

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
AT LOUISVILLE

Case No.

ELECTRONICALLY FILED

KENNETH THOMAS )

Plaintiff )

vs. )

DETECTIVE WILLIAM MAYO )  
INDIVIDUALLY AND IN HIS )  
OFFICIAL CAPACITY AS A POLICE )  
OFFICER OF LOUISVILLE METRO )  
GOVERNMENT; )

And )

DETECTIVE JONATHAN ROBBINS )  
INDIVIDUALLY AND IN HIS )  
OFFICIAL CAPACITY AS A POLICE )  
OFFICER OF LOUISVILLE METRO )  
GOVERNMENT; )

And )

DETECTIVE CURT FLYNN, )  
INDIVIDUALLY AND IN HIS )  
OFFICIAL CAPACITY AS A POLICE )  
OFFICER OF LOUISVILLE METRO )  
GOVERNMENT; )

And )

LIEUTENANT ROBERT KING, )  
INDIVIDUALLY AND IN HIS )  
OFFICIAL CAPACITY AS A POLICE )  
OFFICER OF LOUISVILLE METRO )  
GOVERNMENT; )

And )

STEVE CONRAD (Former Chief) )

CASE NO. 3:21-cv-549-RGJ

JUDGE: Rebecca Grady Jennings

INDIVIDUALLY AND IN HIS )  
OFFICIAL CAPACITY AS CHIEF OF )  
POLICE FOR LOUISVILLE METRO )  
GOVERNMENT; )

And )

LOUISVILLE-JEFFERSON COUNTY )  
METRO GOVERNMENT )

Defendants )

SERVE: )

Detective William Mayo )  
Louisville Metro Police Department )  
633 West Jefferson Street )  
Louisville, KY 40202 )

And )

Detective Jonathan Robbins )  
Louisville Metro Police Department )  
633 West Jefferson Street )  
Louisville, KY 40202 )

And )

Detective Curt Flynn )  
Louisville Metro Police Department )  
633 West Jefferson Street )  
Louisville, KY 40202 )

And )

Lieutenant Robert King )  
Louisville Metro Police Department )  
633 West Jefferson Street )  
Louisville, KY 40202 )

And )

Chief of Police Steve Conrad )  
633 West Jefferson Street )  
Louisville Metro Police Department )  
Louisville, KY 40202 )

And )

Hon. Greg Fischer, Mayor )  
 527 West Jefferson Street )  
 Louisville, KY 40202 )  
 )  
 And )  
 )  
 Hon. Mike O’Connell )  
 Jefferson County Attorney )  
 600 West Jefferson Street, 2<sup>nd</sup> Floor )  
 Louisville, KY 40202 )

---

**COMPLAINT**

INTRODUCTION

1. This action is brought pursuant to 42 U.S.C. Sections 1983 and 1988 for violation of the Fourth and Fourteenth Amendments to the United States Constitution; Monell-Related Claims, Discrimination, Failure to Train, Failure to Intervene, Malicious Prosecution under 42 U.S.C. §1983, False Arrest under 42 U.S.C. §1983; and Kentucky State Law claims of Battery Claim, Malicious Prosecution, Negligent Supervision and Training, Negligence, and Inflicting of Emotional Distress — Negligent and/or Intentional Under Kentucky State Law.

2. This case involves the above listed claims against the above named Defendants, in which the named Defendants used Racially Biased Policing, and unlawfully seized, searched, arrested, and prosecuting Plaintiff for allegedly violating —Being a Felon in Possession of a Firearm, 18 U.S. Code § 922 (g)(1) - Unlawful Acts and Kentucky Revised Statutes (KRS):

- i. KRS 527.040- Convicted Felon in Possession of a Handgun;

- ii. KRS 189.125(6)- Failure to Wear Seat Belts;
- iii. KRS 218A.1422- Poss of Marijuana; and
- iv. KRS 527.020- Carrying a Concealed Deadly Weapon

### **JURISDICTION**

3. The jurisdiction of this court invoked pursuant to the Civil Rights Act 42 U.S.C. § 1983; the Judicial Code, 28 U.S.C. §§ 1331, 1367, and 1343(a); the Constitution of the United States. Therefore, this Court has supplementary jurisdiction powers.

### **VENUE**

4. Venue is proper under 28 U.S.C. § 1391(b). All parties reside in this judicial district, and the events giving rise to the claims asserted here occurred within this district.

### **PARTIES**

5. Plaintiff Kenneth Thomas, also referred to herein as (“Mr. Thomas” and/or “Plaintiff”), is and at all times relevant to this action was a citizen of the United States of America and a resident of Louisville, Jefferson County, Kentucky.

6. Defendant Detective William Mayo, referred to herein as (“Officer Mayo”) was at all times relevant to this action a duly appointed police officer employed by the city of Louisville-Metro Jefferson County.

7. Defendant Detective Jonathan Robbins, referred to herein as (“Officer Robbins”) was at all times relevant to this action a duly appointed police officer employed by the city of Louisville-Metro Jefferson County.

8. Defendant Detective Curt Flynn, referred to herein as (“Officer Flynn”) was at all times relevant to this action a duly appointed police officer employed by the city of Louisville-Metro Jefferson County.

9. Defendant Lieutenant Robert King, referred to herein as (“Officer King”) was at all times relevant to this action a duly appointed police officer employed by the city of Louisville-Metro Jefferson County.

10. Defendants, Officer Mayo, Officer Robbins, Officer Flynn, and Officer King are also referred to herein collectively as (“Defendant Officers” or “Officers”), and were at all times mentioned in this Complaint on duty at all times relevant to this Complaint, duly appointed, and sworn police officers for the below named Defendant, Louisville-Metro Jefferson County. Defendant Officers engaged in the conduct complained of in the course and scope of their employment while on duty. Defendant Officers are also sued in their individual capacity.

11. Defendant Steve Conrad, is the former Chief of the Louisville Metro Police Department (“LMPD”), referred to herein as (“Defendant Chief” or “Chief Conrad” or “Chief”) and was at all times relevant to this action a duly appointed police officer and the chief of the LMPD which is maintained by the Defendant Louisville-Metro Jefferson County. Chief was employed by the Defendant Louisville-Metro Jefferson County at all times relevant to this action and said Defendant is also sued in his individual capacity.

12. Defendant Louisville-Metro Jefferson County referred to herein as (“Defendant City” or “City”), is a city in Kentucky and now, and at all times

mentioned in this Complaint was, a municipal corporation organized and existing under the laws of the State of Kentucky, and maintains a police department named LMPD, with duly appointed police officers pursuant to the mandate laws of the State of Kentucky, as amended and the said Defendant is a city of the first class.

13. Defendants Officer Mayo, Officer Robbins, Officer Flynn, Officer King, Chief, and City are referred to herein collectively as “Defendants”.

### **COMMON FACTUAL ALLEGATIONS**

14. All events complained of herein occurred in Jefferson County, Kentucky.

15. Upon information and belief, on or about October 4, 2018, after 7:00 p.m. Defendant Officer Mayo along with Defendant Officer Robbins, Officer Flynn and Officer King were on patrol for the Louisville-Metro Police Department in Louisville, Jefferson County, Kentucky.

16. On the same said date and time, Mr. Thomas a thirty-five (35) year old African-American male and his three passengers who are also African-American males and United States citizens, were riding south bound in Mr. Thomas’ Chevy Tahoe on Cane Run Road, in Louisville, Jefferson County, Kentucky.

17. The area in which Mr. Thomas and his passengers were traveling is an area that is predominately African-American.

18. Mr. Thomas was the driver of the said Tahoe.

19. All of the said Tahoe’s windows were legally tinted.

20. While legally stopped at a traffic light on Cane Run Road, Mr. Thomas was waiting for the light to change from red to green.

21. At the same time, Officer Mayo, Officer Robbins, and Officer Flynn in a LMPD unmarked police cruiser pulled behind the Tahoe at the same said traffic light.

22. After the light changed the said Defendant officers followed the Tahoe for about 30 seconds before initiating a traffic stop by turning on the unmarked police cruiser's emergency lights.

23. The Defendant Officers claimed that reasons for the stop was that because of the time of the day Officer Mayo plainly observed through the Tahoe's tinted rear tailgate window that neither Mr. Thomas or the two passengers were wearing seatbelts.

24. Mr. Thomas stopped the Tahoe in response to the said officers' show of authority.

25. Once both vehicles were stopped, Officer Mayo approached the driver's side of the Tahoe and asked the occupants to roll down their windows while Officer Robbins approached the right side of the Tahoe.

26. During this time at least eight other LMPD officers including Officer King, who was the supervising officer, arrive on the scene.

27. After getting the occupants' identification, the Defendant Officers began to check whether anyone in the vehicle had an outstanding warrant.

28. While Defendant Officers were checking the information of Mr. Thomas and his passengers, Officer Mayo was told by another officer that "we are not going to get a consent to search on this one", or words to that effect.

29. Officer Mayo kept asking his supervisor Officer King if he could get Mr. Thomas and his passengers out of the vehicle.

30. At one point Officer King became frustrated by Officer Mayo's requests as to —if he could remove Mr. Thomas and his passengers from the vehicle— and told Officer Mayo to “get them out!”, or words to that effect.

31. Officer Mayo then became disgruntle and then approached the driver side of the Tahoe and requested that Mr. Thomas exit his vehicle.

32. Mr. Thomas complied.

33. Both the front and rear passengers were also ordered to exited the vehicle.

34. Both the front and rear passengers also complied.

35. Mr. Thomas and his passengers were directed to come to the back of Mr. Thomas' vehicle for questioning.

36. Upon his questioning of Mr. Thomas, Officer Mayo asked Mr. Thomas if he would consent to the search of his vehicle.

37. Mr. Thomas denied Officer Mayo's request.

38. After Mr. Thomas' refusal, Officer Mayo then said to Mr. Thomas “*Here is the deal, we are not warrant police, we don't do drugs, we don't do traffic tickets, we sure as shit do not write seat belt tickets, understand.*”

39. Officer Mayo again requested consent to search Mr. Thomas' vehicle, and was again denied by Mr. Thomas.

40. Mr. Thomas kept denying all of the offers by the police officers to consent to the search of his vehicle and the belongings therein.

41. When the front passenger exited the vehicle, Defendant Officer King began to search the front passenger seat area of Mr. Thomas vehicle.



42. When Officer Mayo stepped back to the driver side door a few minutes later, he asked whether Officer King had a basis to search the vehicle.

43. Officer King responded that they found an open container and Officer Mayo then walked back to the rear of Mr. Thomas' vehicle to continue talking to Mr. Thomas and his passengers.

44. Officer King and other officers continued to search Mr. Thomas' vehicle, they search in between the seats, closed storage compartments, sun visors and other areas, despite claiming that Officer King and his other officers limited the search to only other open alcohol containers because the open container is what the said officer claims served as the basis for the search<sup>1</sup>.

45. After completing a search of the front passenger area and finding nothing of note, Officer King then moved to the rear, right, passenger seat area behind the front passenger and driver seats and again performed a search.

46. After lifting and searching through many items and clothings the said Defendant found two vest buried under those said items.

47. He identified something heavy in one of the vest.

48. Mr. Thomas and his passengers were then handcuffed.

49. He searched the pockets of both of the vests and discovered a .380 caliber Remington pistol in one of the vests.

50. One of Mr. Thomas' occupants claimed ownership of the vest that Officer

---

<sup>1</sup> Officer King, in open court, testified at the hearing that he limited his search to only other open alcohol containers because the open container served as the basis for the search. Memorandum Opinion and Order from the criminal case styled *United States of America v. Kenneth L. Thomas*, Case No: 3:19-CR-00024-JHM (June 25, 2020/Filed June 29, 2020)

King identified as not having something heavy in it.

51. During the search of Mr. Thomas's vehicle and seizure there was at least eight (8) LMPD police officers present and actively involved with interacting and in contact with Mr. Thomas, his vehicle, and his passengers.

52. Mr. Thomas and the rear passenger were then arrested, placed in the back of police cruisers and transported to the Louisville Metro Department of Corrections ("LMDC") for process.

53. The Defendant Officers issued a Commonwealth of Kentucky Uniform Citation upon Mr. Thomas in an attempt to cover-up there and their fellow officers' illegal actions, and justify the stop, searches, arrest, and prosecution of Mr. Thomas.

54. In that said citation Mr. Thomas was charged with violating Kentucky Revised Statutes (KRS):

- i. KRS 527.040- Convicted Felon in Possession of a Handgun;
- ii. KRS 189.125(6)- Failure to Wear Seat Belts;
- iii. KRS 218A.1422- Poss of Marijuana; and
- iv. KRS 527.020- Carrying a Concealed Deadly Weapon

55. Mr. Thomas was held in a jail cell for at least a day before being arraigned in the Jefferson County District Court, and subjected to a \$2,500.00 cash bond.

56. Mr. Thomas was also criminally prosecuted in the Jefferson District Court case *Commonwealth vs Thomas, Kenneth Lloyd*, Case No: 18-F-017438 and in the United States District Court case *United States of America v. Kenneth L. Thomas*, Case No: 3:19-CR-00024, for one count of —Being a Felon in Possession of a Firearm, 18

U.S. Code § 922 (g)(1) - Unlawful acts.

57. At some point after the arrest of Mr. Thomas, Officer Mayo knowingly documented false information in his investigation report in which he stated that he smelled marijuana at the stop.

58. Officer Mayo knowingly included that said report in Mr. Thomas' criminal file for the prosecution of Mr. Thomas.

59. During the course of Mr. Thomas' criminal prosecution the said investigation report was used in support of prosecuting Mr. Thomas.

60. On October 7, 2019, the United States District Court conducted a hearing for which some of the Defendant Officers' actions were challenged.

61. Officer Mayo, in accordance to the Defendant City's custom, presented false material information to prosecuting officials.

62. The said report was used to further support the actions of his and his fellow officers prior to, during, and following the stop, seizure, search, arrest, and the criminal prosecutions of Mr. Thomas by falsely asserting that he smelled marijuana at the stop and that Mr. Thomas and his passengers were not wearing seatbelts.

63. Mr. Thomas has always asserted during the stop that there was no smells of marijuana during the stop.

64. Other police officers whom were in the same position as Defendant Mayo never affirmed the scent of marijuana.

65. Officer Mayo's own actions during the traffic stop contradicted his testimony.

66. In the said court hearing, Officer King testified that he limited his search to

only open alcohol containers because the open container served as the basis for the search.

67. The said Defendant further testified that smelling the scent of marijuana during the stop and subsequent search was not something that stood out to him.

68. Defendant Officers proffered reasons for the initial stop was false.

69. The search that followed the initial stop was found unlawful.

70. On October 12, 2020, all of the charges were dismissed and the criminal action was also dismissed.

71. From October 4, 2018 until October 12, 2020, Defendant Officers knowingly continuously provided false material information to secure the prosecution of Mr. Thomas.

72. The false material information included, but are not limited to, Defendant Officers proffering that they observed Mr. Thomas and his passengers not wearing their seat belts before they initiated the stop and that Defendant Officer Mayo smelled marijuana during the stop.

73. Officer Mayo knowingly manufactured and intentionally misrepresented false inculpatory evidence —as well as providing presentation of the inaccurately and untrue said report to support the stop, search, charges, arrest, and prosecution of Mr. Thomas.

74. Mr. Thomas had to defend himself from the criminal prosecution initiated by Defendants to prove his innocence.

75. At all times material hereto, Mr. Thomas never consented to any searches.

76. At all times prior to the stop of Mr. Thomas' vehicle and prior to the

Defendant Officers' approaching Mr. Thomas' vehicle afoot after the stop, the Defendant Officers did not observe Mr. Thomas nor any of his passengers not wearing their seat belts or violating any traffic laws.

77. Mr. Thomas complied to all the Officers' commands in response to the Defendant Officers' show of authority.

78. Mr. Thomas was unreasonably detained and falsely imprisoned for an unreasonable period of time without freedom to move for at least a year.

79. From at least 2015 to 2020, LMPD has had a custom of targeting African-American motorist for traffic stops at a disproportional rate in comprising to white motorist as a pretext to perform further investigations and searches of African-American motorist as a tool for officers to find evidence of crimes that have nothing to do with traffic violations.

80. The Defendant City has a policy that governs and prohibits Biased Law Enforcement Practices and that said policy requires, *along with other actions*, LMPD officers to document and complete Vehicle Stop Reporting Forms.

81. The Defendant City and Chief have knowingly allowed its officers to ignore its own policies against biased law Enforcement practices, by not enforcing its own policies that require its officers to complete and document the Vehicle Stop Reporting Forms.

82. The Defendant City and Chief have knowingly allowed its officers to ignore its own policies against biased law Enforcement practices, in an effort to unlawfully govern African-American motorist within the city of Louisville.

83. In Louisville, 70 percent of the residents are white while roughly 20 percent are black, according to DATA USA that cited the US Census Bureau data from 2015. (DATA USA, *Jefferson County, KY*, [https://datausa.io/profile/geo/jefferson-county-ky/#category\\_heritage](https://datausa.io/profile/geo/jefferson-county-ky/#category_heritage) (December 09, 2018)).

84. However, according to an article published on December 11, 2017, by the Courier-Journal, a local news media company, “Black drivers in Louisville were nearly twice as likely to have their car searched during routine traffic stops than white drivers in 2016, according to a study from the University of Louisville.” (Courier-Journal, *Louisville Police Searched Black Drivers More Often Than White Drivers in 2016, Study Shows*, <https://www.courier-journal.com/story/news/local/2017/12/11/louisville-police-searched-black-drivers-more-often-white-study/939673001/> (Published December 11, 2017, 12:38 p.m. EST; Last updated December 11, 2017 12:38 p.m. EST))

85. In September of 2018, the said Police Department was slammed for racial profiling after a black college president was pulled over by a white officer of the said Defendant City’s police department for a minor improper turn and having plastic lining framing the out side edges of his license plate. (DailyMail.com, *Kentucky police is slammed for racial profiling after black college president is pulled over by white cop for a minor improper turn and having plastic lining on his license plate*, <https://www.dailymail.co.uk/news/article-6185169/Police-review-traffic-stop-black-college-president.html> (Published September 19, 2018, 10:00 a.m. EST; Last updated September 19, 2018, 11:04 a.m. EST)).

86. Furthermore, according to the Courier Journal's analysis of 130,999 traffic stops in Louisville from 2016 to 2018 in which citations were issued, African Americans were disproportionately stopped and three times as likely to be searched as white drivers. (Courier-Journal, *Black drivers in Louisville are searched nearly three times more than white motorists*, <https://www.courier-journal.com/story/news/crime/2019/06/07/lmpd-data-shows-black-drivers-searched-far-more-than-whites/1369516001/> (Published June 07, 2019, 11:10 a.m. EST; Last updated June 08, 2019 4:15 p.m. EST))

87. Additionally, African-Americans in Jefferson County are seven (7) time more likely than whites to be subject to a traffic stop by LMPD and charged for a crime such as possession of marijuana, though African-Americans represented approximately 22.2% of the Louisville-Jefferson County's population. *Id.*

88. Moreover, in regard to how the Louisville Metro Police Department has disproportionately stopped black drivers as to white drivers, the Defendant Chief has been quoted saying, "that in retrospect, routinely stopping motorists 'is something we should have done differently.'" *id.*

89. Following the said Police Department's reported disproportionate stops of black drivers as to white drivers, a Jefferson County Circuit Judge, in a criminal case, ruled that the Louisville police coerced an African American driver into an illegal traffic search for a gun. (Courier-Journal, *Louisville police coerced driver into illegal traffic search for gun, judge rules*, <https://www.courier-journal.com/story/news/crime/2019/06/19/louisville-police-traffic-search-collapses-judges-ruling/1503367001/>

(Published June 19, 2019, 7:48 p.m. EST; Last updated June 20, 2019 8:49 a.m. EST)).

90. In August of 2019, in an effort to address racial disparity in drug arrests and prosecution in the City of Louisville, Jefferson County, Kentucky, the Jefferson County Attorney's Office announced that its office will no longer prosecute people for possession of a small amount of marijuana when that is the only or primary charge.

(Courier-Journal, *Possession of small amount of marijuana will no longer be*

*prosecuted in Louisville*, [https://www.courier-journal.com/story/news/politics/](https://www.courier-journal.com/story/news/politics/2019/08/28/jefferson-county-prosecutor-drops-small-marijuana-possession-cases-louisville-kentucky/2138978001/)

[2019/08/28/jefferson-county-prosecutor-drops-small-marijuana-possession-cases-](https://www.courier-journal.com/story/news/politics/2019/08/28/jefferson-county-prosecutor-drops-small-marijuana-possession-cases-louisville-kentucky/2138978001/)

[louisville-kentucky/2138978001/](https://www.courier-journal.com/story/news/politics/2019/08/28/jefferson-county-prosecutor-drops-small-marijuana-possession-cases-louisville-kentucky/2138978001/) (Published August 28, 2019, 9:15 a.m. EST; Last

updated August 28, 2019 5:51 p.m. EST)); WDRB, *Some marijuana possession cases*

*will no longer be prosecuted in Louisville*, [https://www.wdrb.com/news/some-](https://www.wdrb.com/news/some-marijuana-possession-cases-will-no-longer-be-prosecuted-in-louisville/article_59e02192-c99e-11e9-9273-0f73bff5dae5.html)

[marijuana-possession-cases-will-no-longer-be-prosecuted-in-louisville/](https://www.wdrb.com/news/some-marijuana-possession-cases-will-no-longer-be-prosecuted-in-louisville/article_59e02192-c99e-11e9-9273-0f73bff5dae5.html)

[article\\_59e02192-c99e-11e9-9273-0f73bff5dae5.html](https://www.wdrb.com/news/some-marijuana-possession-cases-will-no-longer-be-prosecuted-in-louisville/article_59e02192-c99e-11e9-9273-0f73bff5dae5.html) (Published August 28, 2019,

9:15 a.m. EST; Last updated August 28, 2019 5:51 p.m. EST))

91. In August 2018, an African American couple was stopped by LMPD officer while driving home from church, for the driver's failure to his turn signal, and the said couple sued LMPD officers for the traffic stop alleging that the stop was conducted solely because they were black and in a nice car. (Courier-Journal, *Couple sues LMPD*

*officers for traffic stop because they were 'black and in a nice car'*, [https://](https://www.courier-journal.com/story/news/crime/2019/08/16/louisville-kentucky-police-officers-sued-couple-over-traffic-stop/2020800001/)

[www.courier-journal.com/story/news/crime/2019/08/16/louisville-kentucky-police-](https://www.courier-journal.com/story/news/crime/2019/08/16/louisville-kentucky-police-officers-sued-couple-over-traffic-stop/2020800001/)

[officers-sued-couple-over-traffic-stop/2020800001/](https://www.courier-journal.com/story/news/crime/2019/08/16/louisville-kentucky-police-officers-sued-couple-over-traffic-stop/2020800001/) (Published August 16, 2019,

7:49 .m. EST)); see, *Demetria Firman and Anthony Parker, Sr. vs. Steve Conrad, et.*



*al.*, 3:19-CV-564-DJH (W.D. Ky., Louisville, (August 2019)).

92. In 2019, at least two criminal cases involving traffic stops of black drivers and one criminal case involving the stop of two black males walking, LMPD officers conducted searches in all of those stops and charges were filed from the results of those searches and then later those cases was dismissed from the Jefferson Circuit Court, with each following a stern order by the judges to suppress evidence obtained in what was ruled to be an illegal search by officers of the Louisville Metro Police Department in all of those cases. (Louisville Insight, <https://louisvilleinsight.com/archived-news/judges-dismiss-criminal-cases-after-denouncing-illegal-searches-by-lmpds-ninth-mobile-division/> (Published June 24, 2019, 7:49 .m. EST)); see, *Commonwealth vs. Ballard, Miguel Angelo Jr*, 18-CR-002688 (Jefferson County, Ky. Cir. (Aug. 2019)), *Commonwealth vs. Henderson, Tyrellee J Jr*, 18-CR-002104 (Jefferson County, Ky. Cir. (July. 2018)) and *Commonwealth vs. Johnson-Trumbo, Garrett A.*, 17-CR-002435 (Jefferson County, Ky. Cir. (Dec. 2018))

93. In *Commonwealth vs. Johnson-Trumbo, Garrett A.*, the LMPD officers did not have reasonable suspicion to extend the traffic stop by calling in the K-9 unit, and the court in the said styled-case ordered that the gun found in the search be suppressed from the evidence in the case, and that order lead to the dismissal of the charge and the case. *Id.*

94. In *Commonwealth vs. Ballard, Miguel Angelo Jr*, 18-CR-002688 (Jefferson County, Ky. Cir. (Aug. 2019)), the said court determined that the LMPD officer coerced Mr. Ballard into agreeing to a search of his vehicle after asking several times

and noting that the LMPD officer told Mr. Ballard during the stop that there were only two types of people who did not consent to a search —“assholes and people who have something to hide”. *Id.*

95. Since January of 2019, there has been at least five (5) civil lawsuits filed asserting that that the Defendants, Chief Conrad and City, and the City’s police officers, have violated African American drivers rights while initiating traffic stops. (See, *Shaun A. Wimberly, Sr. vs. Officer Miller, Louisville-Jefferson County Metro Government, et. al.*, 18-CI-007161 (Jefferson County, Ky. Cir. (Jan. 2019)); *Tae-Ahn Lea vs. Steve Conrad, et. al.*, 3:19-CV-419-RGJ (W.D. Ky., Louisville, (June 2019)); *Jamaj Johnson vs. Louisville-Jefferson County Metro Government, et. al.*, 3:19-CV-431-RGJ (W.D. Ky., Louisville, (June 2019)); *Demetria Firman and Anthony Parker, Sr. vs. Steve Conrad, et. al.*, 3:19-CV-564-DJH (W.D. Ky., Louisville, (August 2019)); *Tyrone Daugherty vs. Chief Steve Conrad, et. al.*, 3:19-CV-00660-RGJ (W.D. Ky., Louisville, (August 2019)).

96. In 2021, the Defendant City requested that the Hillard Heintze company conduct a review of the LMPD and that company concluded that Black drivers were 60% more likely to be stopped than one would expect from their percentage of population in compare to white drivers. (Louisvilleky.gov, Hillard Heintze Final Report, <https://louisvilleky.gov/sites/default/files/2021-01/hillard-heintze-report.pdf> (Published January 27, 2021); (WHAS 11, <https://www.whas11.com/article/news/local/lmpd-black-louisville-residents-review/417-b70aa825-ac6b-4120-a2f6-9adc3e8285cc> (Published January 29, 2021, 7:48 p.m. EST; Last updated January 29, 2011 9:00 p.m.

EST))

97. LMPD and the Defendant City, became famous from the conduct of LMPD and the City during and after the shooting of Breonna Taylor, for which the said police department and the city was publicly charged for treating African-Americans differently because of their race than whites who were in similarly situations. (The Washington Post, <https://www.washingtonpost.com/nation/2020/09/22/breonna-taylor-louisville-decision/> (Published September 22, 2020, 7:00 a.m. EST; Last updated September 22, 2020, 7:57 a.m. EST))

98. The conduct of the LMPD and the Defendant City resulted in the nation wide demand for justice to end discriminatory policing practices by the LMPD and other police departments nationwide. *Id.*

99. Upon information and belief, in a February 18, 2021 deposition, after being questioned about how the Louisville Metro Police Department has disproportionately stopped black drivers as to white drivers, the Defendant Chief said that officers too often used minor traffic violations to search for drugs and that he had never looked at police traffic data to see if Black males were stopped and searched more often than white drivers.

100. In that said deposition, the Defendant Chief further stated that using traffic stops as a pretext for further investigations are tools officers have to try and address crimes that have nothing to do with traffic laws.

101. On April 26, 2021, during a historical announcement, The United States Department of Justice announced that the said agency has opened an investigation of

the Defendant City and its police department (LMPD) by opening a pattern or practice investigation —*led by the Civil Rights Division*— into the City and the LMPD that will determine, along with other Constitutional issues, whether LMPD engages in unconstitutional stops, searches and seizures. (The United States Department of Justice, <https://www.justice.gov/opa/pr/departments-justice-announces-investigation-louisvillejefferson-county-metro-government-and> (Monday, April 26, 2021); WHAS 11, <https://www.whas11.com/article/news/local/lmpd-louisville-investigation-breonna-taylor-merrick-garland/417-3c43590a-4080-40f2-8954-026fdd7fb710> (Published April 26, 2021, 1:18 p.m. EST; Last updated April 26, 2021 11:33 p.m. EST); CBS News, <https://www.cbsnews.com/news/justice-department-investigation-louisville-police/> (Published April 26, 2021, 4:00 p.m. EST; Last updated April 26, 2021, 6:53 p.m. EST).

102. In 2017, as regards to the case of *Shaun A. Wimberly, Sr. vs. Officer Miller, Louisville-Jefferson County Metro Government, et. al.*, 18-CI-007161 (Jefferson County, Ky. Cir. (Jan. 2019)), upon informant and belief, the officers that stopped the African-American motorist failed to document the stop as required by the Louisville Metro Police Department Standard Operation Procedures, Chapter: Field Operations, Subject: Biased Law Enforcement Practices, Section 8.8.7 Vehicle Stop Reporting Forms.

103. In 2018, as regards to the case of *Tae-Ahn Lea vs. Steve Conrad, et. al.*, 3:19-CV-419-RGJ (W.D. Ky., Louisville, (June 2019)), the Defendant Chief had ordered LMPD's Public Standards Unit ("PSU") to explore the legal basis for pulling the black

driver from his car and searching him and his car with a K-9 in 2018.

104. The said investigation only investigated one of the two officers who stopped the black driver.

105. The other officer who was involved in stopping the black driver in 2018 and who was not being investigated told LMPD investigators that he did not know why his partner—who was the subject of the investigation— removed the black driver from his car or why that officer frisked the said driver.

106. The same said officer told investigators that pulling motorists out of cars was a “common practice”.

107. The said investigation languished for nearly two years. LMPD did not investigate the actions of the officer, who handcuffed the said driver and called in the K-9 unit or looked into the actions of the other officers.

108. No disciplinary action was taken against any officer involved in that stop.

109. LMPD dropped the said probe into that stop, because the only officer it chose to investigate resigned to join another police department.

110. In another controversial traffic stop of a black driver and his passenger in 2018, *Tyrone Daugherty vs. Chief Steve Conrad, et. al.*, 3:19-CV-00660-RGJ (W.D. Ky., Louisville, (August 2019)), in which the driver denied consent several times prior to being removed from the vehicle, searched twice, forced to have their shoes removed and subject to a K-9 search, LMPD conducted an investigation into the police officers’ actions before and during that said said stop.

111. The defendant Chief, exonerated those officers and the investigation

concluded that no wrongdoing was done by the officers that was accused of racially biased policing before and during the traffic stop.

112. In, *Jamaj Johnson vs. Louisville-Jefferson County Metro Government, et. al.*, 3:19-CV-431-RGJ (W.D. Ky., Louisville, (June 2019)), another controversial traffic stop of a black driver and his passenger in 2018, in which the driver denied consent several times prior to being removed from the vehicle and he and his passenger was not allowed to produce his insurance card, searched, hand cuffed, and subject to a K-9 search, resulting in a negative result and the issued traffic violation dismissed after he hired an attorney.

113. In that said civil suit the black driver has also claim that the LMPD officers that conducted the stop and search unlawfully took his property during the search.

114. LMPD conducted no investigation in to that said stop.

**FIRST CAUSE OF ACTION**

Monell-Related Cause of Action

(Constitutional Violations Under 42 U.S.C.A. § 1983)

115. Plaintiff reallege and incorporate by reference, as though fully set forth here, each and every allegation set forth in the above Paragraphs..

116. It is the custom, practice and policy of police officers and/or their supervisors/agents and/or other employees of the Defendant City's police department to perform the following acts and/or omissions in connection with traffic stops of African American drivers—in comparison to similarly situated white drivers— by:

- (i) Preforming pretextual traffic stops in which police officers are stopping African American drivers because of their race for traffic

violations, minor or otherwise, with or without reasonable suspicion of a traffic violation to justify a stop to investigate that violation, to allow the officers to conduct non-traffic violation investigations that are influenced exclusively by the race of the driver, in which the police officers unlawfully conduct searches of the drivers and their vehicles for separate and unrelated non-traffic suspected criminal offenses, that were subjectively formed solely from racially bias motivates. In other words, police officers are performing traffic stops of black drivers more than white drivers to search their persons and property for non-traffic violations, before observing a legitimate traffic violation or having any reasonable suspicion of a drug offense or other non-traffic suspicion violations;

(ii) Extending traffic stops of African American drivers absent reasonable suspicion of a drug offense, in order to conduct K-9 (dog) sniffs of the said drivers;

(iii) Arresting African American drivers absent probable cause;

(iv) Prosecuting African American drivers absent probable cause;

(v) Fabricating evidence to support the findings of reasonable suspicion for the stop and search of African American drivers;

(vi) Fabricating evidence to support the findings of probable cause for the arrest and prosecution of African American drivers, after targeting, stoping, and searching such drivers because of their race;

- (vii) Coercing black drivers in agreements to search their persons, vehicle, and/or personal effects, after the drivers refuse to consent to any searches.
- (viii) Failing to document required reports of traffic stops as required by LMPD policies;
- (ix) Generate documentation to cover-up for racially biased policing and the misconduct of police officers;
- (x) Supervisory individuals from the Defendant City fail to properly discipline officers from the police department that have committed acts of racially biased policing on others;
- (xi) Supervisory individuals from Defendant City fail to properly investigate complaints of misconduct perpetrated by the Defendant City's police officers, on African American drivers;
- (xii) Supervisory individuals from Defendant City "Rubber Stamped" investigations of matters involving racially biased policing and the misconduct of its police officers in stopping, investigating, searching, charging, arresting, and prosecuting African American drivers; and
- (xiii) Supervisory individuals from Defendant City "Rubber Stamped" and/or ignored investigations of matters resulting from its police officers involvement in racially biased policing and the following misconduct of its police officers in prosecuting African American drivers.

117. A code of silence exists, between the officers of the Defendant City's police department so as to obstruct the legal process (preventing the free flow of honest



information with regard to racially biased policing and acts of misconduct).

118. The Defendants, City and Chief “Rubber Stamped” the practices and/or customs, as alleged above, by acquiescing to the said customs and practices of the officers and refusing and/or ignoring to conduct proper investigations into the alleged misconduct of its police officers accused of racially biased policing during traffic stops and prosecutions resulting from the stop of black drivers and their passengers.

119. Defendant Chief, has acted with deliberate indifference and reckless disregard by failing to properly insure that the wrongful conduct of his police staff is properly investigated and disciplined for committing racially bias policing towards others.

120. Defendant City is a duly incorporated municipal corporation and is the employer and principal of the Defendants Chief as well as the other officers referred to in this Complaint, as indicated in the Monell claim alleged here.

121. At all times material to this Complaint, Defendants, Chief, Officer Mayo, Officer Robbins, and Officer Flynn, were acting under color of state law, ordinance and/or regulation, statutes, custom and usages of the Defendant City.

122. The custom, practice and policy of stopping African-American drivers, as alleged above herein, was the moving force of the violation of Mr. Thomas’ federally protected rights as stated herein this Complaint..

123. The manner in which the Defendant City’s LMPD police officers stop white drivers for traffic violations was dramatically different in the way that the Defendant Officers stopped Mr. Thomas while driving a vehicle within the city of Louisville,

Jefferson County of Kentucky.

124. The Defendant City's police officers Defendants, Officer Mayo, Officer Robbins, and Officer Flynn, and other police officers conducted the traffic stop of Mr. Thomas in a dramatically different way compared to white drivers, operating a vehicle within the city of Louisville, Jefferson County, Kentucky.

125. Since 2015 through 2019, the actions of the Defendants', City, LMPD officers in stopping African-American drivers, as alleged above herein, in comparison to white drivers is dramatically different in which Black drivers were 60% more likely to be stopped.

126. As a direct and proximate result of said acts, indifference, custom, and policy established by Defendants City and Chief, and the actions of the Defendant Officers, Mr. Thomas has suffered and will continue to suffer humiliation, shame, despair, anxiety while traveling, embarrassment, depression, mental pain, anguish, and injury to his reputation, all to Mr. Thomas' damages in an amount to be proven at time of trial.

127. The Defendant City's police officers engaged in the custom, practice and policy of stopping African-American drivers, as alleged above herein.

128. While engage in the said custom, practice and policy of stopping African-American drivers, as alleged above herein, the Defendants Officer Mayo, Officer Robbins, and Officer Flynn violated Mr. Thomas' federally protected rights and state rights as alleged herein.

129. The custom, practice and policy of stopping African-American drivers, as alleged above herein, was the proximate cause of the violation of Mr. Thomas'

federally and State protected rights as alleged herein.

**SECOND CAUSE OF ACTION**

Discrimination Under 42 U.S.C.A. § 1983

Selective Enforcement

Violation of Civil Rights under Title 42 of the United States Code Annotated (U.S.C.A.) § 1983 and under the Fourth (4th) and Fourteenth (14th) Amendments to the United States Constitution

130. Plaintiff reallege and incorporate by reference, as though fully set forth here, each and every allegation set forth in the above Paragraphs.

131. From the date of October 4, 2018, until the date of the filing of this Complaint, the Defendants, Officer Mayo, Officer Robbins, and Officer Flynn, actions of stopping, searching, arresting, and prosecuting Mr. Thomas was solely based on the fact that Mr. Thomas is an African-American driver.

132. On October 4, 2018, each of the said defendants, Officer Mayo, Officer Robbins, and Officer Flynn, stopped, searched, arrested, and prosecuted Mr. Thomas because they perceived him to be an African-American motorist within Jefferson County, Kentucky.

133. Each of the said defendants were aware of the fact that Mr. Thomas and his passengers were African Americans.

134. The said defendants actions against Mr Thomas was based on their unlawful racially biased conclusion that all African American motorists are or have committed a non-traffic crime while driving within Jefferson County, Kentucky.

135. Mr. Thomas was exercising his constitutional right to travel.

136. African American drivers are seven (7) time more likely than whites to be

subject to a traffic stop by LMPD and charged for a crime such as possession of marijuana, though African-Americans represented approximately 22.2% of the Louisville-Jefferson County's population.

137. African American drivers were disproportionately stopped and searched as compare to white drivers in similar situations.

138. The actions of the said Defendants had a discriminatory effect, in which African-American drivers and their passengers are treated differently than white drivers and their passengers while driving through out Jefferson County, Kentucky.

139. The actions of the said Defendants was motivated by a discriminatory purpose of targeting African-Americans, in which the City's police department enacted the custom for the Defendant City's police department, LMPD, to target, stop, coerce black motorists in agreements to search their persons, vehicle, and/or personal effects — after the said drivers refuse to consent to any searches, perform unlawful searches arrests, and prosecution of African-American motorists, with or without reasonable suspicion of a traffic violation or other crimes, and unlawfully extending the stops of the said motorists —*absent reasonable suspicion*— so the officers can conduct further investigations of the said motorists and their vehicles.

140. The Defendants, Officer Mayo, Officer Robbins, and Officer Flynn, chose to target Mr. Thomas because of his race, stop, coerce him in agreeing to search his persons, vehicle, and/or personal effects, handcuff Mr. Thomas, search his vehicle and personal effects, arrest and prosecute Mr. Thomas in the effort of targeting and governing African-American motorists more than other races.

141. The custom, practice and policy of stopping African-American motorists, as alleged above herein, was the moving force of the violation of Mr. Thomas' federally protected rights as alleged herein this Complaint.

142. From 2015 until 2020, the actions of the Defendant's, City, LMPD officers in stopping African-American motorists, as alleged above herein, in comparison to white drivers is dramatically different, in which Black drivers were 60% more likely to be stopped.

143. The manner and treatment in which the said defendants and the Defendant City's LMPD police officers regulated white drivers is dramatically different in the way that the Defendant Officers and Defendant City regulated and stopped Mr. Thomas while driving a vehicle within the city of Louisville, Jefferson County of Kentucky.

144. The Defendants, Officer Mayo, Officer Robbins, and Officer Flynn, and the other police officers conducted the traffic stop of Mr. Thomas in a dramatically different way as compared to white drivers, operating a vehicle within Jefferson County, Kentucky.

145. The Defendants, Officer Mayo, Officer Robbins, and Officer Flynn selective enforcement of stopping African-American drivers, as alleged above herein, was the proximate cause of the violation of Mr. Thomas' federally and State protected rights as alleged herein.

146. The Defendant City's police officers engaged in the custom, practice and policy of stopping African-American drivers, as alleged above herein.

147. While engage in the said custom, practice and policy of stopping African-American drivers, as alleged above herein, the Defendants Officer Mayo, Officer Robbins, and Officer Flynn violated Mr. Thomas' federally and State protected rights as alleged herein this Complaint.

148. The custom, practice, and policy of stopping African-American drivers, as alleged above herein, was the proximate cause of the violation of Mr. Thomas' federally and State protected rights as alleged herein.

149. As a direct and proximate result of said acts, indifference, custom, and policy established by Defendants City and Chief, and the actions of the Defendant Officers, Mr. Thomas has suffered and will continue to suffer humiliation, shame, despair, anxiety while traveling, embarrassment, depression, mental pain, anguish, and injury to his reputation, all to Mr. Thomas' damages in an amount to be proven at time of trial.

### **THIRD CAUSE OF ACTION**

#### **UNLAWFUL SEARCH AND SEIZURE**

Violation of Civil Rights under Title 42 of the United States Code Annotated (U.S.C.) § 1983 and under the Fourth (4th) and Fourteenth (14th) Amendments to the United States Constitution

150. Plaintiff reallege and incorporate by reference, as though fully set forth here, each and every allegation set forth in the above Paragraphs.

151. On or about October 4, 2018, Mr. Thomas possessed the rights guaranteed by the United States Constitution, including but not limited to the Fourth and Fourteenth Amendment rights against unlawful and unreasonable searches, seizure, and the right to be free from unlawful detention, searchers, seizures, and/or arrest by police officers acting under the color of law.

152. On the same said date, Defendant Officers, inclusive, acted with deliberate indifference or with reckless disregard for Mr. Thomas' rights, by targeting him for his race.

153. On the same said date, Defendant Officers searched Mr. Thomas without probable cause, and illegally seized, detained and/or arrested Mr. Thomas with reckless disregard of his civil rights, as set forth in detail above and below herein in this complaint.

154. Mr. Thomas is informed and believe and therefore allege that Defendants Officers engaged in the described unlawful acts against him, and facilitated, encouraged and/or instigated such unlawful, racially-motivated and unconstitutional acts, and failed to intervene to stop such acts, or render any assistance knowing the severity of the injustice being inflicted on him.

155. At the time of the described wrongful acts by Defendant Officers, Plaintiff Mr. Thomas was not engaged in criminal activity of a nature to warrant his unreasonable search, seizure, or battery under the color of law made against him.

156. At the time of the wrongful acts, Mr. Thomas was not displaying any behavior to justify being forced out of his vehicle and unreasonably detained and search by Defendants Officers.

157. Moreover, the said Defendants lacked probable cause, reasonable suspicion or legal justification to detain, search, and/or arrest Mr. Thomas on any basis.

158. The unreasonable search and seizure of Mr. Thomas and his vehicle was entirely unjustified by any of the actions of Mr. Thomas, and constituted violations of

his civil rights.

159. The unlawful detention, seizure, search, and/or arrest of Mr. Thomas and his vehicle was the proximate cause of the damages suffered by him.

160. The Defendant Officers acted specifically with the intent to deprive Mr. Thomas of the following rights under the United States Constitution:

- (a) Freedom from unreasonable searches;
- (b) Freedom from unreasonable seizures in the form of unlawful detention and/or arrest by police officers;
- (c) Freedom from a deprivation of Liberty without due process of law;
- (d) Freedom from maliciously being subjected to criminal proceedings; and
- (e) Freedom to move about freely as a citizen of the United States of America.

161. The said Defendants subjected Mr. Thomas to the mentioned deprivations either by actual malice, deliberate indifference or reckless disregard for his rights under the United States Constitution and the laws of the state of Kentucky.

162. The Defendant Officers acted at all times knowing that their conduct went against the legal authorized practices, customs, procedures and policies of the Police Department of the Defendant City and was unlawful conduct in violation of the Fourth Amendment and Fourteenth Amendment and the laws of the state of Kentucky.

163. Defendant Officers knew that Defendant Chief and City, acting through the chief policymaker Defendant Chief, had ratified, condoned, and acquiesced to their specific acts of depriving citizens, such as the Plaintiff and others, of their Constitution rights and abusive conduct through unauthorized, yet established practices, customs



and procedures and thus did not fear any repercussion from Defendant City, or Defendant Chief in taking the unlawful actions against Mr. Thomas.

164. As the direct and proximate cause of the mentioned acts of the said Defendants, Plaintiff suffered psychological injury, physical injuries, and severe emotional distress.

165. By reason of the mentioned acts and omissions of the said Defendants, Mr. Thomas was caused to incur special damages, including medical expenses and loss of earnings, and general damages in an amount to be proved at trial.

166. The mentioned acts of said Defendants were willful, wanton, malicious and oppressive, thus justifying the awarding of exemplary and punitive damages as to the individually-named Defendants.

167. As a direct and proximate result of said acts, indifference, custom, and policy established by Defendants City and Chief, and the actions of the Defendant Officers, Mr. Thomas has suffered and will continue to suffer humiliation, shame, despair, anxiety while traveling, embarrassment, depression, mental pain, anguish, and injury to his reputation, all to Mr. Thomas' damages in an amount to be proven at time of trial.

**FOURTH CAUSE OF ACTION**

(Constitutional Violations Under 42 U.S.C.A. § 1983)  
42 U.S.C. § 1983 False Arrest/Imprisonment Claim  
pursuant to 42 U.S.C. § 1983 and the Fourth and Fourteenth Amendments  
to the United States Constitution

168. Plaintiff reallege and incorporate by reference, as though fully set forth here, each and every allegation set forth in the above Paragraphs.

169. On or about October 4, 2018, the Plaintiff was taken into custody by

Defendant Officers, and wrongfully and unlawfully lodged in the Jefferson County Correction Center.

170. That the arrest by the said Defendants intentionally and/or willfully confined the Plaintiff, contrary to his will, and without authority of law, in a manner sufficient to interfere with their liberty.

171. Due to the unlawful detention, the Plaintiff was humiliated, frightened, shamed, and stripped of his dignity.

172. As a direct and proximate result of said acts, indifference, custom, and policy established by Defendants City and Chief, and the unlawful acts of the Defendant Officers, Mr. Thomas has suffered and will continue to suffer humiliation, shame, despair, anxiety while traveling, embarrassment, depression, mental pain, anguish, and injury to his reputation, all to Mr. Thomas' damages in an amount to be proven at time of trial.

**FIFTH CAUSE OF ACTION**

(Constitutional Violations Under 42 U.S.C.A. § 1983)

Malicious Prosecution

173. Plaintiff reallege and incorporate by reference, as though fully set forth here, each and every allegation set forth in the above Paragraphs.

174. The Defendant Officers, while acting under color of authority and knowing that it was reasonably foreseeable that their acts and omissions, including, but not limited to, knowingly or recklessly providing materially false and misleading, incomplete information and/or omitting material information to the prosecuting agencies for the purpose of having Mr. Thomas prosecuted in the case United States of

America v. Kenneth L. Thomas, Case No: 3:19-CR-00024 in the United States District Court, Western District of Kentucky and the Commonwealth of Kentucky for the said charges to cover-up their illegal acts, were the moving force behind the criminal prosecutions to be commenced against Mr. Thomas in the said case and the case Commonwealth of Kentucky vs. Thomas, Kenneth, 18-F-017438, for allegedly violating Kentucky Revised Statutes (KRS):

- i. KRS 527.040- Convicted Felon in Possession of a Handgun;
- ii. KRS 189.125(6)- Failure to Wear Seat Belts;
- iii. KRS 218A.1422- Poss of Marijuana; and
- iv. KRS 527.020- Carrying a Concealed Deadly Weapon

175. Mr. Thomas was innocent of the said charges.

176. Said Defendants acted with malice, and in reckless disregard for the rights of Mr. Thomas, and without reasonable or probable cause, in their actions and omissions as the moving force in the prosecution of Mr. Thomas.

177. The said Defendants did not in good faith believe Mr. Thomas to be guilty of the crimes charged.

178. Defendants engaged in this malicious conduct with the purpose of depriving Mr. Thomas of his Constitutional rights to due process, be free of unlawful seizure and be free from maliciously being subjected to criminal proceedings under the Fourth (4th) and Fourteenth (14th) Amendments to the United States Constitution.

179. These actions, or inactions, of Defendant Officers were the moving force behind the prosecution of Mr. Thomas as alleged; and, as a result, Mr. Thomas has

sustained, and will sustain, general and special damages as alleged, and has incurred attorney's fees, costs and expenses, including those as authorized by 42 U.S.C.A. § 1988, to an extent and in an amount subject to proof at trial.

180. Said Defendant Officers acts, as the moving force in instigating the criminal prosecution, were willful, wanton, malicious and oppressive, as alleged, and the resulting prosecution of Mr. Thomas was induced by fraud, perjury and fabricated evidence, and undertaken in bad faith, in complete disregard for the rights of Mr. Thomas.

181. These acts justify the award of punitive damages against said Defendants, and each of them, in an amount to be determined at trial.

182. As a direct and proximate result of said acts, indifference, custom, and policy established by Defendants City and Chief, and the unlawful acts of the Defendant Officers, Mr. Thomas has suffered and will continue to suffer humiliation, shame, despair, anxiety while traveling, embarrassment, depression, mental pain, anguish, and injury to his reputation, all to Mr. Thomas' damages in an amount to be proven at time of trial.

**SIXTH CAUSE OF ACTION**

(Constitutional Violations Under 42 U.S.C.A. § 1983)

Failure to Train Under 42 U.S.C.A. § 1983

183. Plaintiff reallege and incorporate by reference, as though fully set forth here, each and every allegation set forth in the above Paragraphs..

184. Defendants City and Chief, acting under the color of state law and through its Police Department's employees, agents, and/or representatives, intentionally and

knowingly as an act of discrimination based on race, religion, ethnicity, and/or national origin, violated Mr. Thomas' constitutional rights.

185. Out of deliberate indifference and/or unofficial custom and policy, said Defendants failed to adequately train or supervise the police officers as to the discrimination laws and what constitutes unlawful discriminatory conduct.

186. As a result, Mr. Thomas was detained without probable cause and searched for reasons devoid of any legitimate, nondiscriminatory concern.

187. Said Defendants should have known, trained, and instructed its employees, agents, and/or representatives to be aware that the act of driving while being an African-American male is not a security threat or a form of suspicious illegal activity.

188. As a direct and proximate result of said acts, indifference, custom, and policy established by Defendants City and Chief, and the unlawful acts of the Defendant Officers, Mr. Thomas has suffered and will continue to suffer humiliation, shame, despair, anxiety while traveling, embarrassment, depression, mental pain, anguish, and injury to his reputation, all to Mr. Thomas' damages in an amount to be proven at time of trial.

**SEVENTH CAUSE OF ACTION**  
Battery Claim Under Kentucky State Law

189. Plaintiff reallege and incorporate by reference, as though fully set forth here, each and every allegation set forth in the above Paragraphs.

190. Defendant Officer Robbins intentionally grabbed Mr. Thomas' arms and handcuffed his hands behind his back, without consent and without justification.

191. Defendant Officer Robbins's conduct were in violation of Kentucky's law.

192. The mentioned actions of Officer Robbins was the direct and proximate cause of the violations set forth above.

193. As a direct and proximate result of said acts, indifference, custom, and policy established by Defendants City and Chief, and the unlawful acts of the Defendant Officers, Mr. Thomas has suffered and will continue to suffer humiliation, shame, despair, anxiety while traveling, embarrassment, depression, mental pain, anguish, and injury to his reputation, all to Mr. Thomas' damages in an amount to be proven at time of trial.

**EIGHTH CAUSE OF ACTION**  
Kentucky False Arrest/Imprisonment Claim

194. Plaintiff reallege and incorporate by reference, as though fully set forth here, each and every allegation set forth in the above Paragraphs.

195. The Defendant Officers acted by force or threats of force against the Plaintiff.

196. The said Defendants acted with intent to cause Plaintiff to be confined to an area certain.

197. The said Defendants arrested Plaintiff without a warrant.

198. The said Defendants' actions were not reasonable nor in good faith.

199. As a direct and proximate result of said acts, indifference, custom, and policy established by Defendants City and Chief, and the unlawful acts of the Defendant Officers, Mr. Thomas has suffered and will continue to suffer humiliation, shame,

despair, anxiety while traveling, embarrassment, depression, mental pain, anguish, and injury to his reputation, all to Mr. Thomas' damages in an amount to be proven at time of trial.

**NINTH CAUSE OF ACTION**

Malicious Prosecution Under Kentucky State Law

200. Plaintiff reallege and incorporate by reference, as though fully set forth here, each and every allegation set forth in the above Paragraphs.

201. On or about October 4, 2018, Defendant Officers, while acting under color of authority, prosecuted in the case styled United States of America v. Kenneth L. Thomas, Case No: 3:19-CR-00024, in the United States District Court, Western District of Kentucky and were the moving force behind the criminal prosecution to be commenced against the Plaintiff in the said case and the case styled Commonwealth of Kentucky vs. Thomas, Kenneth, 18-F-017438, for allegedly violating Kentucky Revised Statutes (KRS):

- i. KRS 527.040- Convicted Felon in Possession of a Handgun;
- ii. KRS 189.125(6)- Failure to Wear Seat Belts;
- iii. KRS 218A.1422- Poss of Marijuana; and
- iv. KRS 527.020- Carrying a Concealed Deadly Weapon

202. As a result of their acts and omissions as stated herein this Complaint it was reasonably foreseeable that their acts and omissions would be relied upon to prosecute Mr. Thomas, even though the said Defendants knew that Mr. Thomas was factually innocent of the said charges.

203. Said Defendants acted with malice, and with reckless disregard for the rights of Mr. Thomas, despite the fact that they knew that Mr. Thomas was factually innocent of the said charges. Therefore they did not, and could not have, honestly, reasonably, and in good faith believe or believed Mr. Thomas to be guilty of the crimes charged.

204. Said Defendants' acts as the moving force in instigating the criminal prosecution were willful, wanton, malicious and oppressive, as alleged, and the resulting prosecution of Plaintiff was induced by fraud, perjury and fabricated evidence, and undertaken in bad faith in complete disregard for the rights of Mr. Thomas.

205. As a direct and proximate result of said acts, indifference, custom, and policy established by Defendants City and Chief, and the unlawful acts of the Defendant Officers, Mr. Thomas has suffered and will continue to suffer humiliation, shame, despair, anxiety while traveling, embarrassment, depression, mental pain, anguish, and injury to his reputation, all to Mr. Thomas' damages in an amount to be proven at time of trial.

**TENTH CAUSE OF ACTION**

Negligent Supervision and Training Under Kentucky State Law  
(Against Defendant Chief)

206. Plaintiff reallege and incorporate by reference, as though fully set forth here, each and every allegation set forth in the above Paragraphs.

207. Defendant Chief was the Chief of the police department and responsible for training and/or supervising officers of Defendant City.

208. As the Chief, said Defendant had a duty to exercise reasonable care in the



hiring, retention and supervision of individuals who, because of their employment, may pose a threat of injury to members of the public.

209. Said Defendant breached his duty in the negligent and reckless supervision and training of Defendant Officers as it relates to the misconduct alleged herein this Complaint.

210. Defendants Chief knew, or in the exercise of ordinary care should have known, of the incompetence, unfitness, and dangerous characteristics of Defendant Officers.

211. The incompetence and unfitness of Defendant Officers caused damages to Mr. Thomas.

212. The Defendant Chief's negligence was a proximate cause of Mr. Thomas' injuries.

213. As a direct and proximate result of said acts, indifference, custom, and policy established by Defendants City and Chief, and the unlawful acts of the Defendant Officers, Mr. Thomas has suffered and will continue to suffer humiliation, shame, despair, anxiety while traveling, embarrassment, depression, mental pain, anguish, and injury to his reputation, all to Mr. Thomas' damages in an amount to be proven at time of trial.

**ELEVENTH CAUSE OF ACTION**

Negligence Under Kentucky State Law  
(Against Defendant Chief)

214. Plaintiff reallege and incorporate by reference, as though fully set forth here, each and every allegation set forth in the above Paragraphs.

215. Defendants Officers, and Chief owed a duty of care to Mr. Thomas to follow the proper law enforcement policies, procedures, and techniques, and to act as reasonable law enforcement officers would act under the same circumstances to ensure Mr. Thomas' rights are not infringed upon.

216. Defendants Chief and Officers breached this duty of care by:

(a) Failing to follow standard law enforcement procedures and/or

(b) In the alternative, without waiving the foregoing, failing to act as reasonable law enforcement officers would and should have under the same or similar circumstances.

217. Defendants Chief and the City owed a duty of care to hire, train, and supervise their subordinates present and during or participating in the detention, search, arrest, and prosecution of Mr. Thomas, and to take steps to prevent events such as what has occurred as stated herein this Complaint.

218. Mr. Thomas suffered damages as a result of the injury inflicted by the aforementioned breach of duty by the Defendant, in which that breach of duty was the actual and proximate cause of the injuries Mr. Thomas sustained and from which he continues to suffer.

219. In addition and in the alternative, the said Defendant's breach of duty as above described, was so egregious that it rises to the level of gross negligence and supports an award of punitive as well as compensatory damages.

220. As a direct and proximate result of said acts, indifference, custom, and policy established by Defendants City and Chief, and the unlawful acts of the Defendant

Officers, Mr. Thomas has suffered and will continue to suffer humiliation, shame, despair, anxiety while traveling, embarrassment, depression, mental pain, anguish, and injury to his reputation, all to Mr. Thomas' damages in an amount to be proven at time of trial.

**TWELFTH CAUSE OF ACTION**

Kentucky Invasion of Privacy (False Light) Claim

221. Plaintiff reallege and incorporate by reference, as though fully set forth here, each and every allegation set forth in the above Paragraphs.

222. The Defendants and, through their actions, placed Plaintiff in a false light to others.

223. The false light in which Plaintiff was placed would be highly offensive to a reasonable person and was highly offensive to Plaintiff.

224. The Defendants had knowledge of, or acted in reckless disregard as to the falsity of the publicized matter and the false light in which Plaintiff was placed.

225. The Defendants, through their verbal and written statements concerning Plaintiff failed to exercise reasonable care and caution prior to publishing their statements.

226. In publishing these statements, the Defendants acted with malice toward Plaintiff.

227. As a result of these actions, Plaintiff sustained damages in excess of the jurisdictional limit of this court.

228. As a direct and proximate result of said acts, indifference, custom, and policy

established by Defendants City and Chief, and the unlawful acts of the Defendant Officers, Mr. Thomas has suffered and will continue to suffer humiliation, shame, despair, anxiety while traveling, embarrassment, depression, mental pain, anguish, and injury to his reputation, all to Mr. Thomas' damages in an amount to be proven at time of trial.

**THIRTEENTH CAUSE OF ACTION**

(Constitutional Violations Under 42 U.S.C.A. § 1983)  
42 U.S.C. § 1983 Fabrication of Evidence Claim  
pursuant to 42 U.S.C. § 1983 and the Fourth and Fourteenth Amendments  
to the United States Constitution

229. Plaintiff reallege and incorporate by reference, as though fully set forth here, each and every allegation set forth in the above Paragraphs.

230. On or about October 4, 2018, and thereafter, the Defendants, Officer Mayo, Officer Robbins, and Officer Flynn, knowingly fabricated evidence through out the criminal prosecution of the Plaintiff in which they fabricated evidence the criminal citation.

231. On or about October 4, 2018, and thereafter, the Defendant, Officer Mayo, knowingly fabricated evidence through out the criminal prosecution of the Plaintiff in which he fabricated evidence his investigation report.

232. Both of the criminal citation and investigation report was used against Plaintiff in support of the stop, search, charges, arrest, and prosecution of Plaintiff.

233. There is a reasonable likelihood that the false evidence could have affected the judgment of the jury or fact-finder.

234. Due to the actions of the said Defendants, the Plaintiff was unlawfully

stopped, searched, charged, arrested, and prosecuted, and suffered humiliation, shame, and being frightened and stripped of his dignity.

235. As a direct and proximate result of said acts, indifference, custom, and policy established by Defendants City and Chief, and the unlawful acts of the Defendant Officers, the Plaintiff has suffered and will continue to suffer humiliation, shame, despair, anxiety while traveling, embarrassment, depression, mental pain, anguish, and injury to his reputation, all to Plaintiff's damages in an amount to be proven at time of trial.

**FOURTEENTH CAUSE OF ACTION**

(Constitutional Violations Under 42 U.S.C.A. § 1983)  
42 U.S.C. § 1983 Failure-to-Intervene Claim  
pursuant to 42 U.S.C. § 1983 and the Fourth and Fourteenth Amendments  
to the United States Constitution

236. Plaintiff reallege and incorporate by reference, as though fully set forth here, each and every allegation set forth in the above Paragraphs.

237. On or about October 4, 2018,, the Defendant, Officer Mayo, Officer Robbins, and Officer Flynn, unlawfully stopped and searched the Plaintiff's vehicle.

238. Officer King knew or had reason to know that the said Defendants were about to or would unlawfully perform a search of the Plaintiff's vehicle and that the said Defendants would fabricated evidence or use fabricated evidence, if something was found to justify their actions.

239. Officer King, as the supervisor, had a realistic opportunity and the means to do something to prevent the harm caused to Mr. Thomas from occurring.

240. The failure of Officer King to act caused Plaintiff to suffer harm as alleged

herein this Complaint.

241. Due to the actions of Officer King, the Plaintiff was unlawfully stopped, searched, charged, arrested, and prosecuted, and suffered humiliation, shame, and being frightened and stripped of his dignity.

242. As a direct and proximate result of the said acts, indifference, custom, and policy established by Defendants City and Chief, and the unlawful acts of the Defendant Officers and Office King, the Plaintiff has suffered and will continue to suffer humiliation, shame, despair, anxiety while traveling, embarrassment, depression, mental pain, anguish, and injury to his reputation, all to Plaintiff's damages in an amount to be proven at time of trial.

**WHEREFORE**, Plaintiff demands judgement against the Defendants as follows:

1. Judgment against all named Defendants, jointly and severally, for his damages, together with interest and costs;
2. A trial by jury on all issues so triable;
3. Actual, Compensatory, Consequential, and all other allowable damages against Defendant in an amount yet to be determine;
4. Compensation for violation of his constitutional rights, mental anguish, and humiliation;
5. Plaintiff hereby request reasonable attorney fees and costs associated with prosecuting his criminal action as said Defendants' violation of his constitutional right was oppressive, conniving, harsh, cruel, and/or tyrannical;

6. Plaintiff's cost in this action, including reasonable attorney's fees and costs as authorized by 42 U.S.C.A. § 1988;
7. For punitive damages in an amount sufficient to deter Defendants from continuing their course of conduct;
8. Leave to amend his Complaint; and
9. All other relief to which Plaintiff may appear entitled.

Date: August 27, 2021.

Respectfully Submitted,

/s/ *Shaun A. Wimberly, Sr.*

SHAUN A. WIMBERLY, SR.  
Wimberly & Associates, PLLC.  
325 West Main Street  
Suite 1816 Waterfront Plaza  
Louisville, KY. 40202  
Office: (502) 208-1887  
Fax: (502) 208-1858  
**COUNSEL FOR PLAINTIFF**