

**IN THE CIRCUIT COURT OF NASHVILLE, DAVIDSON COUNTY,
TENNESSEE
DIV. _____**

**RONALD EUGENE BROOKS, SR.)
and MARILYN BROOKS)**

v.)

**Case No. 07C1031
12 PERSON JURY DEMAND**

**METROPOLITAN GOVERNMENT)
OF NASHVILLE AND DAVIDSON)
COUNTY and DAVIDSON COUNTY)
SHERIFF'S SUPERVISOR MARTY)
E. PATTERSON)**

FIRST AMENDED COMPLAINT

Plaintiffs, for their First Amended Complaint (filed before a Response has been filed) against the Defendants state as follows:

JURISDICTION

1. This civil rights suit is for damages for false arrest, false imprisonment, loss of consortium, and prospective injunctive relief. This action is brought by the Plaintiffs pursuant to 42 U.S.C. § 1983 and the common and statutory laws of the State of Tennessee to redress the violation by the Defendants of the Plaintiffs' rights secured by the Fourth and Fourteenth Amendments to the Constitution of the United States. The Court has jurisdiction over § 1983 claims pursuant to 28 U.S.C. §§ 1331 and 1343 and *Poling v. Goins*, 713 S.W.2d 305 (Tenn. 1986) . It has jurisdiction to hear companion state law claims under 28 U.S.C. § 1367 and the laws of Tennessee.

PARTIES

2. Plaintiff, Ronald Eugene Brooks, Sr., resides in Nashville, Davidson County and is African-American.

3. The Plaintiff, Marilyn Brooks, also resides in Nashville, Davidson County and is also African-American. Mrs. Brooks is the wife of Mr. Brooks and her claims arise out of the marital relationship for loss of consortium of her husband during his unlawful confinement.

4. The Metropolitan Government of Nashville, Davidson County, Tennessee is a political subdivision of the State of Tennessee and operates a county jail and has a police department, and was acting under color of law.

5. Defendant, Marty E. Patterson, was, at the time of the incident giving rise to this claim, duly appointed and acting as a Deputy Sheriff and employee of the Davidson County Sheriff's Department, acting under color of law and the statutes, ordinances, regulations, policies, customs and usages of the State of Tennessee and the Metropolitan Government of Nashville in Davidson County, Tennessee. He is sued in his individual and not official capacity.

GENERAL ALLEGATIONS

6. On March 30, 2006, Plaintiff, Ronald Eugene Brooks, Sr., was given a misdemeanor citation by a metropolitan police officer for the misdemeanor offense of possession of a gambling device (a numbers ticket). Mr. Brooks was directed to appear at

the booking docket for misdemeanor citations. He was not arrested or taken into custody on this misdemeanor citation but, under Tennessee law, was allowed to self-report at a later time and date for booking and processing on the misdemeanor citation.

7. On April 13, 2006, Mr. Brooks appeared for the citation processing at the Davidson County Sheriff's office in Davidson County. During the booking process Mr. Brooks was checked for warrants and two warrants, one from Shelby County and one from Williamson County were found by the Sheriff's office for one "Ronald Brooks."

8. The Davidson County Sheriff's Department employees compared the warrant information on these two warrants against Mr. Brooks' social security number, his date of birth and physical characteristics. The employees of the Sheriff's Department were of the view that this information "matched" the warrant information from Shelby County and Williamson County. All of this information was processed by the Davidson County Sheriff's Department and notifications were sent out to Williamson County and Shelby County on these two separate warrants that Davidson County had "the right man." At no time, however, did Davidson County check the plaintiff against fingerprints and mug shots from Williamson or Shelby County.

9. On information and belief it is understood that a warrant for the arrest of one "Ronald Brooks" had been issued by Williamson County and a warrant for the arrest of one "Ronald Brooks" had been issued out of Shelby County. These warrants or commands to arrest are placed in a computer and when individuals are arrested on other charges the names

of these individuals are matched with the names on the “hit” list on pending and outstanding warrants from other counties as a means to make an initial identification of possible suspects wanted in other counties and other states.

10. Sergeant Hendley with the Davidson County Sheriff’s Department contacted Marty Patterson about the “hits.” Patterson was a supervisor and ultimately made the decision to ship Mr. Brooks to Memphis.

11. Patterson was advised that there was a “hit” on Mr. Brooks from both Franklin (Williamson County) and Memphis (Shelby County). Corporal Price with the Sheriff’s Department in Nashville called Barbara Bowen with the Police Department in Nashville. Barbara Bowen was in communication with Heather Young of the Franklin, Tennessee Police Department concerning the Williamson County “hit.” There were several conversations back and forth and Heather Young and Barbara Bowen communicated with each other and determined that the individual wanted in Williamson County was not the person who was arrested in Davidson County and might be a relative or some other person other than the plaintiff, Ronald Eugene Brooks, Sr. The thought at the time was that the date of birth that the Franklin Police Department had was of a much younger person and therefore Williamson County said it was not the correct person. This information was communicated to Barbara Bowen who, in turn informed, or told Corporal Price with the Davidson County Sheriff’s Department that “Franklin doesn’t want him.”

12. Supervisor Marty Patterson, after learning that Williamson County “does not want Mr. Brooks” then contacted Shelby County, Tennessee and advised Memphis that Mr. Brooks was ready to be released to Memphis and that the Memphis authorities should come and pick up Mr. Brooks on the pending Memphis charge.

13. The “hit” from Shelby County which Mr. Patterson held in his hands included a fingerprint classification of the suspect who was wanted in Shelby County. When individuals have prior arrest records and they are fingerprinted then, when there are new charges in a separate county, authorities in a separate county will routinely use the fingerprint classification as a method of identifying the individual. If there is no prior record then of course there is no fingerprint classification along with the new charge. In this particular case the Shelby County “hit” was accompanied by a fingerprint classification number which would alert anyone to the fact that there were fingerprints associated with this particular charge from Shelby County.

14. Given the fact that there were fingerprint classification numbers associated with the Shelby County warrant request then there would also be a “mug shot” of the individual who would be wanted in the other county.

15. The existence of mug shots and fingerprint classifications have been standard police practices for at least fifty years. This is the method by which virtually all suspects are identified when they are arrested in other jurisdictions on other charges.

16. With deliberate indifference, Marty Patterson made no request of Shelby County for the fingerprint classification or fingerprint card of the suspect wanted in Shelby County. With deliberate indifference the defendant, Marty Patterson, did not request the mug shot of the suspect wanted in Shelby County.

17. A request for fingerprint classification information and mug shots would take less than an hour to request and be received from another county within Tennessee. Such information is routinely transmitted between law enforcement agencies on a daily basis. There is a fingerprint and mug shot of the real criminal in Shelby County and Patterson failed to request same when plaintiff told Patterson that he had “the wrong man.” (See Exhibit A)

18. The defendant Patterson used deliberate indifference in determining that the plaintiff Brooks was the individual wanted in Shelby County because he did not make a request for fingerprint cards and did not make a request for mug shots particularly when he was on actual notice from his own department that there was an identification problem with a similar hit out of Williamson County. The misidentification of the individual from Williamson County would have put any reasonable officer on notice that there would be a similar problem with the Shelby County “hit” as well.

19. After being informed that he was going to be arrested for some charge in Shelby County the plaintiff Ronald Brooks protested and advised Patterson that he “had the wrong man.” Mr. Brooks, being an elderly, African-American person was simply ignored by Patterson who made no attempt to verify the identity of Mr. Brooks or call any of his

relatives to verify that in fact he had never even been to Memphis in his entire life. Mr. Brooks' pleas and cries for help to Mr. Patterson were ignored. Mr. Brooks is a diabetic. And after the hours and hours of detention at the hands of Patterson, the plaintiff began feeling weak and ill. He was administered no medication by Davidson County authorities.

20. Eventually, later that day, Mr. Brooks was transported in chains and irons to Shelby County. He was cast in jail and charged with this felony offense.

21. Had the defendant Marty Patterson requested mug shots from Shelby County it would have been obvious to anyone that the plaintiff was not the individual wanted in Memphis.

22. Had the defendant Marty Patterson simply requested fingerprints from Shelby County a simple comparison of the fingerprints with the plaintiff would have established beyond any doubt that he was not the person wanted in Shelby County.

23. With deliberate indifference the defendant Patterson decided to summon the Memphis authorities to come and take the plaintiff away notwithstanding his protests of innocence and that they had the "wrong man."

24. The plaintiff was placed in shackles and handcuffs by the Memphis authorities and carried away to Memphis. When the plaintiff got to Memphis his diabetic situation worsened. The plaintiff was fingerprinted by the Memphis authorities and they determined immediately that Davidson County had sent them the wrong man. The Memphis Sheriff's

Department released Mr. Brooks to the street on April 14, 2006 at approximately 2:00 in the afternoon.

25. Without money, without food, without medicine, without any means of contacting anyone Mr. Brooks was released from jail in Shelby County to wander the streets to try and find some way of contacting his family. Eventually, he was able to communicate with people in Memphis who contacted his wife and money was sent and Mr. Brooks got on a bus and made his way home.

26. While all of this treatment was inflicted on her husband, the plaintiff, Marilyn Brooks, was not informed as to the status and location of her husband and had no idea that he had been sent to Memphis. Ms. Brooks suffered the loss of her husband and endured terrible emotional strain and stress upon learning that her husband had been transported to Memphis upon false charges.

27. Upon information and belief it is alleged that Davidson County maintains a practice of allowing African-American citizens to be deported to other states and counties notwithstanding their complaints that Davidson County “has the wrong man.”

28. Davidson County has a practice and policy and procedure of exercising deliberate indifference to the plight of African-American citizens who are wanted allegedly in other jurisdictions and no effort is made to accurately identify these individuals by requesting mug shots or photographs. Specifically another African-American, Tommie Rice was arrested by authorities in Davidson County in December, 2006 and charged with a sex

offense on a crime allegedly occurring in Montgomery County, Maryland. The defendant, Metropolitan Government of Nashville and Davidson County never compared the fingerprints of Mr. Rice with the individual wanted in Maryland. Mr. Rice spent about three weeks in custody and was picked up by the Maryland authorities where he was fingerprinted and immediately released because it was determined that he was not the right man.

29. On information and belief it is alleged that the defendant, Metropolitan Government of Nashville and Davidson County has a policy and procedure of unconstitutionally depriving African-American citizens of their liberty by refusing to listen to them that the defendants “have the wrong man,” when the simple expedient of a fingerprint and a mug shot would clear up the issue in minutes.

30. The plaintiffs assert that identity theft in this day and age is so common and so widespread that the use of fingerprints and mug shots should be mandatory before an individual is held to be sent to some other jurisdiction.

31. The actions by the Metropolitan Government against the plaintiff and those other African-Americans similarly situated were done under color of state law with deliberate indifference and callous disregard to the constitutional rights of the plaintiffs.

COUNT 1

32. The defendants, each of them and all of them, under color of law violated the plaintiffs’ constitutional rights as guaranteed by the Fourth and Fourteenth Amendments of the United States Constitution by falsely and illegally arresting, imprisoning, and detaining

Mr. Brooks and causing him to suffer physical pain and anguish by not giving him any medication and allowing him to be transported to Memphis with deliberate indifference notwithstanding his complaint that he was “not the right man.” Mr. Brooks suffered emotional trauma and suffering and humiliation from being treated in this fashion. The plaintiff, Marilyn Brooks, suffered trauma from having her husband arrested for no reason and taken away to parts unknown with no notice to her whatsoever.

33. The actions of the defendants violated clearly established and well-settled federal constitutional rights of pretrial detainees as guaranteed by the Fourth and Fourteenth Amendments to the United States Constitution. Therefore, pursuant to 42 U.S.C. §1983, the defendants, and each of them are liable to the plaintiffs under each count in the amount of one-million dollars (\$1,000,000.00).

COUNT 2

34. It is the policy and custom of defendant Metropolitan Government of Nashville and Davidson County to inadequately and improperly investigate “hits” from charges pending in other jurisdictions against African-American citizens. Plaintiff, Ronald Brooks is in danger of again being subjected to this ordeal because of his name being similar to real criminals who have “hits” on them.

35. All actions by the defendants against the plaintiffs and those similarly situated were done under color of state law and unless prospective injunctive relief is ordered it is likely to occur against plaintiff and other individuals in the future. Plaintiff is likely to be

subjected to this ordeal again in light of his name which appears to be similar with those real criminals who are named “Ronald Brooks” who have charges pending in other states and counties in Tennessee. Therefore, pursuant to 42 U.S.C.1983, prospective injunctive relief should be ordered prohibiting any African-American citizen to be extradited, transported or deported from Davidson County to any other jurisdiction without verification by mug shot and fingerprint card of the correct identity of the individual.

COUNT 3

36. All deputy defendants named in this Complaint were appointed by the Sheriff at the time of their actions and were within the scope of their employment and were acting by virtue of or under of color of the office. Therefore, the defendant Davidson County is liable for the actions of the defendants as described above and under each count pursuant to Tenn. Code Ann. § 8-8-302.

COUNT 4

37. This action is also brought by the Plaintiff Ronald Brooks pursuant to the common and statutory laws of the State of Tennessee for falsely and illegally arresting, imprisoning, and detaining Mr. Brooks and causing him to suffer physical pain and anguish by not giving him any medication and allowing him to be transported to Memphis with notwithstanding his complaint that he was “not the right man.” Mr. Brooks suffered emotional trauma and suffering and humiliation from being treated in this fashion. This count is for damages for false arrest and false imprisonment.

COUNT 5

38. This action is also brought by the Plaintiff Ronald Brooks pursuant to the common and statutory laws of the State of Tennessee for negligent actions in that the defendants falsely and illegally arrested, imprisoned, and detained Mr. Brooks and caused him to suffer physical pain and anguish by not giving him any medication and allowing him to be transported to Memphis notwithstanding his complaint that he was “not the right man.” Mr. Brooks suffered emotional trauma, pain, suffering, and humiliation from being treated in this fashion. This count is for damages for negligence in the false arrest and false imprisonment of Mr. Brooks.

COUNT 6

39. This action is also brought by the Plaintiff Marilyn Brooks pursuant to the common and statutory laws of the State of Tennessee for loss of consortium of her husband during his unlawful arrest and confinement when he was falsely and illegally arrested, imprisoned, and detained. Mrs. Brooks suffered emotional trauma, pain, suffering and humiliation from her husband being treated in this fashion. This Count is brought against the defendants for loss of consortium of Mrs. Brooks’ husband.

Wherefore, plaintiffs request that this Court award:

1. A trial by jury;
2. Compensatory damages to the plaintiffs against the defendants in an amount not less than one-million dollars (\$1,000,000.00);

3. A permanent injunction prohibiting the deportation, arrest, confinement, and removal to other jurisdictions of the plaintiff and other individuals arrested in Davidson County to other counties or states without a proper mug shot identification and fingerprint identification;

4. Reasonable attorney's fees pursuant to 42 U.S.C. 1988; and

5. The cost of suit and such other and further relief as this Court deems just and proper.

Respectfully submitted,

*HOLLINS, WAGSTER, YARBROUGH,
WEATHERLY & RAYBIN, P.C.*

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Attorney for Plaintiffs

Certificate of Service

I hereby certify that a true and correct copy of the foregoing Amended Complaint has been served upon the following individuals via U.S. Mail on this the _____ day of April, 2007.

Sue Cain
Metropolitan Government of Nashville
and Davidson County
2 Public Square, Suite 108
Nashville, TN 37201

Marty E. Patterson
Supervisor
Davidson County Sheriff's Department
506 Second Ave. North
Nashville, TN 37201

David L. Raybin