

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BUJAR DERVISHAJ, EDONA DERVISHAJ,
FLAMUR SEJDIU, and ILIJANA SEJDIU,

Plaintiffs,

Case No.

v

HON.

MICHIGAN STATE POLICE TROOPER
BRIAN ALEXANDER, BADGE 1210;
MICHIGAN STATE POLICE TROOPER
CHRISTOPHER McINTOSH, BADGE
126; MICHIGAN STATE POLICE TROOPER
TROY JOHNSTON; MICHIGAN STATE POLICE
DETECTIVE SERGEANT KYLE McPHEE,
BADGE 383; MICHIGAN STATE POLICE
TROOPER CHAFFEE; MERIDIAN TOWNSHIP
POLICE OFFICER BRYAN LEROY, BADGE 940
and THE TOWNSHIP OF MERIDIAN, Jointly and
Severally,

Defendants.

COMPLAINT FOR DAMAGES AND JURY DEMAND

Plaintiffs, by their attorney Thomas M Loeb, complain against the
above-named defendants, and in support state as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over these claims pursuant to 28 USC
§1331.

2. Venue is properly laid in this Court pursuant to 28 USC §1391(b), because one or more defendants reside in the Eastern District and all defendants are residents of the State of Michigan.

PLAINTIFFS AND DEFENDANTS

3. Plaintiffs Bujar Dervishaj and Edona Dervishaj are married. They have an infant son, Adam, who was four months old at the time of the events complained of in this lawsuit.
4. Flamur Sejdiu and Ilijana Sejdiu are married. They have an infant daughter, Tiana, who was eleven months old at the time of the events complained of in this lawsuit.
5. Flamur Sejdiu and Edona Dervishaj are brother and sister.
6. That all times relevant to this complaint, defendants MSP Trooper Brian Alexander, Badge 1210; MSP Trooper Christopher McIntosh, Badge 126; MSP Trooper Troy Johnston; MSP Detective Sergeant Kyle McPhee, Badge 393; MSP Trooper Chaffee; and Meridian Township Police Officer Bryan Leroy, Badge 940, were acting under color of law and within the scope of their employment.
7. That the defendant officers are being sued in their individual capacities.

8. That at all times relevant to this complaint, defendant Meridian Township is and was an organized municipal corporation existing under the laws of the State of Michigan.
9. That the incident complained of in this lawsuit began on Sunday December 7, 2014.
10. That there were additional police officers who acted in concert with the defendant officers named in this lawsuit. At this time their names are not known by plaintiffs. When their names are discovered, they will be added to this lawsuit.

FACTS

11. On Sunday December 7, 2014, at approximately 2:00 A.M., Ingham County Deputy Sheriff Grant Whitaker was working the night shift, assigned to road patrol.
12. Upon information and belief, Deputy Whitaker was responding to an unrelated scene when the white SUV drove past his location, speeding. Upon information and belief, the SUV's speed exceeded 100 MPH.
13. The SUV was being chased because it refused to stop for a police officer.

14. Deputy Grant Whitaker also gave chase.
15. Upon information and belief, the Ingham County Sheriff's Department called off the chase, because it was unsafe. However, Deputy Whitaker chose to continue the chase.
16. During the chase, Deputy Whitaker was driving at speeds so unsafe under the circumstances that he was unable to control his scout car. It was estimated that he was traveling at 117 MPH on a two lane blacktop when he went off the road and hit a tree, killing himself. Fortunately, no other civilians or officers were injured.
17. Many police agencies were notified of and were monitoring the car chase that Deputy Whitaker was conducting.
18. Word of Deputy Whitaker's death from losing control of his scout car was made known to other officers within minutes after his death.
19. In a totally unrelated event, Meridian Township Police Officer Erin Linn investigated a suspicious vehicle complaint at approximately 1:30 A.M. on December 7th, at the Cedar Creek Apartments in Okemos, Michigan.
20. The vehicle was reported to be repeatedly driving around an

apartment complex parking lot.

21. Officer Linn responded to the scene, but was unable to locate the suspicious white SUV in the area.
22. However, a short time later Officer Linn overheard the pursuit on the radio that the Ingham County Sheriff's Department units were involved in (including Deputy Grant Whitaker) in the Stockbridge area.
23. Officer Linn then advised Ingham County Central Dispatch about the suspicious vehicle complaint she was investigating at the Cedar Creek Apartments at approximately 1:30 A.M. on December 7, 2014.
24. On this date, Bujar and Edona Dervishaj lived at the Cedar Creek Apartments.
25. On this date, Flamur Sejdiu, Ilijana Sejdiu, and their daughter Tiana were overnight guests.
26. Bujar Dervishaj owns a local business in Okemos, Michigan with his brother Gazmend Dervishaj.
27. The white 2015 GMC Yukon that the defendants later mistook for the fleeing vehicle when Deputy Whitaker drove recklessly and

killed himself was owned by Gazmend Dervishaj.

28. Gazmend Dervishaj gave permission to Bujar Dervishaj to use the vehicle in his absence.
29. During the early morning hours of December 7th, Flamur Sejdiu and his wife Ilijana Sejdiu borrowed the white SUV so they could drive around the apartment complex in an effort to get their infant daughter to sleep.
30. This is a common practice for this family, and is a recognized method of getting infants and small children to fall asleep, as any parent knows.
31. One or more of the defendant officers located the suspicious vehicle that was the subject of the unrelated complaint that Meridian Township Officer Linn was investigating.
32. This car, the white 2015 GMC Yukon SUV that was borrowed by the Sejdiu's was found in the parking lot of the Cedar Creek Apartments.
33. One or more of the defendant officers also noticed that the hood of the Yukon was warm to the touch.
34. One or more of the defendant officers learned that the

registered owner of the Yukon (Gazmend Dervishaj) had the same last name as plaintiffs Bujar and Edona Dervishaj, and that Bujar and Edona Dervishaj lived at the Cedar Creek Apartments.

35. As is true in nearly every county in Michigan, the Ingham County court system had prosecutors and judges “on call” during non-business hours (evenings and weekends) who were available for the issuance of search warrants or arrest warrants on an as-needed basis.
36. The defendant officers knew this.
37. The defendant officers chose, however, to not request a search warrant or arrest warrant for the Dervishaj apartment.
38. The officers chose to not request a warrant to search the Dervishaj apartment because they knew they did not have sufficient probable cause to justify issuing one.
39. Moreover, the defendant officers did not want to disturb the sleep of the on call prosecutor or judge.
40. Instead, the officers stormed the apartment and terrorized the plaintiffs.
41. Specifically, one or more of the officers pounded persistently

and loudly on the front door, waking one of the men.

42. When he answered the front door, the officers rushed in, without consent, probable cause, or exigent circumstances to justify their illegal entry.
43. The officers proceeded to threaten all occupants at gun point.
44. The officers proceeded to order all occupants out of the apartment and into the hallway.
45. The men were forced to face the wall with their arms outstretched above them in a “Law and Order – Assume the Position” stance.
46. The women were also forced into the hallway and ordered to stand against the wall like their respective husbands. However, because each woman was holding her child, the mothers were unable to place both hands above their head, as they were cradling their babies with one of their arms.
47. The officers could not contain their anger over Deputy Whitaker’s death, and they assumed that his death was caused by the plaintiffs.
48. Bujar Dervishaj and Flamur Sejdiu were handcuffed and forced

to remain in the hallway.

49. Bujar Dervishaj and Flamur Sejdiu were in their underwear or night clothes. Despite repeated requests, they were denied the opportunity to get dressed.

50. Bujar Dervishaj complained that the cuff on his right wrist was placed too tightly and that his hand was going numb.

51. Despite Bujar Dervishaj's repeated requests to loosen the handcuff, his requests were denied.

52. The women were ordered back into the apartment at gunpoint by the defendant officers and forced to stay in separate bedrooms.

53. Plaintiffs were instructed they could not talk to each other and could not ask questions.

54. Bujar Dervishaj requested water, but his request was denied.

55. Each plaintiff was threatened that their child would be taken from them involuntarily, that they would lose their parental rights, and that the children would end up with Child Protective Services.

56. The men were arrested, placed in scout cars, and taken involuntarily to the Lansing State Police post, where they were each held in excess of 10 hours.

57. That it has been clearly settled law for over 30 years that before a police officer can enter a citizen's home to make an arrest, he would first need a warrant, or consent, or other exigent circumstance to justify it.

58. That a reasonably competent police officer would have known that the Fourth Amendment to the United States Constitution prohibits the police from making a warrantless and non-consensual entry into a suspect's home in order to make a routine felony arrest, even if the arrest is supported by probable cause.

59. Each defendant officer had both the opportunity and the means to prevent the other officers from entering plaintiff's home illegally.

60. Notwithstanding, each defendant officer failed to intervene on plaintiffs' behalf, and attempt to prevent the other officers from improperly entering plaintiffs' home, violating their rights, and arresting the men.

61. As such, each officer is responsible for the illegal conduct of the others.

62. After her husband and her brother-in-law were held in custody nearly ten hours, Ilijana Sejdiu received a phone call from one or

more of the defendant officers, advising her that her husband would remain in custody and unless and until she agreed to be transported to the Lansing Police Post for an interview.

63. Fearing for her husband, she agreed to the interview.

64. Two defendant officers then drove to her apartment, dropped off Bujar Dervishaj, and transported Ilijana Sejdiu to the Lansing Police Post.

65. Ms. Sejdiu was not allowed to bring her daughter with her.

66. Only after Ms. Sejdiu was interviewed was she and her husband allowed to leave.

67. That as a direct and proximate result of the conduct of the defendants, referred to more fully above, plaintiffs suffer and continue to suffer embarrassment; indignation; anxiety; fear; humiliation; outrage; shame; loss of liberty; and denial of constitutional rights. Additionally, plaintiff Bujar Dervishaj suffered pain when the defendants refused to loosen his right handcuff, despite repeated requests.

COUNT ONE - §1983 DEFENDANT OFFICERS

68. Plaintiffs incorporate by reference their paragraphs 1 through

67 as if fully set forth.

69. As a result of their unlawful, malicious, reckless, and indifferent conduct, the defendant officers acted in concert, under color of law but contrary to law, and did deprive plaintiffs of their rights, privileges, or immunities secured under the constitution and laws of the United States and 42 USC §1983, including:

(a) As to the Dervishaj plaintiffs, their right to be free from an unreasonable entry of their home, as guaranteed by Amendments IV and XIV of the United States Constitution, by entering their home without an arrest or search warrant, consent, or other exigency.

(b) As to the Sejdiu plaintiffs, their right to be free from an unreasonable violation of their expectation of privacy, as guaranteed by Amendments IV and XIV of the United States Constitution, by entering a home in which they were overnight guests without an arrest or search warrant, consent, or other exigency.

(c) As to Bujar Dervishaj, his right to be free from an unreasonable seizure of his person, as guaranteed by Amendments IV and XIV of the United States Constitution, by subjecting him to physical injury during the unlawful entry of his home in order to arrest him, through

the use of gratuitous, unnecessary, and excessive force.

(d) For all plaintiffs except Edona Dervishaj, their right to be free from an unreasonable seizure of their person, as guaranteed by Amendments IV and XIV of the United States Constitution, by causing them to be arrested and transported against their will without probable cause or even articulable suspicion that any of them committed a crime.

THEREFORE, plaintiffs demand judgment against each defendant officer for compensatory damages, jointly and severally, in whatever amount the jury may determine, plus costs, pre-judgment and post-judgment interest, and actual attorney fees pursuant to 42 USC §1988. Additionally, plaintiffs demand judgment against each defendant officer individually for punitive damages in whatever amount the jury may determine, plus costs, pre-judgment and post-judgment interest, and actual attorney fees pursuant to 42 USC §1988.

COUNT TWO - §1983 – MUNICIPAL LIABILITY

70. Plaintiffs incorporate by reference their paragraphs 1 through 69 as if fully set forth.

71. Defendant Meridian Township, through its police department in general, and these defendant officers in particular, have established a practice, policy, or custom which directly and proximately caused the injuries and harm suffered by plaintiffs, as stated more fully throughout this complaint by:

- (a) training, instructing, encouraging, or expecting its officers to enforce laws in any way they may deem fit, without regard to the constitutional rights of citizens in general or these plaintiffs in particular to be free from an illegal entry of their home, or other place where they would have a reasonable expectation of privacy, or to be free from arbitrary and discriminatory enforcement of the laws;
- (b) deliberately failing to adequately supervise, train, or discipline its officers in general or these defendant officers in particular when it becomes known or apparent that its officers have violated the fourth amendment rights of its citizens, in the manner complained of in this lawsuit; and
- (c) failing to properly train its officers in the limitations of their conduct in making warrantless entries into a citizen's home, as

required by the Constitution and laws of the United States.

72. As a result of the above-described practice, policy, or custom, officers of Meridian Township, including these defendant officers, believed that their actions would not be properly monitored by supervisors and misconduct would not be adequately investigated or sanctioned, but would instead be tolerated.

73. That Meridian Township's practice, policy, or custom, as set forth more fully above, was the moving force that did deprive plaintiffs of their rights, privileges, or immunities secured under the Constitution and laws of the United States, and 42 USC §1983, including their right to be free from an unreasonable search or entry of their home or seizure of their person, as guaranteed by Amendments IV and XIV of the United States Constitution.

THEREFORE, plaintiffs demand judgment against defendant Meridian Township for compensatory damages in whatever amount the jury may determine, plus costs, interest, and actual attorney fees pursuant to 42 USC §1988.

PLAINTIFFS DEMAND A JURY TRIAL

Respectfully submitted,

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