



DISTRICT COURT
FILED

IN THE DISTRICT COURT IN AND FOR TULSA COUNTY
STATE OF OKLAHOMA

APR 19 2010

LARRY WAYNE BARNES, SR.,
LINDA SUE BARNES,

Plaintiffs,

vs.

CITY OF TULSA, RONALD PALMER,
JEFF HENDERSON and BRANDON
MCFADDEN,

Defendants.

SALLY HOWE SMITH, COURT CLERK
STATE OF OKLA. TULSA COUNTY

CJ-2010-02502
CASE NO: _____

DEBORAH C. SHALLCROSS

) JURY TRIAL DEMANDED
) ATTORNEY LIEN CLAIMED

PETITION

COMES NOW the Plaintiffs, Larry Wayne Barnes, Sr. ("Plaintiff") and Linda Sue Barnes ("Ms. Barnes"), and submits their Petition asserting his causes of action against the Defendants, states as follows:

Overview

This is a federal civil rights action against the Defendants arising from the Plaintiff's wrongful conviction and subsequent imprisonment based upon the perjured and suborned perjury by persons placed with society's highest trust to enforce and uphold the law--the Tulsa Drug Task Force and a confidential informant in 2007. As a result of the decision by the Defendants, the Plaintiff had his Fourth, Sixth, and Fourteenth Amendment procedural and substantive due process rights trampled on en route to his very liberty being stolen from him for sixteen months. During that period of incarceration, the Plaintiff was deprived the comfort and society of his wife of forty years and precious time with two grandchildren, twelve and nine, who tragically and sadly passed away. The Plaintiff was not allowed to attend their funerals.

SALLY HOWE SMITH
COURT CLERK
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The abuse of police and government power which the Plaintiff will unquestionably be able to establish is of the variety is absolutely conscience shocking. Indeed, the lengths undertaken by Tulsa Police Department officer Jeff Henderson and his accomplice and co-conspirator, former ATF agent Brandon McFadden--who incidentally has been recently charged criminally -- coerced witnesses, lied at the Plaintiff's criminal trial, and encouraged another to lie at the Plaintiff's trial. This testimony was the direct cause of the Plaintiff's subsequent incarceration. Equally appalling is that at least with regards to Officer Henderson, his superiors at the Tulsa Police Department knew he was a rogue cop who had little respect for the citizens of Tulsa. In fact, there were at least two instances where Officer Henderson abused his position so egregiously that his employment should have been terminated. Instead, Chief Ronald Palmer gave him a slap on the wrist.

For sixteen months, the Plaintiff languished in prison, not just for a crime he did not commit, but in fact for a crime that was completely fabricated. Unable to obtain justice in his criminal trial, the Plaintiff must now seek justice from this Court.

PARTIES, JURISDICTION & VENUE

1. The Plaintiff is a resident of Tulsa County, State of Oklahoma. Ms. Barnes, the Plaintiff's spouse, is also a resident of Tulsa County, State of Oklahoma
2. Upon information and belief, Ronald Palmer ("Chief Palmer") was a resident of Tulsa County, was the Chief of the City of Tulsa's Police Department ("TPD"), and his actions were in both his official and individual capacity.
3. Upon information and belief, Jeff Henderson ("Henderson") is a resident of Tulsa County and at all times relevant was a TPD officer working in Tulsa Police Department's Special Investigations Division and assigned to the Tulsa County Drug Task Force.

4. Upon information and belief, Brandon McFadden ("McFadden") is now a resident of the State of Texas; he was recently released from jail, on 04-14-10, by order of a federal magistrate, in United States District Court for the Northern District of Oklahoma case number 10-cr-00058-JHP, on a leg monitor, to reside in Lubbock Texas until his trial. A trial date has not been set as of this writing, but must occur, according to the federal Speedy Trial Act, within 70-days of his arraignment, which was held on 04-09-10. At all times relevant McFadden was an agent employed by the United States Department of Alcohol, Tobacco, Firearms and Explosives ("ATF") and assigned to the Tulsa County Drug Task Force.

5. Upon information and belief, at all times relevant the Defendant John Does 1-30, employees of either TPD or ATF ("John Does") were officers, agents, and representatives of their respective governmental entities.

6. At all times relevant, the Defendant City of Tulsa ("City of Tulsa") was a political subdivision of the state of Oklahoma responsible for staffing, maintaining, and otherwise operating the TPD.

7. The incidents giving rise to this cause of action occurred in Tulsa County, State of Oklahoma.

8. Personal jurisdiction is proper pursuant to 12 O.S. § 2004(f) and venue is properly laid pursuant to 12 O.S. § 133.

STATEMENT OF FACTS

9. Ryan Logsdon was a confidential informant working with officers of the Tulsa County Drug Task Force, specifically Henderson and McFadden. Logsdon had a felony conviction for possession of drugs and intent to distribute drugs in 1988. He served eighteen months of a four year sentence for this offence. Later, Henderson and McFadden allegedly found

Logsdon in possession of three pounds of uncut methamphetamine and \$10,000.00 in cash at his home. Logsdon was never arrested or charged. In exchange for this favorable treatment, Logsdon provided false testimony against the Plaintiff, and others, as coached by Henderson and McFadden. Logsdon was the key witness against the Plaintiff in his federal jury trial.

10. In the spring of 2007, Henderson and/or McFadden gave methamphetamine to Logsdon to facilitate a fabricated drug transaction with the Plaintiff and daughter Larita Barnes ("Larita"), who was living at the Plaintiff's residence (the "drug transaction"). McFadden gave Logsdon \$3,000.00 for the drug transaction.

11. Henderson and/or McFadden instructed Logsdon to falsely claim and testify at the federal jury trial, on or about 04-23-08, that he purchased the drugs from the Plaintiff Larry Barnes, Sr., and his Daughter, Larita. Logsdon did so testify at the trial, causing the Plaintiff to be wrongfully convicted. On 10-09-08 a judgment was filed in federal court against the Plaintiff, evidencing a lengthy federal prison sentence.

12. McFadden and Henderson refused to have Logsdon wear an electronic or digital wire which would have recorded such events.

13. The \$3,000.00 drug buy money was never recovered subsequent to the drug transaction.

14. At no time before Logsdon allegedly attempted to buy illicit drugs at Plaintiff's home was the Plaintiff ever the target of a criminal investigation. Indeed, at no time prior to the drug transaction was the Plaintiff's name mentioned.

15. Neither Henderson nor McFadden personally witnessed any of the events in the Plaintiff's home where the drug transaction took place.

16. The drug transaction resulted in the Plaintiff being charged and ultimately prosecuted, first in state court, for Possession of Methamphetamine with Intent to Distribute and Distribution and then in federal court for the same charges. On 05-08-07 the falsely alleged drug buy at Larry Barnes' house was said to take place by Logston, Henderson and McFadden. Henderson and McFadden said they were outside the house watching. Later informant Logston admitted to federal agents and the U.S. Attorney that Henderson had earlier dropped dope in his lap and said "*you just bought these from Larry Barnes.*" On 06-14-07 state charges were filed against the Plaintiff and his daughter, Tulsa County number CF-07-3254. These state charges were dropped after the federal indictment was issued. Later the federal charges were also dropped on or about 07-01-09, but not before the Plaintiff had wrongly spent approximately 16 months in federal prison.

17. The Plaintiff's trial on the federal criminal complaint based upon the drug transaction began on April 22, 2008. Henderson and McFadden both testified as prosecution witnesses. During the course of their testimony, both Henderson and McFadden testified to completely false and/or inconsistent facts pertaining to the drug transaction.

18. Logsdon testified as a prosecution witness during the Plaintiff's criminal trial. Logsdon testified that the Plaintiff's daughter, Kelie Barnes ("Kelie"), was present at the Plaintiff's home at the time he allegedly purchased illicit drugs from Plaintiff's daughter Larita. Kelie was clocked in on her shift at a Tulsa restaurant (Charlie's Chicken) and time records demonstrate she was at work at the time of the alleged drug purchase at the Plaintiff's home.

19. Logsdon's trial testimony relating to the events in the Plaintiff's home was not corroborated by a single document or witness.

20. After a two day trial, the Plaintiff was convicted on both criminal counts and ultimately sentenced to sixty six months on both counts which were to run concurrently.

21. Subsequent to the trial wherein the Plaintiff was convicted Logsdon recanted his testimony against the Plaintiff and under oath has stated that he was "coached" into lying against the Plaintiff.

22. After the Plaintiff's incarceration commenced, it became known that Henderson, McFadden, and Logsdon committed perjury during the trial. This information was made known to the Court and ultimately the Plaintiff and Larita's convictions were dismissed and they were both released from prison.

23. McFadden has been indicted by a Northern District of Oklahoma federal district court for *Conspiracy to Distribute Schedule I and Schedule II Controlled Substances*, case number 10-cr-00058-JHP. He has retained an attorney, been arraigned on 04-09-10, and is awaiting jury trial.

24. The Plaintiff has never used illicit drugs and in fact encouraged his children to stop either using or distributing them.

**FIRST CAUSE OF ACTION
VIOLATION OF 42 U.S.C. § 1983 (CIVIL RIGHTS)
PLAINTIFF vs. TULSA, PALMER, HENDERSON AND MCFADDEN**

For his First Cause of Action against the Defendant Tulsa, Palmer, Henderson, and McFadden, the Plaintiff adopts and re-alleges all of his allegations above as if fully set forth herein and further alleges and states as follows:

25. The City of Tulsa, TPD, Palmer, Henderson, and McFadden, acting under color of statute, regulation, custom or law of the State of Oklahoma, caused the Plaintiff to be subjected to the deprivation of his rights, privileges, and immunities secured by the Fourteenth

Amendment of the Constitution of the United States and its laws in violation of 42 U.S.C. § 1983. The acts of the City of Tulsa, TPD, Palmer, Henderson, and McFadden was reckless, knowing, intentional, malicious and/or wanton violation of the Plaintiff's rights and renders them liable in an action at law or other proceeding for redress of the injuries sustained.

26. Upon information and belief the City of Tulsa and TPD issued the policies and procedures pursuant to which Henderson and McFadden conducted their work.

27. City of Tulsa and Chief Palmer knew of problems Henderson had at following departmental policy, rules, and regulations and willfully and intentionally refused to undertake the necessary remedial efforts to protect the citizens of Tulsa from Henderson.

28. TPD and the City of Tulsa knew of the threat of harm and injury Henderson posed to the Plaintiff and the citizens of Tulsa and acted with deliberate indifference to the Plaintiff's constitutional rights. Indeed, City of Tulsa and TPD's failure to adequately and properly train its officers constitutes deliberate indifference to the rights of persons such as the Plaintiff.

29. City of Tulsa and TPD was responsible for training Henderson and the Defendant John Doe officers employed by TPD to protect the constitutional rights of the citizens of the City of Tulsa. City of Tulsa and TPD, by allowing its officers to violate the due process and equal protection rights of the Plaintiff by conducting an unlawful and malicious prosecutions in allowing its employees to conspire to mislead the Court and in committing perjury in furtherance of their desire to maliciously prosecute Plaintiff, to allow conspiracies to arrest has been deliberately indifferent to the unconstitutional actions of its officers, even if its own policies or customs are not unconstitutional. The City of Tulsa has established a policy practice or custom of allowing its officers to deprive Tulsa citizens their rights to the protection of the United States Constitution. The actions of the City of Tulsa and TPD violated the Plaintiff's constitutional

rights under the Fourteenth Amendment causing him harm and damages. Indeed, the violations of the policies of TPD are so prevalent they amount to a custom or practice that has been ratified by the condoning of the same.

WHEREFORE, premises considered, the Plaintiff Larry Wayne Barnes, Sr. prays the Court for Judgment against the Defendant John Does, and award him compensatory damages in excess of ten thousand dollars (\$10,000.00), award him punitive damages in excess of ten thousand dollars (\$10,000.00), prejudgment and post judgment interest, attorneys' fees incurred, and any other relief deemed just and equitable.

**SECOND CAUSE OF ACTION
VIOLATION OF 42 U.S.C. § 1985 (CONSPIRACY TO VIOLATE CIVIL RIGHTS)
PLAINTIFF vs. HENDERSON AND MCFADDEN**

For his Second Cause of Action against Henderson and McFadden, the Plaintiff adopts and re-alleges all of his allegations above as if fully set forth herein and further alleges and states as follows:

30. Henderson and McFadden conspired with themselves, and with Logsdon, to fabricate a drug transaction in order to deprive the Plaintiff of his due process rights, equal protection or equal privileges.

31. Henderson and McFadden acted in furtherance of the conspiracy in numerous ways, including by giving illicit drugs to Logsdon in order to fabricate the drug transaction; by coaching Logsdon's trial testimony; and by themselves committing and suborning perjury during the Plaintiff's criminal trial.

32. These actions of the City of Tulsa have violated Plaintiff's constitutional rights under the Fourteenth Amendment causing him harm and damages. As a result of the unconstitutional and illegal actions Henderson and McFadden, the Plaintiff endured a deprivation

of his liberty, pain and suffering, humiliation, embarrassment, emotional distress and loss of society and consortium of his spouse, Ms. Barnes. Plaintiff is entitled to compensatory damages from all Defendants for these injuries.

WHEREFORE, premises considered, the Plaintiff Larry Wayne Barnes, Sr. prays the Court for Judgment against the Defendant John Does, and award him compensatory damages in excess of ten thousand dollars (\$10,000.00), award him punitive damages in excess of ten thousand dollars (\$10,000.00), prejudgment and post judgment interest, attorneys' fees incurred, and any other relief deemed just and equitable.

**THIRD CAUSE OF ACTION
BIVENS ACTION
PLAINTIFF vs. MCFADDEN**

For his Third Cause of Action against McFadden in his individual capacity, the Plaintiff adopts and re-alleges all of his allegations above as if fully set forth herein and further alleges and states as follows:

33. McFadden, as a federal official acting under color of statute, regulation, custom or law, by fabricating the drug transaction, falsely arresting the Plaintiff, maliciously prosecuting the Plaintiff subsequent to the drug transaction, committing perjury during the Plaintiff's criminal trial, and suborning Logsdon's testimony at the Plaintiff's criminal trial, caused the Plaintiff to be subjected to the deprivation of his rights, privileges, and immunities secured by the Fourteenth Amendment of the Constitution of the United States and its laws.

34. Henderson personally participated in the drug transaction and in the violations of the Plaintiff's constitutional rights.

35. Henderson's were reckless, knowing, intentional, malicious and/or wanton violation of the Plaintiff's rights and renders him liable in an action at law or other proceeding for redress of the injuries sustained.

WHEREFORE, premises considered, the Plaintiff Larry Wayne Barnes, Sr. prays the Court for Judgment against the Defendant John Does, and award him compensatory damages in excess of ten thousand dollars (\$10,000.00), award him punitive damages in excess of ten thousand dollars (\$10,000.00), prejudgment and post judgment interest, attorneys' fees incurred, and any other relief deemed just and equitable.

**FOURTH CAUSE OF ACTION
VIOLATION OF 42 U.S.C. § 1983 (CIVIL RIGHTS)
PLAINTIFF vs. INDIVIDUAL DEFENDANTS (JOHN DOE(S))**

For his Fourth Cause of Action against the John Doe defendants, individuals known only by his or her job description and title that will be obtained during discovery, the Plaintiff adopts and re-alleges all of his allegations above as if fully set forth herein and further alleges and states as follows:

36. Defendant John Does, officers employed either by TPD, participated in the deprivation of the Plaintiff's due process rights during the events leading up to and during the Plaintiff's criminal trial.

37. The Defendant John Does, acting under color of law, caused the Plaintiff to be subjected to the deprivation of his rights, privileges, and immunities secured by the Constitution of the United States and its laws. The acts of the Defendant John Does were recklessly, wantonly, maliciously, knowingly, and/or intentionally in violation of the Plaintiff rights and render the Defendant John Does liable in an action at law, suit in equity, or other proper proceedings for redress of the following: false arrest and imprisonment of the Plaintiff, the

malicious prosecution of the Plaintiff, the wrongful and illegal incarceration of the Plaintiff, and failure to follow City of Tulsa and/or TPD policy and procedures.

38. As a result of the unconstitutional and illegal actions by the Defendant John Does, the Plaintiff endured a deprivation of his liberty, pain and suffering, humiliation, embarrassment, emotional distress and loss of society and consortium of his spouse, Ms. Barnes. Plaintiff is entitled to compensatory damages from all Defendants for these injuries.

39. The Defendant John Does' deliberate indifference the Plaintiff's due process and equal protection violated the Plaintiff's rights under the due process clause of the Fourteenth Amendment and thus violated 42 U.S.C. § 1983.

40. The Defendant John Does exhibited malicious motive and intent and/or demonstrated reckless indifference to the federally protected rights of the Plaintiff and showed deliberate indifference to his due process rights entitling the Plaintiff to an award of punitive damages against them.

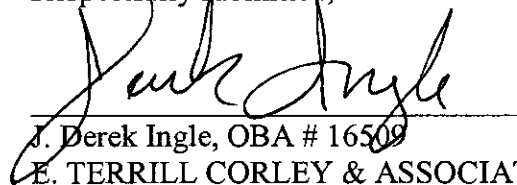
WHEREFORE, premises considered, the Plaintiff Larry Wayne Barnes, Sr. prays the Court for Judgment against the Defendant John Does, and award him compensatory damages in excess of ten thousand dollars (\$10,000.00), award him punitive damages in excess of ten thousand dollars (\$10,000.00), prejudgment and post judgment interest, attorneys' fees incurred, and any other relief deemed just and equitable.

**FIFTH CAUSE OF ACTION
LINDA BARNES LOSS OF CONSORTIUM**

41. Plaintiffs Larry and Linda Barnes have been married approximately 40 years. During the period of Larry's wrongful imprisonment, Linda suffered loss of companionship with her long-time spouse as well as other damages.

WHEREFORE, premises considered, Plaintiff Linda Barnes prays for Judgment against the Defendants for loss of consortium damages.

Respectfully submitted,



J. Derek Ingle, OBA # 16509

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