

**IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

JOZZI RAINEY,	:	
	:	
Plaintiff,	:	
v.	:	Civil Action No.:
	:	
SHERIFF DAVID DAVIS, DEPUTY	:	
SHERIFF FREDERICK GRAY, and	:	
SERGEANT JOHN AHLVIN,	:	
	:	
Defendants.	:	
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**COMPLAINT FOR DAMAGES**

COMES NOW Plaintiff Jozzi Rainey (hereinafter “Plaintiff”), by and through her undersigned counsel of record and hereby files her Complaint for Damages.

**NATURE OF THE CASE**

1.

The above-captioned civil action for damages is brought pursuant to 42 U.S.C. §§ 1983 and 1988 for violations of Plaintiff’s federal rights as guaranteed by the First and Fourth Amendments of the United States Constitution, and pursuant to Georgia law.

2.

Plaintiff seeks damages for the injuries she sustained as a result of

Defendants' use of excessive force against her and attempted coverup of that use of excessive force on June 11, 2022.

3.

On said date, Defendants Gray and Ahlvin, responded to a traffic accident involving Plaintiff's vehicle.

4.

It was determined that Plaintiff was under the influence of alcohol and Plaintiff was being placed in handcuffs and was posing no physical threat to any officers.

5.

Plaintiff was shouting insults at Defendant Gray, which lead Defendant Gray, in anger, to grab Plaintiff by the throat, choke her and then punch her in the face with extreme force.

### **PARTIES**

6.

Plaintiff is a resident of the state of Georgia.

7.

At all times material hereto, Defenant John Ahlvin ("Sgt. Ahlvin" or "Defendant Ahlvin") was a Deputy Sheriff and sergeant with supervisory authority employed by the Macon-Bibb County Sheriff's Department and was acting under

color of state law within the scope of his employment duties as a law enforcement officer. Defendant Ahlvin is being sued in his individual capacity.

8.

At all times material hereto, Defendant Fredrick Gray (“Deputy Gray” or “Defendant Gray”) was a Deputy Sheriff employed by the Macon-Bibb County Sheriff’s Department and was acting under color of state law and within the scope of his employment as a law enforcement officer. Defendant Gray is being sued in his individual capacity.

9.

At all times material hereto, Defendant Sheriff David Davis (“Sheriff Davis” or “Davis”) was Sheriff of Macon-Bibb County, Georgia.

10.

At all times material hereto, Sheriff Davis, was the final policymaker for Macon-Bibb County Sheriff’s Department and had final decision-making authority with regard to Macon-Bibb County’s exercise of its police powers including but not limited to hiring, retention, termination, training, discipline, and supervision of Macon-Bibb County Sheriff Deputies; establishing, and implementing official written policies and procedures; and managing, directing, supervising, and controlling operation and administration of disciplinary process.

**JURISDICTION AND VENUE**

11.

This Court has jurisdiction over the federal claims asserted herein pursuant to 28 U.S.C. §§ 1331 and 1343 and has supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1367.

12.

Defendants are residents of the State of Georgia and are subject to the jurisdiction of this Court.

13.

Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because the subject incident occurred in Macon-Bibb County, which is located within the Middle District of Georgia.

**FACTUAL ALLEGATIONS**

14.

At approximately 11:54 PM on June 11, 2022, Plaintiff got was involved in a two-vehicle collision in the southbound of Interstate 75 near Mile Marker 172 Macon-Bibb County, Georgia.

15.

Defendants Ahlvin and Gray responded to the accident and determined that the Plaintiff was under the influence of alcohol.

16.

After this determination by Defendants Ahlvin and Gray, Plaintiff was being placed in handcuffs.

17.

Plaintiff posed no physical threat to either of the deputies.

18.

Plaintiff did not physically resist or attempt to flee.

19.

Plaintiff was yelling insults at Defendant Gray but posed no threat.

20.

In response to Plaintiff's verbal insults, Defendant Gray put his hand around Plaintiff's throat and began choking her. When Plaintiff attempted to deflect Deputy Gray's choking her, Defendant Gray punched Plaintiff in the face with significant force knocking Plaintiff to the ground.

21.

The impact of her face hitting the asphalt caused Plaintiff to start bleeding from the nose and mouth and chip her tooth.

22.

At no point did Defendant Ahlvin attempt to stop Defendant Gray or reprimand Defendant Gray for his unlawful conduct.

23.

As a result of Defendants' unlawful conduct, Plaintiff sustained significant physical injuries; and the traumatic abuse of being punched in the face, causing Plaintiff's head to bounce off the asphalt, has caused significant mental and emotional shock, humiliation, distress and trauma, as well as ongoing psychological and emotional injuries which Plaintiff still experiences today.

24.

Upon information and belief Defendant Gray prior incidents, such as the one referenced herein, and Macon-Bibb County and Sheriff David Davis have failed to properly reprimand him.

25.

At all times relevant to this Complaint, Defendant Ahlvin was a Sergeant with supervisory authority over other deputies, including Defendant Gray.

**COUNT I**  
**42 U.S.C. § 1983 and Georgia Law**  
**Excessive Force Claims against Defendant Gray**

26.

Defendant Gray's use of physical force against Plaintiff was objectively unreasonable and grossly disproportionate to any legitimate law enforcement need such that every reasonable officer would have known would violate Plaintiff's clearly established Fourth Amendment rights, including but not limited to:

- Defendant Gray putting his hand around Plaintiff's throat, choking her, while Plaintiff was not resisting arrest, attempting to flee, and not posing any threat; and
- Defendant Gray punching Plaintiff in the face with a closed fist while Plaintiff was not resisting arrest, attempting to flee, and not posing any threat.

27.

Defendant Gray used excessive and unlawful force to inflict serious bodily injury to Plaintiff without justification, which constitutes an assault and/or battery under Georgia law.

28.

Defendant Gray's unlawful uses of physical force against Plaintiff constitutes an intentional tort under Georgia law.

29.

At the time Defendant Gray used force against Plaintiff without provocation or justification, there existed no actual or arguable probable cause to believe that Plaintiff was potentially dangerous.

30.

At the time Defendant used force against Plaintiff without provocation or justification, Plaintiff was not physically resisting, not attempting to flee, and not posing any physical threat whatsoever to the officers or any other person.

31.

Every reasonable officer would have known that the force used by Defendant Gray was objectively unreasonable and grossly disproportionate and would violate Plaintiff's clearly established Fourth Amendment rights.

32.

Defendant Gray is not entitled to qualified immunity for his use of excessive force in violation of clearly established law.

33.

Defendant Gray acted with actual malice and an intent to injure and is thus not entitled to official immunity under state law.

34.

Plaintiff suffered damages as a direct and proximate result of Defendant's unlaw conduct in violation of federal and state law for which they are liable.



**COUNT II**  
**42 U.S.C. § 1983 Fourth Amendment Failure to Intervene**  
**Claims against Defendant Ahlvin**

35.

At all relevant times herein, it was clearly established in the Eleventh Circuit that law enforcement officers have an affirmative duty under the Fourth Amendment to intervene to stop the use of excessive force if in a position to do so.

36.

At all material times herein, Defendant Ahlvin was in a position to intervene to stop Defendant Gray's use of excessive force.

37.

Defendant Ahlvin violated Plaintiff's established Fourth Amendment rights when he failed to stop Defendant Gray from using excessive force against Plaintiff.

38.

As a direct and proximate result of Defendant Ahlvin's violation of clearly established law by failing to intervene, Plaintiff suffered damages.

**COUNT III**  
**42 U.S.C. § 1983 Supervisory Liability Claims**  
**against Defendant Ahlvin**

39.

At all times relevant herein, Defendant Ahlvin was a Sergeant at the Macon-Bibb County Sheriff's Office with supervisory authority over other deputies, including Defendant Gray.

40.

Defendant Ahlvin directly participated in violating Plaintiff's clearly established Fourth Amendment rights by failing to intervene to stop his immediate subordinate choking and punching Plaintiff, all while Plaintiff was handcuffed and not posing any physical threat, in violation of clearly established law.

41.

Defendant Ahlvin is liable under §1983 in his supervisory capacity for his direct participation in the violation of clearly established law.

42.

Defendant Ahlvin had knowledge that Defendant Gray would continue to act unlawfully after choking Plaintiff if he was not reprimanded.

43.

By failing to reprimand Defendant Gray for choking Plaintiff in his immediate presence, Defendant Ahlvin was deliberately indifferent to the substantial

risk of harm that Defendant Gray would continue using unlawful force against Plaintiff.

44.

Defendant Ahlvin's decision to turn a blind eye to Defendant Gray's assault on Plaintiff and his failure to immediately reprimand his immediate subordinate at the scene in fact emboldened Defendant Gray to continue using excessive force and to commit an assault on the Plaintiff.

45.

As a result of Defendant Ahlvin's indifference, Defendant Gray punched Plaintiff in the face, while Defendant Ahlvin looked on without concern.

46.

As a direct and proximate result of Defendant Ahlvin's unconstitutional conduct in his supervisory capacity, Plaintiff suffered damages.

**COUNT IV**  
**Negligent Retention of Employees against**  
**Defendants Macon-Bibb County and Sheriff David Davis**

47.

Defendants Macon-Bibb County and Sheriff David Davis, as final decision maker, both have a duty under clearly established law, to take proper disciplinary measures, including termination of employees, once they have actual or constructive

knowledge of the employee's misconduct, incompetence, or other conduct providing notice of employment unsuitability.

48.

Upon information and belief, Defendant Gray has a history of excessive use of force, and Defendant Macon-Bibb County and Defendant Sheriff David Davis failed to follow proper procedure in terminating his employment.

49.

As a direct and proximate result of Defendants Macon-Bibb County's and Defendant Sheriff David Davis's lack of action against Defendant Gray, Plaintiff suffered damages.

**COUNT V**

**Assault And Battery against Defendant Gray (State Law Claims)**

50.

Defendant Gray unlawfully, intentionally, and without provocation or justification committed an assault and battery upon the Plaintiff.

51.

As a direct and proximate result of Defendant Gray's attack on Plaintiff, Plaintiff suffered severe, debilitating, and permanent injuries.

52.

As a direct and proximate result of Defendant Gray's attack on Plaintiff, Plaintiff suffered physical pain and mental anguish; Plaintiff will suffer this pain and mental anguish into the future.

53.

As a direct and proximate result of Defendant's attack on Plaintiff, Plaintiff has suffered severe and painful injuries, incurring medical expenses in an amount to be determined and specified at trial.

**COUNT VI**  
**Punitive Damages**

54.

Defendants' Conduct as described herein evidences willful misconduct, malice, fraud, wantonness, oppression, and an entire want of care which is sufficient to establish that Defendants acted with conscious indifference to the consequences of their actions.

55.

At all material times herein, Defendants acted with malice and/or reckless and callous indifference to Plaintiff's state and federal rights.

56.

Plaintiff is entitled to an award of punitive damages under state and federal law.

**COUNT VI**  
**Attorney's Fees**

57.

Because of Defendants' violations of Plaintiff's federal civil rights, Plaintiff is entitled to an award of costs, including but not limited to reasonable attorney's fees, under 42 U.S.C. § 1988.

58.

Defendants acted intentionally and in bad faith, and have caused Plaintiff unnecessary trouble and expense, entitling Plaintiff to an award of attorney's fees under O.C.G.A. § 13-6-11.

WHEREFORE, Plaintiff prays:

1. That summons and process be issued as provided by law;
2. That she have a trial by jury on all issues;
3. That she recover general, compensatory, and punitive damages based on Defendants' violations of state and federal law;
4. That Plaintiff recover reasonable attorney's fees and expenses of litigation under 42 U.S.C. § 1988 and O.C.G.A. § 13-6-11; and
5. For such other and further relief as the Court deems just and proper.

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