



RICHMOND COUNTY SHERIFF'S OFFICE

Sheriff Richard Roundtree
Law Enforcement Center
400 Walton Way
Augusta, GA 30901
Phone: 706.821.1000 Fax: 706.821.1064

STANDARD COMPLAINT FORM

Your complaint will be forwarded to the employee's supervisor for inquiry or to the Internal Affairs Office. If your concern stems from an arrest or citation issued, it may not be investigated until the legal matter has been resolved. Questions concerning the complaint process may be directed to the Internal Affairs Office at (706) 821-1004.

Complaint Control # 21-04-02

Complainant's Name: Andrea Miller Race & Sex: B/F Age: 27

Home Address: 3606 Bermuda Circle Phone: [REDACTED]

City: Augusta State: GA Email: _____

Witness's Name: _____ Race & Sex: _____ Age: _____

Home Address: _____ Phone: _____

City: _____ State: _____ Email: _____

Date/Time Incident Occurred: 031121 / 1520 Location: Warren Rd

How Complaint was received: In Person _____ Phone _____ Email _____ Mail

Deputy/Employee Involved: John Tarpley Deputy/Employee Involved: _____

Deputy/Employee Involved: Jason Mathis Deputy/Employee Involved: _____

Give a brief narrative of events that lead to the complaint. You may add additional sheets if necessary.
See attached letter received via mail in Internal Affairs on April 2nd, 2021.

Supervisor/Investigative Comments.
Assigned 04/05/21
Believe Case # is 21-069614. BWC Videos but no Report.
See attached notes.

Disposition of Complaint: Not Sustained

Complaint Received by: Sgt. Caleb Lee Unit# B34 Date: 04/05/21

Richmond County Sheriff's Office
Internal Affairs
400 Walton Way
Augusta, GA 30901

To Whom It May Concern:

On March 11, 2021 at approximately 3:20 p.m., I was traveling on Warren Road toward Washington Road when I was by the Crime Suppression Team. When Investigator Tarpley approached my car, he immediately asked me if I had any drugs or guns in the car. I responded that I did not. The officer then asked for permission to search my car. I did not give the officer permission to search my car. He replied by asking why would I not allow search my car if I had nothing to hide. I explained that I had not done anything wrong and I did not have anything to hide. I also asked him why I was stopped to which he replied that it was due to my window tint. He again said he needed to search my car. I told him no because it was inconvenient and disruptive to search my car when I was only stopped for an alleged window tint violation. The officer then told me to just tell him now about the drugs and things would be ok. I again told him that I did not have drugs in the car because I don't use drugs nor am I around people who use drugs. The officer returned to his car and waited for a K-9 unit. I waited in my vehicle as I was told to do. Some time later, a K-9 unit arrived along with several other police cars. I started crying because I was afraid because I have never seen a dog and four officers called to a traffic stop for a window violation.

I waited nervously inside of my vehicle while the officer had a dog to sniff around my car. The dog never barked or jumped on my car or gave any other alert. Officer MacQuire stated that the dog alerted to drugs. I, along with my seven-year-old son, were pulled out of my car and moved to the curb. I asked the officers to leave us alone, but the investigator screamed for me to get out of my car. Afraid for my well-being and the well-being of my son, I stepped out of the car and removed my son from his car seat. I began to cry hysterically because my son was crying and saying, "We did not do anything wrong." I absolutely could not believe how we were being treated. The officer turned to me and told me there was nothing to be cry about if I did not have drugs or guns in the car and that I should tell him now about the drugs. I watched for several minutes while officers rifled through my entire car, purse, glove compartments, trunk, and my son's car seat. After thoroughly searching, nothing was located. As I stated, I did not have guns, drugs, alcohol, or anything else in my car or on my person.

Disturbingly, the officer explained to me that the dog probably alerted because of someone I had in my car who probably uses drugs. I found this statement and assumption absolutely disgusting and outrageous. No one I associate with is a drug user or dealer. I found the officers' assumption to be offensive and inappropriate, especially because it was said in front of my 7-year-old son. The officer then told me that maybe I went out to the club and someone was leaning on my car and smoking which is why the dog alerted. Again, these officers were trying to justify an illegal stop and search by making assumptions about my life. I do not go out to clubs. I do not drink,

and I do not use drugs on any occasion. I am a full-time nanny and stay-at-home mother. I have no criminal history nor do I associate with anyone who is involved in any criminal activity.

The officers initiated this stop due to an alleged window tint violation, but they never checked my window tint. If he had done so, they would've learned that my tint is legal. Based on the fact that my **window tint was never even checked**, the only logical conclusion is that the officers were simply harassing me and others.

After the stop, the officer admitted to my attorney that they never smelled drugs or alcohol coming from my person or my car. None of the officers could provide any reason as to why they asked to search my car. Their only reply was that they had the discretion to search anybody's car whenever they felt like it.

As an active member of this community, I found the words actions of the officers disturbing. As I was raised, I try to raise my son to respect law enforcement officers. However, the illegal behavior and lack of compassion from your officers was highly problematic for me, my family, and other law-abiding citizens in this community.

It is my request that the officers apologize and receive one week of suspension without pay.

You may contact my attorney, Kimberly Wilder, if you have any further questions or correspondence. She can be reached at [REDACTED]

Sincerely,

Andrea C. Miller
[REDACTED]

① 21-069603
- 03/11/21 @ 1510 HRS
Wherry + Warren
CST

② 21-069610
- 03/11/21 @ 1514 HRS chrysler
- 210 Warren Rd
- Wiegans/Phillips

③ 21-069614
- 03/11/21 @ 1518 HRS Video but no report
- Warren Rd / West Rd nissan maxima

④ 21-069619
- 03/11/21 @ 1522 HRS sig 81 / days
- 210 Warren Rd additional case to #3



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INTERNAL AFFAIRS REPORT

IA CONTROL #: 21-04-02

COMPLAINANT: ANDREA MILLER (B/F, 27yoa)
3606 Bermuda Circle
Augusta, GA 30906
[REDACTED]

COMPLAINT: MANNER OF CONDUCT – UNPROFESSIONAL / HARASSMENT

EMPLOYEE: DEPUTY JOHN TARPLEY
DEPUTY WARREN “JASON” MATHIS

INCIDENT TYPE: TRAFFIC STOP / SEARCH OF VEHICLE

INCIDENT LOCATION: WARREN RD

INCIDENT DATE: MARCH 11, 2021 / THURSDAY

INVESTIGATOR: SERGEANT CALEB LEE B34

04/05/21, Monday

0830 hours

Sgt. Lee was assigned to review this complaint by Lt. Rahn after receiving a typed letter in Internal Affairs from Andrea Miller via mail on Friday, 04/02/21 at the end of the day.

04/06/21, Tuesday

Sgt. Lee conducted an Incident search in LERMS for traffic stops on 03/11/2021 which showed several stops by CST members on Warren Rd. Sgt. Lee was able to determine the traffic stop at 1518 hours under case # 21-069614 involved the complainant, Andrea Miller and Deputies John Tarpley and Jason Mathis. A subsequent body camera search provided 5 body camera videos attached to this case number which were downloaded for review.

Dep Tarpley Body Camera Videos (Total of 3 Videos)

Sgt. Lee reviewed Dep. Tarpley's body camera videos and noted the following:

- Dep. Tarpley initiated traffic stop on red, Nissan Maxima, driven by Miller. Dep. Tarpley approached the vehicle and stated his name and reason for stop which was a window tint violation. Dep. Tarpley then obtained Miller's driver's license, told her to



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hang tight and walks back to his patrol car. **(Miller wrote that Dep. Tarpley approached her car and "immediately" asked her if she had any drugs or guns in the car which is not true).**

- Dep. Tarpley returned to Miller's vehicle and asked if there were any weapons or drugs in the car and "would she mind if they searched." Miller asked "why would you need to search my vehicle." Dep. Tarpley replied, "do you give consent or no." Miller stated "no, you can't search my car for no reason, you pulled me over for the tint, why do you need to search my vehicle?" Dep. Tarpley replied that he was just asking for consent and Miller stated "no" **(Miller wrote Dep. Tarpley stated the above dialogue occurred when he first approached her car which is not true)**
- Dep. Tarpley requested a K9 unit 2 minutes and 50 seconds into traffic stop. Dep. Mathis, Car K3, arrived 1 minute and 42 seconds later.
- Dep. Tarpley advised Miller since she didn't agree to let them search, they were going to get a K9 to sniff the car and if no alerts occurred she would be free to go.
- Dep. Mathis with his K-9 start exterior sniffing of Miller's vehicle 5 minutes and 54 seconds into stop and the K-9 alerted to the odor of narcotics on the front passenger side of vehicle 11 seconds after starting. **(Miller wrote the K-9 never alerted to narcotics which is untrue)**
- Dep. Tarpley approached Miller and requested she step out of the vehicle. Miller questions the reason and Dep. Tarpley stated the K-9 alerted to the right side of her vehicle. Miller stated "my child is right there and my attorney is on the phone" as she begins to cry. Miller then asked his name and Dep. Tarpley gave it to her. Miller stated she didn't have anything in the car or previously had anything in the car and would not exit the vehicle stating it was an inconvenience. Dep. Tarpley advised for her to step out of the car and eventually Miller complied and exited the vehicle with her son 7 minutes and 49 seconds into stop. **(Miller wrote she and her son were pulled out of her car and one of the Deputies screamed at her to get out of the car which is not true)**
- Dep. Tarpley begins search of vehicle 8 minutes and 22 seconds into stop starting with the middle console, driver side between seats, left rear seat in book bag that was partially opened, unzipped bag inside the book bag, continued to rear seat cup holder when video ends.
- Second video resumes at point where first video stops. Dep. Tarpley searched rear of vehicle then moves to front passenger side door, glove box where he opens some boxes and a purse located in front passenger seat, moves to rear passenger side. Dep. Tarpley searches trunk area and concludes 7 minutes and 9 seconds into second video. **(Miller wrote that several officers searched her vehicle which is not true, only Dep. Tarpley)**
- Dep. Tarpley returns Miller's driver's license to her and explains K-9 alerts to anything with no specification on the alert, advised she doesn't have to be nervous if nothing was in her car. Miller is crying stating she was nervous because of her child and she didn't do anything. Dep. Tarpley explains he didn't accuse her of doing anything and told her she was free to go. Traffic stop concludes as well as video 9 minutes 10 seconds.



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Note: Dep. Tarpley's third video attached to this case number shows a completely different traffic stop and has no relation to Miller's traffic stop.

Dep. Jason Mathis' Body Camera Videos (Total of 2 Videos)

Sgt. Lee reviewed Dep. Mathis' (K3) body camera videos and noted the following:

- Dep. Mathis' arrived to traffic stop, had Miller place vehicle in park, began K-9 sniff search and received an alert. Dep. Mathis advised Dep. Tarpley of the alert.
- Dep. Mathis stands with Miller and her son the remainder of the video while Dep Tarpley searches vehicle. During this time, Miller asks the name of Dep. Mathis and he told her.
- During this time, Dep. Mathis asks Miller if she would like him to explain what is going on and Miller stated she was on the phone with her attorney right now. Dep. Mathis stated he would like to explain the situation to help relieve her stress and Miller stated to go ahead and explain it. Dep. Mathis stated they are not saying narcotics are in the vehicle, Miller then interrupted Dep. Mathis and said "there are narcotics in her car." Dep. Mathis replied "there is?" and Miller stated "that is what you are saying" Dep. Mathis stated he did not say that. Miller said there was nothing in her car. Dep. Mathis then stated he was trying to explain to her that they are not saying narcotics are in the vehicle or that Miller uses narcotics, the odor of narcotics got into the vehicle from somewhere she parked where narcotics are used or friends that used narcotics and the odor may have gotten into her vehicle. Miller said nobody has used narcotics in her vehicle. Dep. Mathis stated he was just explaining how odor works. Miller then walked away. **(Miller wrote that Deputies assumed she had someone in her car who probably used drugs or that "maybe" she "went out to the club and someone was leaning on" her "car and smoking which is why the dog alerted." This statement is not true and both Deputies even stated and reiterated to Miller that they are not saying/accusing her of smoking narcotics)**
- Second video resumes with Dep. Mathis speaking with another unit that shows up while he is standing with Miller. This video is only 3 minutes and 10 seconds in length and concludes after Miller leaves.

Total Traffic Stop Time: 19 minutes

Total Time for K9 Unit to arrive to Traffic Stop once Requested: 1 minute 42 seconds

Sgt. Lee noted Deputies' interactions with Miller were professional and respectful.

04/19/21, Monday

Sgt. Lee spoke with Lt. Hitchcock who is the supervisor over the Special Operations Division which includes the Crime Suppression team. Sgt. Lee requested Lt. Hitchcock review the complaint and body camera videos at his earliest convenience. Lt. Hitchcock advised he would let Sgt. Lee know the results of his findings.



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04/26/21, Monday

Sgt. Lee was contacted by Lt. Hitchcock who stated the traffic stop and subsequent search did not violate policy or law and the complaint is not sustained. Lt. Hitchcock stated he spoke with Dep. Tarpley as to why a verbal warning was given and Dep. Tarpley replied so the traffic stop would not be extended further. Lt. Hitchcock further stated he spoke to Dep. Tarpley and advised him the importance of measuring the window tint to confirm the violation.

Lt Hitchcock also emailed Sgt. Lee a 2005 case law ruling from Illinois v. Caballes where Supreme Court ruled a drug dog can be used to sniff a vehicle for contraband as long as the vehicle is lawfully stopped and the sniff occurs within the duration of time necessary to reasonably conduct the stop. It further read the officer is not required to have any facts of a drug violation prior to the sniff occurring. The email was printed out and placed into the case file.

04/28/21, Wednesday

Sgt. Lee reviewed the 2005 Illinois v. Caballes case law and the 2015 Rodriguez v U.S. case law the RCSO K-9 sniff policy derives from (see page 5 below) and noted Illinois v Caballes was a determining factor in the Rodriguez case.

After reviewing this traffic stop, body camera videos, and reviewing our policy based on case laws, Miller's complaint is Not Sustained. Dep. Tarpley conducted a traffic stop based on a window tint violation and during the course of checking driver's license, vehicle information, requested a K-9 which arrived in less than 2 minutes and alerted giving probable cause for the search of the vehicle. Total traffic stop time was 19 minutes. Sgt. Lee agrees with Lt. Hitchcock in that Dep. Tarpley can use his experience and knowledge of window tints as reasonable suspicion for the traffic stop; however, the violation should have been confirmed with an RCSO issued/approved device for measuring window tints.

04/2804



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Policy for Search of Vehicles and K-9 Sniff of Vehicles.

Search of a Vehicle under a "Motor Vehicle Exception" - The Supreme Court stated "If there was probable cause to search a vehicle, a warrantless search would not be deemed in contradiction of the Fourth Amendment, if the facts of the case would have justified a warrant, even though a warrant has not actually been obtained." There are only two questions that must be answered before deputies may conduct a warrantless search of an automobile;

1. Whether the automobile is readily mobile. All that is necessary to satisfy this element is that the automobile is operational.
2. Has probable cause been determined?

Due to the "inherent mobility" of motor vehicles and the "lesser reasonable expectation of privacy" the warrantless search of a motor vehicle may be authorized. To search a vehicle under the "motor vehicle exception", the deputy must have probable cause. When a deputy searches a vehicle on probable cause alone, the deputy may search the entire vehicle but only in areas where the specific contraband or evidence being searched for could be found. If a deputy has reasonable suspicion that the driver or recent occupant of the vehicle, whether arrested or not, is dangerous and may gain access to a concealed weapon, he/she may conduct a cursory search of the passenger compartment for weapons. If the deputy has probable cause that the vehicle contains evidence of criminal activity, a thorough search of any area of the vehicle may be conducted.

K-9 Sniff of Vehicles – The Supreme Court ruled in *Rodriguez v U.S.*, NO. 13-9972 (April 21, 2015) that absent reasonable suspicion, police extension of a traffic stop in order to conduct a dog sniff violates the 4th Amendment against unreasonable seizures. Therefore, if it is determined that a K-9 is needed a deputy should call for them immediately upon stopping the vehicle in an effort for them to arrive during the regular course of the traffic stop. Deputies will not attempt to extend the stop further. An investigative stop and/or detention of a vehicle for an exterior canine sniff must be supported by reasonable suspicion or consent. Drug courier profile, without more, does not create reasonable suspicion. If the officer develops reasonable suspicion that the vehicle or occupants are involved in contraband trafficking or use, the officer may now detain them for up to 45 minutes.