint as if restated herein.

92.

Plaintiff further alleges, based upon the facts as pled herein, that his constitutional rights as guaranteed by the Louisiana Constitution were violated by the actions of the Defendants herein, including, but not necessarily limited to, violation of Louisiana Constitution Article I, Sections 2, 3, 4, 5, 6, 7, 9, and 13 all of which protect Louisiana citizens by guarantying rights to due process of law, individual dignity, property, privacy, freedom from intrusion, freedom of expression, to petition, and rights as an accused.

93.

Defendants acted in concert with one another under color of state law depriving Plaintiff of his rights secured under the Louisiana Constitution.

94.

Those actions described herein, in violation of Plaintiff's rights under the Louisiana Constitution, in combination with the callous indifference to rights under the Louisiana Constitution displayed by all Defendants collectively, caused and/or contributed to Plaintiff's injury and damages as specified herein.

III. Malicious Prosecution and Abuse of Process

95.

Plaintiff adopts by reference and incorporates herein for all purposes the allegations

contained in the foregoing paragraphs of this Complaint as if restated herein.

96.

The conduct of Defendants caused Plaintiff to be arrested for misdemeanor charges that had lawfully expired 18 to 19 years prior to the arrest. Defendants knew the arrest would be defective on multiple fronts but intentionally proceeded with the arrest in an effort to intimidate, embarrass, and harass the Plaintiff in retaliation for his efforts to recall MARSHAL POPE. Defendants intended this result and are liable to Plaintiff for malicious prosecution and abuse of process. This malicious prosecution and abuse of process was a proximate cause, or, in the alternative a producing cause of Plaintiff's damages.

IV. False Imprisonment, Wrongful Arrest, Wrongful Detention

97.

Plaintiff adopts by reference and incorporates herein for all purposes the allegations contained in the foregoing paragraphs of this Complaint as if restated herein.

98.

The conduct of Defendants described above caused Plaintiff to be wrongfully arrested, and detained. Once again, this was the intent of the defendants as retribution for Plaintiff's recall efforts. This false imprisonment, arrest, and detention was a proximate cause, or, in the alternative a producing cause of Plaintiff's damages.

V. Retaliatory Arrest in Violation of First Amendment Rights

99.

Plaintiff adopts by reference and incorporates herein for all purposes the allegations

contained in the foregoing paragraphs of this Complaint as if restated herein.

100.

Under the First Amendment, Plaintiff is endowed by the US Constitution with one of the most sacred of rights, the right to Petition the government for redress. Plaintiff exercised this right by engaging in the recall effort.

101.

Defendants' unlawful conduct as alleged herein was in direct retaliation against the Plaintiff for exercising his First Amendment rights, and was intended to intimidate, embarrass, and harass him as punishment for his exercise of those rights, and thus constitutes a Retaliatory Arrest.

102.

Plaintiff accordingly seeks all damages cognizable under Federal and State Law as a result of this retaliatory arrest.

VI. Intentional Infliction of Emotional Distress/Mental Anguish

103.

Plaintiff adopts by reference and incorporates herein for all purposes the allegations contained in the foregoing paragraphs of this Complaint as if restated herein.

104.

The conduct of Defendants was extreme and outrageous conduct which caused Plaintiff emotional distress intentionally and with the realization to a virtual certainty that mental anguish would occur. The conduct of Defendants described herein was intended to cause Plaintiff to suffer mental anguish and, in fact, Plaintiff did suffer mental anguish. Defendant's conduct was a

proximate cause, or, in the alternative a producing cause of Plaintiff's damages.

VII. Negligence

105.

Plaintiff adopts by reference and incorporates herein for all purposes the allegations contained in the foregoing paragraphs of this Complaint as if restated herein.

106.

Defendants collectively, were negligent and/or engaged in intentional, gross, wilful, and wanton conduct as complained of herein and for the reasons more fully and particularly stated above, and therefore are liable to and indebted unto Plaintiff under the provisions of La. C.C. Arts. 2315, et seq.

107.

The conduct of Defendants described above were a proximate cause, or, in the alternative a producing cause of Plaintiff's damages.

VIII. Trespass and Invasion of Privacy

108.

Plaintiff adopts by reference and incorporates herein for all purposes the allegations contained in the foregoing paragraphs of this Complaint as if restated herein.

109.

Defendants at all times knew that they had no legal authority to enter upon Plaintiff's property and to peer into his bedroom window as at all times they knew or should have known that the arrest documentation was defective. Defendants collectively, conspired to knowingly trespass

and invade the Plaintiff's privacy nonetheless in furtherance of the scheme of retaliation.

110.

The conduct of Defendants described above was a proximate cause, or, in the alternative a producing cause of Plaintiff's damages.

DAMAGES

I. Actual Damages

111.

Plaintiff adopts by reference and incorporates herein for all purposes the allegations contained in the foregoing paragraphs of this Complaint as if restated herein.

112.

The conduct of the Defendants has caused Plaintiff to suffer mental anguish and incur legal debt for the handling of the criminal matter. In addition, Plaintiff incurred the costs of posting a bond in order to gain release from jail pending his criminal trial.

113.

Defendants' conduct has likewise caused significant injury to plaintiff's reputation in the community at large as well as in the law enforcement community in which he had been employed.

114.

Those acts alleged herein, or any combination thereof, caused resulting injury to the Plaintiff. These acts, in combination with the callous indifference to the Plaintiff's Constitutional Rights under the US and Louisiana Constitutions, caused and/or contributed to Plaintiffs' injuries and damages.

115.

As a direct result of the incidents, and intentional, wanton, and reckless conduct of the Defendants, STEVEN WILKERSON claims damages suffered as a result of the above described acts

and omissions as follows:

- a. Mental suffering and anguish/ emotional distress;
- b. Loss of liberty and deprivation of civil rights;
- c. Inconvenience;
- d. Extreme fear and fright, apprehension, and undue burden;
- e. Humiliation, embarrassment, and loss of/ insult to reputation in the community;
- f. Damage to prior clean criminal record;
- g. Attorneys fees, costs, and expenses incurred in defending against criminal prosecution;
- h. Loss of sums utilized for bail;
- i. Reasonable attorneys fees incurred in the investigation and prosecution of this matter;
- j. Loss of enjoyment of life;
- k. Punitive damages under 42 USCA § 1983, 1985, 1986, et seq;
- l. Any and all other damages to be proven at the trial of this matter.

Plaintiff requests such damages as deemed just and fair to compensate Plaintiff for his actual damages in an amount reasonable in the premises.

II. Attorneys Fees

116.

Plaintiff adopts by reference and incorporates herein for all purposes the allegations contained in the foregoing paragraphs of this Complaint as if restated herein.

117.

Plaintiff has retained counsel to represent him in this action and has agreed to compensate

counsel a reasonable fee. Plaintiff requests that he be awarded reasonable and necessary legal fees pursuant to 42 U.S.C. § 1988 as well as under applicable Louisiana state laws.

III. Punitive Damages

118.

Plaintiff adopts by reference and incorporates herein for all purposes the allegations contained in the foregoing paragraphs of this Complaint as if restated herein.

119.

The defendants herein intended to violate the civil rights of Plaintiff and deprive him of his civil liberties. Their conduct was egregious, shocking to the conscience, motivated by evil motive or intent, and involved reckless and callous indifference to the Plaintiff's federally-protected rights. Plaintiff requests that punitive damages be awarded in an amount sufficient to deter such unlawful and anti-social conduct in the future and to set an example for the community that such intentional and malicious conduct will not be tolerated in this community.

IV. Additional Remedies

120.

Plaintiff adopts by reference and incorporates herein for all purposes the allegations contained in the foregoing paragraphs of this Complaint as if restated herein.

121.

In addition to the damages referenced above, if the damages are too slight in view of the gravity and egregious nature of Defendants' conduct, Plaintiff would ask the Court to fashion a remedy pursuant to its broad discretionary powers under the Civil Rights provisions and award the

Plaintiff accordingly.

122.

The defendants' intentional, gross, wilful and wanton conduct and reckless disregard for the Constitutional Rights of the Plaintiffs was a substantial cause in fact and the legal cause of Plaintiff's damages and injuries. The conduct of the defendants as described above was done maliciously and with bad faith toward Plaintiff. As a result, Plaintiff is entitled to an award of punitive damages under 42 USCA §§ 1983, 1985, and 1986.

WHEREFORE, premises considered, Plaintiff, STEVEN WILKERSON prays that Defendants, SUSPENDED LAFAYETTE CITY MARSHAL BRIAN POPE in his individual and official capacities as the former and now suspended Marshal of the City of Lafayette, LA; LAFAYETTE CITY MARSHAL DEPUTY PAUL TOCE in his individual and official capacities as a deputy for the Lafayette City Marshal; UNIDENTIFIED LAFAYETTE CITY MARSHAL DEPUTY X in his individual and official capacities as a deputy for the Lafayette City Marshal; UNIDENTIFIED LAFAYETTE CITY MARSHAL DISPATCHER Y in his individual and official capacities as a dispatcher for the Lafayette City Marshal; UNIDENTIFIED LAFAYETTE CITY MARSHAL WARRANTS SUPERVISOR Z in his individual and official capacities as the Warrants Supervisor for the Lafayette City Marshal; and INTERIM LAFAYETTE CITY MARSHAL C. MICHAEL HILL only in his official capacity as the Interim Marshal of the City of Lafayette, LA be duly cited and served with a copy of this Complaint for Damages and summons and that after all legal delays and due proceedings be had, there be judgment rendered herein in favor of Plaintiff, STEVEN WILKERSON, against Defendants, SUSPENDED LAFAYETTE CITY MARSHAL BRIAN POPE in his individual and official capacities as the former and now suspended Marshal of the City of Lafayette, LA; LAFAYETTE CITY MARSHAL DEPUTY PAUL TOCE in his individual

and official capacities as a deputy for the Lafayette City Marshal; UNIDENTIFIED LAFAYETTE CITY MARSHAL DEPUTY X in his individual and official capacities as a deputy for the Lafayette City Marshal; UNIDENTIFIED LAFAYETTE CITY MARSHAL DISPATCHER Y in his individual and official capacities as a dispatcher for the Lafayette City Marshal; UNIDENTIFIED LAFAYETTE CITY MARSHAL WARRANTS SUPERVISOR Z in his individual and official capacities as the Warrants Supervisor for the Lafayette City Marshal; and INTERIM LAFAYETTE CITY MARSHAL C. MICHAEL HILL only in his official capacity as the Interim Marshal of the City of Lafayette, LA, in the full and true sum of an amount reasonable in the premises as prayed for herein to be proven at the trial on the merits of this matter, plus legal interest thereon from the date of judicial demand until paid, for all costs of these proceedings, attorney's fees, punitive damages, and general and special damages. Plaintiff further prays for any and all general, equitable, revocatory, and declaratory relief to which he is or may be entitled.

Respectfully submitted:

/s/ Gordon J. Schoeffler

GORDON J. SCHOEFFLER (#29412)
900 South College Rd., Ste. 204 (70503)
P.O. Box 4829
Lafayette, LA 70502
(337)232-8123- phone
(337)235-5629- fax
gschoeffler@josephjoy.com

and

JOSEPH JOY & ASSOCIATES

/s/ Joseph R. Joy

JOSEPH R. JOY, III
900 South College Rd., Ste. 204 (70503)
P. O. Box 4929
Lafayette, Louisiana 70502

(337) 232-8123 - Telephone

(337) 235-5629 - Fax

buzzyjoy@josephjoiy.com

Attorneys for Plaintiff, STEVEN WILKERSON

PLEASE ISSUE SUMMONS FOR:

SUSPENDED LAFAYETTE CITY MARSHAL BRIAN POPE

212 Brickell Way

Lafayette LA 70508

LAFAYETTE CITY MARSHAL DEPUTY PAUL TOCE

at his place of employment,

Lafayette City Marshal's Office

105 E Convent St. Lafayette, LA 70501

INTERIM LAFAYETTE CITY MARSHAL C. MICHAEL HILL

at his place of employment

Lafayette City Marshal's Office

105 E Convent St. Lafayette, LA 70501

PLEASE WITHHOLD ISSUANCE OF SUMMONE AND SERVICE UPON THE FOLLOWING AT THIS TIME:

UNIDENTIFIED LAFAYETTE CITY MARSHAL DEPUTY "X"

UNIDENTIFIED LAFAYETTE CITY MARSHAL DISPATCHER "Y"

UNIDENTIFIED LAFAYETTE CITY MARSHAL WARRANTS SUPERVISOR "Z"