

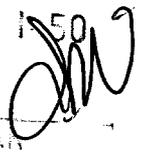
SCANNED

U.S. DISTRICT COURT
PORTLAND, MAINE
RECEIVED AND FILED

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

2007 DEC 26 P 1:50

BY _____
DEPUTY CLERK



LAURIE TARDIFF)
)
V)
)
KNOX COUNTY,)
)
And)
)
DANIEL DAVEY, in)
His individual capacity and)
In his official capacity as Knox)
County Sheriff)
)
And)
)
JANE DOE, in her individual)
Capacity,)
)
And)
)
JOHN DOE, in his individual)
Capacity)
)

02C#251-P.C

FIRST AMENDED
COMPLAINT AND DEMAND
FOR JURY TRIAL

INTRODUCTION

1. This is a civil rights action for money damages against Knox County, Knox County Sheriff, Daniel Davey, and Correctional Officers Jane Doe and John Doe for injuries caused by the unconstitutional strip search of the Plaintiffs.
2. The named Plaintiff, Laurie Tardiff, seeks to represent a class of men and women who were admitted to the Knox County Jail while waiting for bail to be set, or for an initial court appearance, or were arrested on arrest warrants, or charged with



misdemeanors, or charged with felonies which would not give rise to a reasonable suspicion of hiding contraband, drugs, or weapons on their bodies. Included in this class are men and women who have been taken into custody by the Knox County Sheriff's Department, the Maine State Police, and the various police departments of Knox County. All the men and women of the class were incarcerated and housed at the Knox County Jail in Rockland, Maine.

3. Plaintiff and these other men and women have all been unlawfully subjected to strip searches and visual body cavity searches due to custom and practice adopted by Knox County and the Knox County Sheriff and implemented by the Knox County Sheriff's Department. The custom and practice of Knox County and the Sheriff requires that every person committed to the custody of the Knox County Jail be strip searched and subjected to a visual body cavity search without any reason to believe a strip search or visual body cavity search is necessary or constitutionally permissible.
4. Plaintiff seeks to have this Court declare that these strip searches are unconstitutional and to enjoin the Defendants from conducting strip searches and visual body cavity searches of women and men who are held awaiting bail, held for initial court appearance, held on arrest warrants, on minor misdemeanor charges, or on felony charges not raising a reasonable suspicion of the existence of contraband or dangerous weapons on the grounds that such searches violate Plaintiffs' constitutional rights to be free from unreasonable searches under both the Maine and United States Constitution.

JURISDICTION

5. This action is brought pursuant to 42 U.S.C. §§1983 and 1988 and the Fourth, Fifth, and Fourteenth Amendments to the United States Constitution. Jurisdiction is founded upon 28 U.S.C. §§ 1331 and 1343.

PARTIES

6. The named Plaintiff, Laurie Tardiff, was at all times relevant to this Complaint, a resident of the State of Maine.
7. The Defendant, Knox County, is a duly designated County in the State of Maine under the Laws of the State of Maine.
8. The Defendant, Daniel Davey, was at all times relevant to this Complaint, the Sheriff of Knox County. He is sued in his individual capacity and in his official capacity as Knox County Sheriff. The actions of Defendant Davey alleged in this Complaint were taken under color of law.
9. The Defendant, Jane Doe, is a correctional officer employed by Knox County. She is sued in her individual capacity.
10. The Defendant, John Doe, is a correctional officer employed by Knox County. He is sued in his individual capacity.
11. The actions of Defendants Jane Doe and John Doe alleged in this Complaint were taken under color of law of the State of Maine.

FACTS

12. On February 7, 2001, at approximately 5:05 p.m., Plaintiff, Laurie Tardiff, was arrested at her residence, 53 Granite Street, Rockland, Maine by Rockland Police Officer Patrick Allen. She was allegedly arrested for tampering with a witness.
13. According to said Officer Allen, Ms. Tardiff was arrested pursuant to an arrest warrant.
14. Prior to leaving home, Ms. Tardiff was required to empty her pockets in front of Officer Patrick Allen.
15. Ms. Tardiff, while under arrest, was taken to the Knox County Jail.
16. After arriving at the jail, Ms. Tardiff was booked in the intake area.
17. An unidentified officer of the Knox County Corrections Department asked that Ms. Tardiff remove her overcoat and took it from her.
18. At that time, Ms. Tardiff was only wearing a lingerie see-through shirt under her overcoat. She had on no brassiere.
19. She asked Corrections Officer, Edward Colson, if she could have a men's sweatshirt to put on to cover up her chest. He refused.
20. Also present at the time were Officers Kenny Hooper and Jay Costigan. Ms. Tardiff asked them for something to cover up with. Officer Costigan refused saying, "He didn't have time for that."
21. Ms. Tardiff was left standing there in a partially clad state for approximately ten minutes. During this time, five or more members of the Knox County Corrections

Department and several inmates were able to observe Ms. Tardiff in her partially clad state.

22. After this, Ms. Tardiff was removed to a shower area.
23. A female correction officer strip searched her.
24. She was told to remove her clothing.
25. She was told to squat and cough, exposing her vagina and anal cavity to the corrections officer.
26. She was required to repeat the squat and cough procedure three times.
27. The search of the Plaintiff conformed to the custom and practice of the Knox County Sheriff's Department.
28. After this, she was held for approximately 23 ½ hours without bail.
29. Plaintiff suffered extreme emotional distress as a result of the strip search and visual body cavity search conducted at the Knox County Jail.
30. Plaintiff, Laurie Tardiff, was shocked by the incident. Plaintiff, Laurie Tardiff, felt humiliated, degraded and violated.
31. The strip search of the Plaintiff by Defendant Jane Doe did not conform to the written strip search policy of the Defendant, Knox County, and specifically, Sheriff Department Policy Number C-120.
32. The strip search policy of Knox County and the custom and practice of the Sheriff's Department are unconstitutional.
33. The custom and practice of the Knox County Sheriff's Department is not in keeping with the Knox County Sheriff Department's own written policy regarding strip searches and visual body cavity searches.

34. It is the custom and practice of the Knox County Sheriff's Department to strip search every person taken into custody regardless of the length of time the person is to be held or the charges against the person.
35. It is the custom and practice of the Knox County Sheriff's Department to strip search each individual whether the individual is housed in a holding cell for a short period of time or mixed with the general population of the jail.
36. It is the custom and practice of the Knox County Sheriff's Department to strip search each individual whether the individual is charged with a misdemeanor or a felony.
37. It is the custom and practice of the Knox County Sheriff's Department to strip search every woman and man taken into custody by the Knox County Corrections Department.
38. The Knox County Sheriff's Department conducts strip searches and body cavity searches of all women and men who are admitted to the jail whether they are charged with a misdemeanor or a felony, whether they are waiting for a bail bondsman or an initial court appearance, whether they are arrested on warrants, and whether they are held in a holding cell temporarily or mixed with the general population.
39. In accordance with the authority and provisions contained in 34-A M.R.S.A. §1208, the Department of Corrections is authorized and required to conduct biennial reviews of each jail in the State of Maine. The Knox County Jail was cited as deficient in at least two recent biennial inspection reports, 1994 and 2000 for strip searching all women and men taken into custody.

40. The case involving Plaintiff, Laurie Tardiff, will not alone resolve the issue. In a recent case, Knox County was sued by Carmen Miller, a resident of Rockport, Maine. In 1996, Ms. Miller was stopped for an invalid inspection sticker. She was arrested when a license check erroneously determined that she had an outstanding arrest warrant. She was jailed over Patriots Day Weekend and subjected to four separate strip searches during her period of incarceration. This was two years after the 1994 Biennial Inspection Report cited the Knox County Jail as deficient for wrongfully strip searching men and women. In February of 2001, after jury selection, Ms. Miller settled her claim against Knox County in Federal Court. One week prior to settlement, on the day Ms. Miller picked her jury, Ms. Tardiff was unconstitutionally strip searched at the Knox County Jail.

CLASS ACTION ALLEGATIONS

41. This action is brought pursuant to Rule 23(a)(b)(1),(2) and (3) of the Federal Rules of Civil Procedure by Plaintiff as a class action on behalf of all women and men who were or will in the future be:
- a) Taken into custody at the Knox County Jail before arraignment, or after an arrest, whether or not pursuant to a warrant; and
 - b) Subjected to a strip search and visual body cavity search at the Knox County Jail in violation of its own policy but pursuant to the de facto policy practice or custom of conducting strip searches and visual body cavity searches of every person admitted to the jail.

42. The named Plaintiff, Laurie Tardiff, is a member of the class. The class represented by the Plaintiff is so numerous that joinder of all such persons is impractical. On information and belief, the number of class members is more than five thousand people. The custom and practice of strip searching all men and women who came into the jail has existed for more than 10 years.
43. There are questions of law and fact that are common to the class of Plaintiffs. Central to all the claims is the constitutionality of the policy and/or practice of the Knox County Sheriff to routinely conduct strip searches and visual body cavity searches.
44. Plaintiff's claims or defenses are typical of the claims or defenses of the class of Plaintiffs.
45. Plaintiff will fairly and accurately represent and protect the interests of the members of the class. The attorneys for the Plaintiff are experienced and capable in civil rights litigation and have successfully represented Plaintiffs in other civil rights litigation, including cases alleging unlawful strip searches, and in particular the case of Carmen Miller v. Knox County. Counsels have the resources and expertise to prosecute this action.
46. This action is properly maintainable as a class action because the prosecution of separate actions by the individual members of the class would create inconsistent and varying adjudications with respect to individual members of the class, which would establish incompatible standards of conduct for the Defendants.
47. This action is properly maintainable as a class action because the prosecution of separate actions would create a risk of adjudication with respect to individual

members of the class, which would, as a practical matter, be dispositive of the interests of the other members who are not parties or substantially impair or impede their ability to protect their interests.

48. The Defendants have acted on grounds generally applicable to the class, thereby making appropriate final injunctive relief or declaratory relief with respect to the class as a whole.

49. As a direct result of the errant policy and/or custom and practice, class members have been subject to unlawful strip searches and visual body cavity searches, which has caused each member of the class to endure pain and suffering and mental anguish.

COUNT I: 42 U.S.C. §1983 DEFENDANT, KNOX COUNTY

50. The Plaintiff repeats and realleges Paragraphs 1 through 49 of the Complaint as if more fully set forth herein.

51. The errant policy and/or custom and practice of the Knox County Sheriff's Department of strip searching and conducting visual body cavity searches of all men and women taken into custody violates the United States Constitution, the Constitution of the State of Maine, and State Law.

52. By the actions described above, the Defendant has deprived the Plaintiff and members of the Plaintiff Class of their clearly established right guaranteed by the Constitution of the United States to be free from an unreasonable search and seizure.

53. The Defendant, Knox County, by and through its agents, servants, and/or employees, knowingly and in deliberate indifference to the Constitutional Rights

of the citizens of Knox County and the State of Maine, maintained and permitted official policies and customs of permitting the occurrence of the types of wrongs set forth herein above. These policies and customs include, but are not limited to, the deliberately indifferent training of their employees in matters pertaining to strip searches and visual body cavity searches.

54. Plaintiff, on information and belief, alleges that such errant policies and/or customs and practices of the Defendants were the moving force behind the violation of Plaintiff, Laurie Tardiff's rights and the Defendants, each of them, are liable for all of the injuries sustained by the Plaintiff as set forth herein above.
55. As a direct and proximate result of this conduct, Plaintiff suffered injuries including, but not limited to: assault, battery, intentional infliction of emotional distress, negligent infliction of emotional distress, mental anguish, embarrassment, invasion of privacy, violation of constitutional rights, and deprivation of constitutional rights.

WHEREFORE, Plaintiffs request that this Court:

- A. Certify the class and appoint Laurie Tardiff, Plaintiff, to serve as the named Plaintiff representing the entire class of people subjected to unconstitutional strip searches by Knox County.
- B. Declare the policy or practice of conducting strip searches and visual body cavity searches of detainees illegal and unconstitutional and enjoin enforcement of that policy as practiced in Knox County;

- C. Award compensatory damages to the individual Plaintiff and to members of the Plaintiff Class;
- D. Award punitive damages against the Defendant, Daniel Davey.
- E. Award the Plaintiffs the cost of this action including reasonable attorney's fees; and
- F. Award whatever additional relief this Court deems necessary and just.

COUNT II: 42 U.S.C. §1983 DEFENDANT, SHERIFF DANIEL DAVEY

- 56. The Plaintiffs repeat and reallege Paragraphs 1 through 55 of this Complaint as if more fully set forth herein.
- 57. Defendant, Daniel Davey, is the Sheriff and is the policy maker for the Knox County Jail.
- 58. Defendant Davey implemented and maintained a policy and practice of conducting strip searches and visual body cavity searches of all persons who were admitted to the Knox County Jail, regardless of the nature of charges or the circumstances of the individual.
- 59. Defendant Davey knew or should have known that the strip search policy and practice at the Knox County Jail, and as implemented by its personnel, would directly result in correctional officers conducting unconstitutional searches of every man and woman who was held in the jail.
- 60. Defendant Davey knew or should have known that it was clearly established law as of 1986 that ... "no law enforcement officer reasonably could have believed

that it was permissible to perform such a search absent individualized reasonable suspicion” Shain v. Ellison, 273 F.3rd 56, {2nd Cir. 2001.}

61. Defendant Davey established and enforced the policy and practice of conducting routine strip searches and body cavity searches, without legal authority or any reason to believe the men and women so searched had anything concealed on his or her person.
62. Defendant Davey implemented and maintained this strip search policy and practice.
63. As a result of Defendant Davey’s conduct, Plaintiff was subjected to the strip search described above.
64. Even after Defendant Davey had actual notice that the policy and practice of strip searching women and men was unconstitutional, he continued to enforce that unconstitutional policy and practice.
65. Defendant Davey acted with reckless indifference to the Constitutional Rights of the men and women detained by the Knox County Jail.
66. As a direct and proximate result of this conduct, Plaintiff suffered injuries including, but not limited to: assault, battery, intentional infliction of emotional distress, negligent infliction of emotional distress, mental anguish, embarrassment, invasion of privacy, violation of constitutional rights, and deprivation of constitutional rights.

WHEREFORE, Plaintiffs request that this Court:

- A. Certify the class and appoint Laurie Tardiff, Plaintiff, to serve as the named Plaintiff representing the entire class of people subjected to

unconstitutional strip searches by Knox County and Defendant Daniel Davey.

- B. Declare the policy or practice of conducting strip searches and visual body cavity searches of detainees illegal and unconstitutional and enjoin enforcement of that policy as practiced in Knox County;
- C. Award compensatory damages to the individual Plaintiff and to members of the Plaintiff Class;
- D. Award punitive damages against the Defendant, Daniel Davey in his individual capacity.
- E. Award the Plaintiffs the cost of this action including reasonable attorney's fees; and
- F. Award whatever additional relief this Court deems necessary and just.

COUNT III: PUNITIVE DAMAGES

- 67. The Plaintiff repeats and realleges Paragraphs 1 through 66 of the Complaint as if more fully set forth herein.
- 68. The conduct of the Defendant, Daniel Davey, was intentional and malicious, or said conduct was so reckless, deliberate, and outrageous, as to be beyond all bounds of decency and to imply malice toward the Plaintiff.
- 69. As a direct and proximate result of said intentional, reckless, deliberate, malicious, and/or outrageous conduct of the Defendant, the Plaintiff was caused to suffer severe emotional and physical distress, humiliation and mental anguish, all as more particularly set forth herein above.

WHEREFORE, the Plaintiffs request that this Court award punitive damages against the Defendant, Daniel Davey, in his individual capacity, and award whatever additional relief this Court deems necessary and just.

COUNT IV: 42 U.S.C. §1983 DEFENDANT, JANE DOE

70. Plaintiff repeats and realleges Paragraphs 1 through 69 of the Complaint as if more fully set forth herein.
71. At all times relevant to this Complaint, Defendant, Jane Doe, was acting under color of the Laws of the State of Maine and Knox County.
72. Defendant Jane Doe conducted an illegal and unconstitutional strip search and visual body cavity search on Plaintiff, Laurie Tardiff.
73. Defendant Doe had no legal justification for conducting a strip search or a visual body cavity search of the Plaintiff's person.
74. By the actions described in the preceding paragraphs, the Defendant deprived the Plaintiff of clearly established rights guaranteed by the Constitution of the United States and by the State of Maine, which includes freedom from an unreasonable search and seizure.
75. As a direct and proximate result of the acts of the Defendant, the Plaintiff suffered the injuries described above.

WHEREFORE, Plaintiffs request that this Court:

- A. Certify the class and appoint Laurie Tardiff, Plaintiff, to serve as the named Plaintiff representing the entire class of people subjected to unconstitutional strip searches by Knox County and Defendant Jane Doe.
- B. Declare the policy or practice of conducting strip searches and visual body cavity searches of detainees illegal and unconstitutional and enjoin enforcement of that policy as practiced in Knox County;
- C. Award compensatory damages to the individual Plaintiff and to members of the Plaintiff Class;
- D. Award punitive damages against the Defendant, Jane Doe to the individual Plaintiff, Laurie Tardiff, and all members of the Plaintiff class.
- E. Award the Plaintiffs the cost of this action including reasonable attorney's fees; and
- F. Award whatever additional relief this Court deems necessary and just.

COUNT V: PUNITIVE DAMAGES

76. The Plaintiff repeats and realleges Paragraphs 1 through 75 of the Complaint as if more fully set forth herein.
77. The conduct of the Defendant, Jane Doe, was intentional and malicious, or said conduct was so reckless, deliberate, and outrageous, as to be beyond all bounds of decency and to imply malice toward the Plaintiff.
78. As a direct and proximate result of said intentional, reckless, deliberate, malicious, and/or outrageous conduct of the Defendant, the Plaintiff was caused

to suffer severe emotional and physical distress, humiliation and mental anguish, all as more particularly set forth herein above.

WHEREFORE, the Plaintiffs request that this Court award punitive damages against the Defendant, Jane Doe, and award whatever additional relief this Court deems necessary and just.

COUNT VI: 42 U.S.C. §1983 DEFENDANT, JOHN DOE

79. Plaintiff repeats and realleges Paragraphs 1 through 78 of the Complaint as if more fully set forth herein.
80. At all times relevant to this Complaint, Defendant, John Doe, was acting under color of the Laws of the State of Maine and Knox County.
81. Defendant John Doe conducted an illegal and unconstitutional strip search and visual body cavity search on Plaintiff, Laurie Tardiff.
82. Defendant Doe had no legal justification for conducting a strip search or a visual body cavity search of the Plaintiff's person.
83. By the actions described in the preceding paragraphs, the Defendant deprived the Plaintiff of clearly established rights guaranteed by the Constitution of the United States and by the State of Maine, which includes freedom from an unreasonable search and seizure.
84. As a direct and proximate result of the acts of the Defendant, the Plaintiff suffered the injuries described above.

WHEREFORE, Plaintiffs request that this Court:

- A. Certify the class and appoint Laurie Tardiff, Plaintiff, to serve as the named Plaintiff representing the entire class of people subjected to unconstitutional strip searches by Knox County and Defendant John Doe.
- B. Declare the policy or practice of conducting strip searches and visual body cavity searches of detainees illegal and unconstitutional and enjoin enforcement of that policy as practiced in Knox County;
- C. Award compensatory damages to the individual Plaintiff and to members of the Plaintiff Class;
- D. Award punitive damages against the Defendant, John Doe to the individual Plaintiff, Laurie Tardiff, and all members of the Plaintiff class.
- E. Award the Plaintiffs the cost of this action including reasonable attorney's fees; and
- F. Award whatever additional relief this Court deems necessary and just.

COUNT V: PUNITIVE DAMAGES

- 85. The Plaintiff repeats and realleges Paragraphs 1 through 84 of the Complaint as if more fully set forth herein.
- 86. The conduct of the Defendant, John Doe, was intentional and malicious, or said conduct was so reckless, deliberate, and outrageous, as to be beyond all bounds of decency and to imply malice toward the Plaintiff.
- 87. As a direct and proximate result of said intentional, reckless, deliberate, malicious, and/or outrageous conduct of the Defendant, the Plaintiff was caused

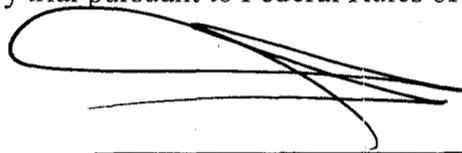
to suffer severe emotional and physical distress, humiliation and mental anguish,
all as more particularly set forth herein above.

WHEREFORE, the Plaintiffs request that this Court award punitive damages
against the Defendant, John Doe, and award whatever additional relief this Court deems
necessary and just.

DEMAND FOR JURY TRIAL

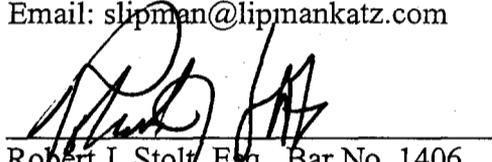
Plaintiffs hereby demand a jury trial pursuant to Federal Rules of Civil Procedure,
Rule 38.

Dated 12/24/12



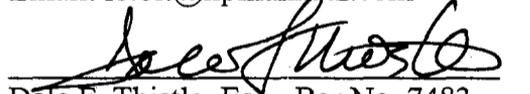
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Dated 12/24/12



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