

**IN THE CIRCUIT OF THE SEVENTH JUDICIAL CIRCUIT
IN AND FOR VOLUSIA COUNTY, FLORIDA**

JEFFERY SHEPARD

CASE NO.:

Plaintiff,

v.

**CITY OF DAYTONA BEACH,
a Florida Municipal Corporation;
and CARLOS QUELIZ, individually; and
LORENA MENNECHEY, individually.**

Defendants.

_____ /

COMPLAINT

COMES NOW the Plaintiff, **JEFFERY SHEPARD**, an individual, by and through the undersigned counsel, and hereby sues the Defendants, **CITY OF DAYTONA BEACH**, a governmental entity located in the State of Florida, Volusia County, and **CARLOS QUELIZ**, an individual, an **LORENA MENNECHEY**, an individual, and alleges the following:

1. This is an action brought for the unlawful deprivation of rights as accorded to Plaintiff, **JEFFERY SHEPARD**, by the laws of the State of Florida by the State of Florida including Article I of the Florida Constitution. Plaintiff's claims arise from an incident November 30, 2021, in which Defendants subjected Plaintiff to, among other things, battery, false arrest/imprisonment, negligent infliction of emotional distress, and malicious prosecution.

JURISDICTION AND VENUE

2. This is a civil action for damages within the original jurisdiction of the this Court because the acts occurred in Volusia County, Florida.

3. This is an action for damages that exceeds Thirty Thousand Dollars (\$50,000.00), exclusive of interest, costs and attorneys' fees.

PARTIES

4. At all times material to this action, Plaintiff, **JEFFERY SHEPARD** (hereinafter "SHEPARD"), was a natural person residing in Daytona Beach, Volusia County, Florida.

5. At all times material to this action, Defendant, **CITY OF DAYTONA BEACH** (hereinafter "CITY"), was and still is a Municipal Corporation and governmental entity existing under the laws of the State of Florida

6. At all times material to this action, Defendant, **CARLOS QUELIZ** (hereinafter "QUELIZ"), was employed as a police officer by the CITY, and he is a citizen of the State of Florida. He is sued in his individual capacity.

7. Defendant, CITY, is the local government entity and/or agency under whose jurisdiction and authority the acts complained of herein occurred, and the official with final decision-making authority.

8. Plaintiff has fully complied with all condition precedent to bring this action imposed by the laws of the State of Florida, and particularly the provision of § 768.28, Florida Statutes.

STATEMENT OF FACTS COMMON TO ALL CAUSES OF ACTION

9. Plaintiff seeks monetary relief over \$50,000.00 and a demand for judgment for all other relief to which Plaintiff may be entitled in this false arrest, battery, intentional infliction of emotional distress, malicious prosecution, and other constitutional violations.

10. Defendant, CITY, had a duty to ensure that its employees and subordinates, including but not limited to, QUELIZ, complied with Florida law.

11. CITY, was at all times mentioned herein, and still is, responsible for developing, implementing, promulgating, and enforcing customs, usages, practices, procedures, policies, and rules of employees, including QUELIZ.

12. CITY, was at all times mentioned herein, and still is, responsible for training and supervision of Defendants QUELIZ.

13. On or about November 30, 2021, Plaintiff was pulled over on the side of the road attempting to help his passenger, Katrina Blackburn, who couldn't locate her shoe.

14. Officer Lorena Mennechey (hereinafter "Mennechey") observed Plaintiff and pulled behind the Plaintiff's vehicle.

15. Mennechey approached Plaintiff's vehicle and requested Plaintiff's driver license and Plaintiff complied.

21. Plaintiff and Mennechey engaged in a conversation and Mennechey requested to search Plaintiff's vehicle.

22. Plaintiff denied consent to search his vehicle.

23. At some point, QUELIZ responded to the scene and immediately started to use his flashlight to look inside the vehicle while standing in between the passenger door and the frame.

24. Plaintiff returned to his vehicle and requested that the officer not search his vehicle.

25. Plaintiff's refusals to the search went ignored and QUELIZ ordered him to get out of the vehicle.

26. QUELIZ grabbed the Plaintiff and physically removed him from the vehicle, took him to the ground, and handcuffed the Plaintiff.

27. At this time, QUELIZ notified Plaintiff he was under arrest.

28. QUELIZ knew or should've known they could not detain Plaintiff without reasonable suspicion.

29. QUELIZ arrest Plaintiff and unlawfully searched Plaintiff's vehicle.

30. QUELIZ knew or should've known that it is clearly established that that they did not have reasonable suspicion to search Plaintiff's vehicle when he refused consent.

37. Plaintiff was searched and was not in possession of any contraband.

38. Plaintiff was arrested for aggravated battery on a law enforcement and resisting an officer with violence.

39. At no time during his arrest did Plaintiff resist.

40. Mennechey fabricated the charging affidavit that Plaintiff resisted arrest.

41. The Florida State Attorney's office filed an information on December 8, 2021, for resisting an officer without violence and dropped the charges for battery on a law enforcement officer.

42. September 21, 2022, a jury found the Plaintiff not guilty of resisting an officer without violence.

43. Plaintiff was held in custody for 2 days.

44. At the time of this filing, the Plaintiff's charges still remain public record.

COUNT 1 FALSE ARREST – QUELIZ

45. Plaintiff realleges Paragraphs 1-44, as if fully set forth herein, and states additionally or alternatively:

46. At all times mentioned herein, Defendant QUELIZ, acted under color of law as police officers of, and with the authority of, the Defendant CITY.

47. Defendant, QUELIZ, falsely placed Plaintiff under arrest without probable cause that Plaintiff had committed a criminal offense.

48. Defendants, QUELIZ, knew or should have known that they did not have authority to arrest Plaintiff for the crimes of battery on a law enforcement and resisting an officer without violence, in violation of Article 1, Sections 9 and 12 of the Florida Constitution.

49. As a result of the aforesaid conduct by Defendant, QUELIZ, Plaintiff was subjected to an illegal, improper, and false arrest by the aforementioned Defendant and caused Plaintiff to be falsely imprisoned, detained, and confined, without any probable cause, privilege, or consent.

50. As a result of the foregoing, Plaintiff was arrested on November 30, 2021, and taken to the Volusia County Jail, where he remained illegally incarcerated for 2 days until he was released, suffered physical pain and mental anguish, together with shock, fright, apprehension, embarrassment, and humiliation, and loss of liberty and freedom.

51. As a direct and proximate result of these violations of Plaintiff's constitutional rights, he was made to suffer great emotional trauma, discomfort and embarrassment, was deprived of his liberty, and his personal and professional

reputations were impaired. Plaintiff demands all relief that is just and equitable, including compensatory and punitive damages and costs.

COUNT 2 – FALSE IMPRISONMENT – CITY

52. Plaintiff realleges Paragraphs 1-44, as if fully set forth herein, and states additionally or alternatively:

53. At all times mentioned herein, Defendant, QUELIZ, acted under color of law as a police officer of, and with the authority of, the Defendant CITY.

54. At all times mentioned herein, Defendant, QUELIZ, was acting within the scope of his employment.

55. QUELIZ intentionally confined and imprisoned Plaintiff without any legal authority.

56. As a direct and proximate result of these violations of Plaintiff's constitutional rights, he was made to suffer great emotional trauma, discomfort and embarrassment, was deprived of his liberty, his personal and professional reputations were impaired.

57. Plaintiff demands all relief that is just and equitable, including compensatory damages.

COUNT 3 INVASION OF PRIVACY – QUELIZ

58. Plaintiff realleges Paragraphs 1-44, as if fully set forth herein, and states additionally or alternatively:

59. At all times mentioned herein, Defendants, QUELIZ, acted outside the scope of his employment and with malice by:

- a. entering the Plaintiff's vehicle without consent;
- b. causing an offensive touching because Plaintiff refused consent to a search of his vehicle;
- c. attempting to impede Plaintiff remaining in his vehicle;
- d. attempting to impede Plaintiff from leaving in his vehicle;
- e. searching the contents of Plaintiff's vehicle;
- f. placing Plaintiff in handcuffs for an unlawful purpose when he had not committed any criminal offense.
- g. fabricated the affidavit to include that Plaintiff cause a battery to the Defendant.
- h. causing deprivation of Plaintiff's reasonable expectation of privacy in his vehicle and the contents therein.

60. At all times mentioned herein, Plaintiff was the owner of his vehicle, a he had a reasonable expectation of privacy.

61. Plaintiff was entitled to a reasonable expectation of privacy when QUELIZ physically intruded his vehicle and searched the contents therein.

62. Plaintiff was entitled to a reasonable expectation of privacy when he was removed from his vehicle and unlawfully arrested.

63. As a direct and proximate result of these violations of Plaintiff's constitutional rights, he was made to suffer great emotional trauma, discomfort and embarrassment, was deprived of his privacy and seclusion, his personal and professional reputations were impaired.

64. Plaintiff demands all relief that is just and equitable, including compensatory damages, punitive damages, costs, and attorney fees.

COUNT 4 INVASION OF PRIVACY – CITY OF DAYTONA BEACH

65. Plaintiff realleges Paragraphs 1-44, as if fully set forth herein, and states additionally or alternatively:

66. At all times mentioned herein, Defendant, QUELIZ, was acting within the scope of his employment by:

- a. entering the Plaintiff's vehicle after the traffic stop concluded;
- b. causing an offensive touching because Plaintiff refused consent to a search of his vehicle;
- c. attempting to impede Plaintiff from entering his vehicle;
- d. attempting to impede Plaintiff from leaving in his vehicle;
- e. searching the contents of Plaintiff's vehicle;
- f. placing Plaintiff in handcuffs for an unlawful purpose when he had not committed any criminal offense.

g. fabricated the affidavit to include that Plaintiff caused a battery to the Defendant.

h. causing deprivation of Plaintiff's reasonable expectation of privacy in his vehicle and the contents therein.

67. At all times mentioned herein, Plaintiff was the owner of his vehicle, a he had a reasonable expectation of privacy.

68. Plaintiff was entitled to a reasonable expectation of privacy when QUELIZ physically intruded his vehicle and searched the contents therein.

69. Plaintiff was entitled to a reasonable expectation of privacy when he was removed from his vehicle and unlawfully arrested.

70. As a direct and proximate result of these violations of Plaintiff's constitutional rights, he was made to suffer great emotional trauma, discomfort and embarrassment, was deprived of his privacy and seclusion, his personal and professional reputations were impaired, and a incurred a deprivation of the use and enjoyment of his vehicle.

71. Plaintiff demands all relief that is just and equitable, including compensatory damages, costs, and attorney fees.

COUNT 5 MALICIOUS PROSECUTION – QUELIZ

72. Plaintiff realleges Paragraphs 1-44 as if fully set forth herein.

73. At all times mentioned herein, Defendants, QUELIZ, were state actors as police officers and acted under color of law.

74. On November 30, 2021, Defendant, QUELIZ completed a fabricated police report, that Plaintiff committed the crimes of battery on a law enforcement officer and resisting an officer with violence.

75. Defendant QUELIZ, instigated the State Attorney's Office and on December 8, 2021, they initiated criminal proceedings against Plaintiff charging plaintiff with resisting an officer without violence.

76. On December 8, 2021, Defendant lacked probable cause to initiate criminal proceedings against the Plaintiff for the crime resisting an officer without violence.

77. On December 8, 2021 Defendants, QUELIZ, acted with malice in initiating criminal proceedings against Plaintiff. Defendants, QUELIZ, knew or should have known that initiating the criminal proceeding was a violation of Plaintiff's rights to be free from unreasonable seizures.

78. On September 21, 2021, Plaintiff was found not guilty of the crime of resisting an officer without violence

135. As a direct and proximate result of the Defendant's malicious initiation of the criminal proceedings, Plaintiff was arrested and taken to the Volusia County

Jail where he remained illegally incarcerated until he was released on bond on after 2 days.

79. Plaintiff suffered physical pain and mental anguish, together with shock, fright, apprehension, embarrassment, and humiliation, and loss of liberty and freedom.

80. As a direct and proximate result of the Defendant, malicious fabrication of the facts, Plaintiff was subjected to prosecution for a crime that lacked probable cause. Plaintiff suffered physical pain and mental anguish, together with shock, fright, apprehension, embarrassment, and humiliation, and loss of liberty and freedom.

81. As a result of the foregoing, Plaintiff is entitled to compensatory damages in a sum to be determined at trial and is further entitled to punitive damages against the individual Defendants in a sum to be determined at trial.

COUNT 6 NEGLIGENCE – CITY OF DAYTONA BEACH

82. Plaintiff realleges Paragraphs 1-44, as if fully set forth herein, and states additionally or alternatively:

83. At all times material herein, QUELIZ were employed by CITY and acting within the scope of their employment as police officers.

84. On November 30, 2021, QUELIZ had a duty to provide reasonable care as the custodial officers of Plaintiff.

85. On October 23, 2020, TUCKER and MACKENZIE failed to act with reasonable care when they:

- a. negligently detained Plaintiff by force and coercion;
- b. used physical force to attempt to remove Plaintiff from his vehicle;
- c. negligently failing to act reasonably under the circumstances;
- d. negligently engaging in a mode of operations when Defendant knew or should have known, that said mode of operations would result in a dangerous safety hazard for Plaintiff who was in their custody;
- e. negligently engaging in routine or regular practice of business that was not the reasonable custom of the community.

86. Defendants knew or should've known that Plaintiff was in their custody and failing to provide reasonable care to Plaintiff and placing him in a foreseeable zone of danger would result in his injury.

87. Defendant's failure to provide reasonable care after placing Plaintiff in a foreseeable zone of danger cause Plaintiff's injuries.

88. As a direct and proximate cause of Defendants' negligence the Plaintiff suffered severe injuries and resulting pain and suffering, mental anguish, loss capacity for the enjoyment of life, and medical care and treatment; the injuries are either permanent or continuing in nature and Plaintiff will suffer the losses and impairments in the future.

COUNT 7 VICARIOUS LIABILITY ASSAULT – CITY OF DAYTONA

BEACH

89. Plaintiff realleges Paragraphs 1-44, as if fully set forth herein, and states additionally or alternatively:

90. QUELIZ made an intentional, unlawful offer and threat of corporal injury to Plaintiff by force, or force unlawfully directed toward Plaintiff's person when he forced him from his vehicle, illegally searched his person, and then arrested him.

91. Defendant's actions created a fear of imminent peril.

92. QUELIZ had the apparent present ability to effectuate the attempted action and in fact caused a harmful and offensive contact with Plaintiff's person.

93. The Defendant, CITY, is legally responsible for the action of its employees, including QUELIZ, which was committed incident to the employment relationship and within the course and scope of employment.

94. As a result, Plaintiff suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, loss of earnings, loss of ability to earn money, and/or aggravation of a previously existing condition. The losses are permanent and continuing and Plaintiff will suffer the losses in the future.

WHEREFORE, Plaintiff, **JEFFERY SHEPARD**, demands that this Court:

- a. Enter a judgment declaring the practice and custom pursued by CITY with regard to unlawful arrests and wrongful search and seizures, void, and of no force and effect on the ground(s) set forth in this cause of action;
- b. Award judgment for all relief that is just and equitable, including compensatory damages and costs and punitive damages, attorney's fees, costs, and prejudgment interest, against Defendants, QUELIZ and CITY, and other such relief deemed proper by the Court. Plaintiff also demands a jury trial on all issues so triable.

RESPECTFULLY submitted this 20th day of SEPTEMBER, 2024.



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