

FILED
U.S. District Court
District of Kansas

Pro Se 15 (Rev. 12/16) Complaint for Violation of Civil Rights (Non-Prisoner)

DEC 19 2019

UNITED STATES DISTRICT COURT

Clerk, U.S. District Court
By GRK Deputy Clerk

for the

District of KS

Division

Blaine Franklin Shaw
and
Samuel James Shaw

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Doug Schulte, KS Highway Patrol #411

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Case No.

6:19-cv-01343-EFM-GEB

(to be filled in by the Clerk's Office)

Jury Trial: (check one) ☒ Yes ☐ No

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Non-Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

Pro Se 15 (Rev. 12/16) Complaint for Violation of Civil Rights (Non-Prisoner)

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Blaine Franklin Shaw

Address

2716 N. Redmond Ave

Oklahoma City

OK

73127

City

State

Zip Code

County

Oklahoma County, OK

Telephone Number

405-404-1299

E-Mail Address

ebfs1983@gmail.com

B. The Defendant(s)

Samuel James Shaw and Phone: 918-855-3615
4173 NW 22nd St. Oklahoma City, OK 73107 Oklahoma County, OK

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Doug Schulte

Job or Title (if known)

Kansas Highway Patrol

Address

1821 Frontier Rd

Hays

KS

67601

City

State

Zip Code

County

Ellis County, KS

Telephone Number

785-625-3753

E-Mail Address (if known)

☐ Individual capacity ☒ Official capacity

Defendant No. 2

Name

Job or Title (if known)

Address

City

State

Zip Code

County

Telephone Number

E-Mail Address (if known)

☐ Individual capacity ☐ Official capacity

Pro Se 15 (Rev. 12/16) Complaint for Violation of Civil Rights (Non-Prisoner)

Defendant No. 3

Name

Job or Title (if known)

Address

City

State

Zip Code

County

Telephone Number

E-Mail Address (if known)

☐

Individual capacity

☐

Official capacity

Defendant No. 4

Name

Job or Title (if known)

Address

City

State

Zip Code

County

Telephone Number

E-Mail Address (if known)

☐

Individual capacity

☐

Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐Federal officials (a *Bivens* claim)☒

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Violation of U.S. Supreme Court decision of *Rodriguez vs United States* (2015) regarding drug dogs/K9 medical papers copied at police station.
Violation of 4th, 5th, 6th Amendments of US Constitution. Illegal detainment, illegal search & seizure, questioning continued after attorney requested, and no attorney provided upon request.

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

I was pulled over for speeding, issued a ticket, and then Doug Schulte illegally detained us by making us wait an excessive amount of time for a drug dog/K9 for no valid reason. We asked and were not given a reason. The dog arrived and then my vehicle was searched and property damaged. I was questioned and asked for an attorney in response. He continued to question me. We were then ordered to follow Doug Schulte to his office (Police) station so he could photo copy medical papers he found in my briefcase. Samuel Shaw, my brother and passenger (also Plaintiff) was also detained and searched.

- III. **Statement of Claim** State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. Where did the events giving rise to your claim(s) occur?

Hays, KS

- B. What date and approximate time did the events giving rise to your claim(s) occur?

12/20/2017 at 12:25pm to 2:05pm

- C. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

* See Attached Page *

I, Blaine Franklin Shaw, and my brother and passenger, Samuel James Shaw believe our constitutional rights were violated by Doug Schulte of the Kansas Highway Patrol (ID Number 411) while passing through Hays, Kansas, on December 20th, 2017, between 12:25pm and 2:05pm. We were westbound on I-70. I was pulled over for speeding and given a speeding ticket. I had been passing a semi truck that was slinging rocks at my windshield and the officer was ahead of me in the truck's lane about 150 yards ahead. I'm not even sure how he clocked my speed with me being behind him. Upon completion of the traffic stop, which took roughly 13 minutes, Doug Schulte asked our destination. I told him we were headed to Denver to visit friends and family. He then began asking about drugs, weapons, and currency, which I truthfully denied possessing. Doug Schulte then asked to search my vehicle and I told him "I do not consent to searches". He told me he was going to get a K9/drug dog. I told him it was my understanding that I did not have to agree to wait for a K9/drug dog and he told me we were being detained. I tried to ask why and he simply ignored me and walked away, back to his vehicle.

My brother and I were detained well beyond the scope of the traffic stop. After nearly half an hour, two other officers showed up, one in an intimidating bullet proof vest and military looking gear. They had my passenger, Samuel Shaw, and I get out of the car and wait about 15 yards away from the front of my vehicle. The dog apparently "hit" or "alerted by jumping into my open driver side window, putting scratch marks on the top interior panel of my car door where the window comes up from. Doug Schulte and the two other police officers that were there then decided to search my vehicle. They went through our "papers and effects" in violation of our 4th amendment rights. They cut open the zippers on my locked suitcase as well as on my locked briefcase, damaging them both. I wasn't doing anything wrong besides speeding and we didn't have anything illegal on us either. They found some of my medical records in my locked briefcase. Doug Schulte asked questions about it, which I refused to answer. I told Doug Schulte that I felt like my 4th amendment rights were being violated and that I wanted an attorney. He and the other two police officers continued questioning me about my medical records and my medications. I had to ask for an attorney several more times. Doug Schulte then had me follow him to the police station so that he could make copies of my medical records and paperwork that was in my briefcase. After over an hour and a half of unlawful detention, we were finally let go because they couldn't find anything to arrest us over. I felt like they were looking hard for a reason to arrest us. I still have no idea why we were even detained in the first place.

I was an UBER driver up until this event happened. Since then, I haven't felt comfortable driving and didn't drive for UBER for roughly 14 months following my traffic stop and illegal detainment and search in Kansas by Doug Schulte of the Kansas Highway Patrol. I only drive when necessary and have only driven for UBER when I really needed money for bills. I've been fortunate to have family usually help me when I couldn't make ends meet. After this incident, I am constantly in fear of the police violating my rights. I don't feel secure in my right to be free from unlawful detention and illegal search and seizure. I would like to sue them for violating my rights and for lost wages since then.

We were made to wait nearly half an hour for a drug dog in what I feel is a violation of the 2015 Supreme Court decision of Rodriguez vs United States regarding having to wait for drug dogs beyond a traffic stop's scope. I made it very clear that I did not consent to being searched or to wait for a drug dog when he told me he was getting one. I was told I was "being detained" and not given a reason when I asked. In fact, Doug Schulte was rude and turned his back on me and walked away in what I felt was condescending and in contempt for having asked why we were being detained. This was after the traffic stop was concluded and the ticket was issued. This was all within 13 minutes and should've been the end of the traffic stop. Two zippers were broken on my locked briefcase where my documents were, and the zipper was broken into on

my locked suitcase as well. I feel like my 4th amendment rights were violated as well as the 2015 Supreme Court ruling regarding waiting for drug dogs beyond the scope of the traffic stop (Rodriguez vs United States).

I refused a search and Doug Schulte of the KS Highway Patrol said they were going to bring a K-9. I said it was my understanding that I didn't have to agree to wait for a K-9. He immediately said we were being detained. I tried to ask why and the Doug Schulte turned his back on me and walked away back to his vehicle. As he pressed with the questioning following what I consider to be an illegal search of my vehicle without my consent, I invoked my 5th and 6th amendment rights saying I have nothing to say and that I wanted an attorney. I was asked even more questions and when pressed harder and I had to invoke my 5th and 6th amendment rights again saying I had nothing to say and asking for a lawyer. This happened several times and in the end, Doug Schulte had us follow him to the police station to copy my medical papers. After being allowed to leave, we left the area and stopped at the next town and got out and assessed the damages to my property that included broken zippers on my suit case and briefcase and scratches on the interior of my driver side door near the window. I would like to sue for the damage to my property, lost wages for my reluctance to drive for UBER anymore following the incident, as well as for punitive damages in order for us to be made whole.

not included 7/26/2014

IV. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

V. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

I would like Doug Schulte held accountable for violating my civil rights, and so would the other plaintiff, Samuel Shaw.

Actual Damages: Broken Briefcase Zipper; (\$75 briefcase), and broken suitcase zipper; (\$125 suitcase) for a total of \$200 in Actual Damages. The dog scratched my interior door near the window and am unsure of damage cost.

Punitive Damages: \$249,800. The basis for this amount is to send a message that police must respect citizen's constitutional rights and obey US Supreme Court decisions. A portion will also cover lost earnings for me no longer feeling comfortable driving for UBER regularly like I did prior to the incident with Doug Schulte of the Kansas Highway Patrol.

I would like to be "made whole" again.

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 12/19/2019

Signature of Plaintiff

Printed Name of Plaintiff

Blaine Shaw
Blaine Shaw

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address