

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION
CAFN: 4:26-cv-00092

Don D. Long, II.,

Plaintiff,

v.

Deputy Sheriff Gregory Colson,
in his individual capacity;
Sheriff Jack E. Smith,
in his official capacity;
ABC Bonding Company,
Surety for **Sheriff Jack E. Smith.**

Defendants.

COMPLAINT FOR DAMAGES

COMES NOW Plaintiff Don D. Long, II., (hereinafter “ Mr. Long or Plaintiff”), by and through the undersigned attorneys, and hereby files this Complaint pursuant to FRCP against Deputy Sheriff Gregory Colson, in his individual capacity (hereinafter “Defendant Colson”); Sheriff Jack E. Smith, in his official capacity as Sheriff of Northampton County, North Carolina; ABC Bonding Company, Surety for Sheriff Jack E. Smith.

INTRODUCTION

The Plaintiff asserts federal constitutional claims against Defendant Colson, acting in his individual capacity, for engaging in actions under the color of law that resulted in the deprivation of the Plaintiff's rights as guaranteed by the Constitution and the statutes of the State of North Carolina. This deprivation occurred through the use of unlawful and excessive force against the Plaintiff, who was struck in the face and subjected to Oleoresin Capsicum (OC) spray, commonly referred to as 'pepper spray,' despite posing no threat to law enforcement or any other individuals. Additionally, the Plaintiff files state law claims of Battery and Assault against Defendant Colson, in his individual capacity, as well as against Sheriff Jack E. Smith, in his official capacity as the elected Sheriff of Northampton County, North Carolina.

JURISDICTION AND VENUE

1.

This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1343 over Plaintiff's claims under the U.S. Constitution, which are brought both directly under 42 U.S.C. § 1983.

2.

This Court has supplemental jurisdiction over Plaintiff's state law claim pursuant to 28 U.S.C. § 1367 because it is so related to the federal claims that it forms part of the same case or controversy under Article III of the U.S. Constitution.

3.

This Court has personal jurisdiction over all Defendants as it relates to Plaintiff's state law claims. Sheriff Jack E. Smith, II maintained an official bond issued as required by N.C. Gen. Stat. § 162-8 and the laws of North Carolina. The official bond issued by surety to Sheriff Jack E. Smith and the deputies of his office as Sheriff of Northampton County, North Carolina, covers damages resulting from the neglect, misconduct, or misbehavior of the Sheriff or his deputies in the performance of their official duties. Further, Sheriff Jack E. Smith waives his sovereign immunity defense by the purchase of liability insurance under N.C. Gen. Stat. § 153A-435 or by his participation in the North Carolina Association of County Commissioners (NCACC) Liability and Property Pool.

4.

Venue is proper in this District under 28 U.S.C. § 1391(b)(2). All of the events giving rise to this Complaint occurred within this District.

PARTIES

5.

At all times relevant hereto, Plaintiff Don D. Long, II., a resident of the state of North Carolina and citizen of the United States of America.

6.

At all times relevant hereto, Defendant Deputy Sheriff Gregory Colson was a citizen of the United States and a resident of the State of North Carolina and was

acting under color of state law in his capacity as a law enforcement officer employed by the Northampton County Sheriff's Office. Defendant Gregory Colson is sued in his individual capacity.

7.

At all times material hereto, Sheriff Jack E. Smith, was the Sheriff of Northampton County, an entity, corporate and political, duly organized under the laws of the State of North Carolina. Sheriff Jack E. Smith was responsible for his deputies' training, supervision, and conduct. Sheriff Jack E. Smith is responsible for ensuring that his deputies obey the laws of the State of North Carolina and ensuring that his rules, regulations, and policies are followed and enforced. Sheriff Jack E. Smith is sued in his official capacity.

8.

At all times material hereto, ABC Bonding Company issued a bond to Sheriff Jack E. Smith and the deputies of his office as Sheriff of Northampton in an unknown amount at this time, that covers damages resulting from the neglect, misconduct, or misbehavior of the Sheriff or his deputies in the performance of their official duties.

FACTUAL ALLEGATIONS

Events That Occurred on January 22, 2026

9.

On January 22, 2026, Mr. Long arrived at the Northampton County Courthouse in Jackson, North Carolina. Mr. Long proceeded through the security checkpoint and entered the courtroom on time. While seated in the rear of the courtroom, Mr. Long was approached by a deputy who advised him that if he had a mobile phone, he was required to return it to his vehicle. Mr. Long complied with this directive by taking his mobile phone back to his car.

10.

Upon Mr. Long's arrival back at the courthouse, he once more passed through the security checkpoint and made his way to the designated courtroom for his case. Mr. Long hurried to the staircase to re-enter the courtroom prior to the judge's arrival, aiming to prevent the issuance of a failure to appear warrant.

11.

Upon reaching the courtroom door, Mr. Long opened it, only to be confronted by Defendant Colson, who ordered Mr. Long to get back and stated that he would allow Mr. Long entry at his discretion.

12.

Mr. Long pleaded with Defendant Colson, explaining that he was supposed to be present and did not wish to be incarcerated for failure to appear. Defendant Colson then exited the courtroom and confronted Mr. Long, using derogatory language, asserting that Mr. Long had no authority in the courthouse and instructed Mr. Long to remain outside.

13.

Mr. Long raised my hands in surrender and refrained from responding. Defendant Colson re-entered the courtroom, holding the door while I waited patiently for permission to enter. A woman approached to enter the courtroom, and Mr. Long cautioned her, stating that she might want to wait as Defendant Colson had instructed him to remain outside.

14.

The woman looked at Mr. Long with astonishment but continued to open the door. Defendant Colson turned back and quickly granted her access, which led Mr. Long to assume that Defendant Colson would similarly allow him to enter the courtroom.

15.

Mr. Long then opened the courtroom door to inquire about his entry. In reaction, Defendant Colson aggressively pushed Mr. Long in the chest, thereby commencing an assault against him. Defendant Colson proceeded to strike Mr. Long in the left eye

and on the side of his head. Mr. Long called out for help, raising his hands in the air and shouting for assistance. At no point did Mr. Long pose any physical threat or exert any physical force towards Defendant Colson or any other individuals. The attack by Defendant Colson was entirely unprovoked.

16.

While Mr. Long called out for assistance, Defendant Colson discharged his OC spray directly into Mr. Long's eyes. In reaction, Mr. Long instinctively tried to distance himself from Officer Colson, at which point Defendant Colson struck Mr. Long once more.

17.

Mr. Long successfully retreated to the hallway. During this time, he was in a state of disorientation and faced challenges with both his breathing and eyesight due to the effects of the OC spray.

18.

In that instant, Mr. Long sensed a feeling at the back of his head, understanding that Defendant Colson had reappeared to launch another attack against him. Consequently, Mr. Long was engulfed by fear and tried to stop Defendant Colson from unjustly assaulting him. To defend himself from Defendant Colson, Mr. Long use force to counteract the aggression and assaults from Defendant Colson. Mr. Long halted his actions immediately upon realizing that Defendant Colson was no longer able to harm him and noticed the presence of additional officers.

19.

Subsequently, Mr. Long recognized deputies Billy Duke and Deloatch, conveying to them that Officer Colson had assaulted him and was attempting to kill him, even though he had not committed any offense.

20.

As Mr. Long approached deputy Deloatch, Defendant Colson was reaching for his firearm. Mr. Long was instructed to turn around and place his hands behind my back, which he complied. Mr. Long was then escorted to a holding cell in the courthouse. Mr. Long was left in handcuffs without any medical assistance. Mr. Long informed all officers who visited the cell that he was unable to breathe or see and that he had done nothing wrong.

21.

Approximately 45 minutes or more later, Emergency Medical Services (EMS) arrived at the cell to provide assistance to Mr. Long. Subsequently, Mr. Long was placed on a stretcher and transported by ambulance to Halifax Regional Hospital. While at the hospital, all restraints were removed from Mr. Long, and a deputy informed him that he was free to leave.

22.

Mr. Long, Mrs. Long, and Mr. Long's mother, after leaving the hospital, made their way to the Sheriff's Office to lodge an official complaint against Defendant Colson. At the Sheriff's Office, Sheriff Jack E. Smith welcomed Mr. Long and his

family into his office. There, Sheriff Smith conveyed to Mr. Long that he had seen the video and offered his apologies regarding the incident that occurred earlier that day.

23.

As a consequence of this incident, Mr. Long's life and vision have suffered irreparable damage. Before this event, Mr. Long a 38-year-old was a commercial truck driver who enjoyed an uncorrected 20/20 vision in his right eye, 20/25 vision in his left and 20/13 vision when using both eyes. Mr. Long upheld his Department of Transportation Certification by successfully passing his physical examination, thereby meeting the necessary qualification standards to operate commercial vehicles. Notably, at his last occupational therapy physical in February 2025, Mr. Long's vision was recorded as 20/25 in his left eye and 20/20 in his right eye and 20/13 vision when using both eyes.

24.

As a result of this incident, Mr. Long now experiences 20/80 vision in both eyes and is mandated to wear corrective lenses. Nevertheless, the corrective lenses only enhance Mr. Long's vision to 20/30 in both eyes. Mr. Long is schedule to have eye surgery to removing scarring from his left eye.

25.

The Department of Transportation requires a vision standard of 20/40 to operate commercial vehicles. Eventually, Mr. Long will be unable to satisfy the vision requirements for operating commercial vehicles, even with corrective lenses, due to the injuries inflicted on his eyes as a result of Defendant Colson's unlawfully discharging pepper spray in close proximity to Mr. Long's face and subsequently assaulting him.

26.

At all times relevant, Defendant Colson was acting under color of state law in his scope and capacity as a law enforcement officer employed by Northampton County Sheriff's Office.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

42 U.S.C. § 1983 – Unlawful and Excessive Force in Violation of the Fourth Amendment
(Defendant Colson)

27.

Plaintiff realleges and incorporates herein by reference each and every allegation contained in paragraphs 1 through 26 of this Complaint.

42 U.S.C. § 1983 provides that:

Every person, who under color of any statute, ordinance, regulation, custom or usage of any state or territory or the District of Columbia subjects or causes to be subjected any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the constitution and law shall be liable to the party injured in an action at law, suit in equity, or other appropriate proceeding for redress.....

28.

Defendant Colson is a person for purposes of 42 U.S.C. § 1983.

29.

At all times relevant hereto, Defendant Colson was acting under the color of state law in his capacities as a Deputy or Officer for Northampton County Sheriff's Office and his acts or omissions were conducted within the scope of his official duties or employment.

30.

At the time of the complained of events, Mr. Long had a clearly established constitutional right under the Fourth Amendment to be secure in his person from unreasonable seizure through excessive force.

31.

Mr. Long also had the clearly established Constitutional right under the Fourth Amendment to bodily integrity and to be free from excessive force by law enforcement.

32.

Any reasonable deputy for the Northampton County Sheriff's Office knew or should have known of these rights at the time of the complained of conduct as they were clearly established at that time.

33.

Defendant Colson's actions and use of force, as described herein, were objectively unreasonable in light of the facts and circumstances confronting them and violated the Fourth Amendment rights of Mr. Long.

34.

Defendant Colson's actions and use of force, as described herein, were also malicious and/or involved reckless, callous, and deliberate indifference to Mr. Long's federally protected rights. The force used by Defendant Colson shocks the conscience and violated the Fourth Amendment rights of Mr. Long.

35.

The acts or omissions of Defendant Colson were the moving forces behind Mr. Long's injuries. The acts or omissions of Defendant Colson as described herein intentionally deprived Mr. Long of his constitutional rights and caused him other damages. Defendant Colson is not entitled to qualified immunity for his actions.

36.

As a proximate result of Defendant Colson's unlawful conduct, Mr. Long suffered permanent vision loss. As a further result of Defendant Colson's unlawful

conduct, Mr. Long has incurred special damages, including medical expenses and other specialdamages related expenses, in amounts to be established at trial.

37.

On information and belief, Mr. Long suffered lost future earnings and impaired earnings capacities from the not yet fully ascertained sequelae of his injuries, in amounts to be ascertained in trial. The Plaintiff is further entitled to attorneys' fees and costs pursuant to 42 U.S.C. §1988, pre-judgment interest and costs as allowable by federal law. There may also be special damages for lien interests.

38.

In addition to compensatory, economic, consequential and special damages, the Plaintiff is entitled to punitive damages against each of the individually named Defendant under 42 U.S.C. § 1983, in that the actions of Defendant Colson have been taken maliciously, willfully or with a reckless or wanton disregard of the constitutional rights of Mr. Long.

39.

WHEREFORE, Plaintiff prays for the following relief:

1. Judgment for compensatory damages in excess of \$15,000,000.00.
2. Judgment for exemplary or punitive damages;
3. Cost of suit;
4. Reasonable attorney fees, pursuant to 42 U.S.C. § 1988;
5. Trial by jury as to all issues so triable; and

Such other relief as this Honorable Court may deem just and appropriate.

SECOND CLAIM FOR RELIEF

(Assault and Battery)
(Defendant Colson)

40.

Plaintiff realleges and incorporates herein by reference each and every allegation contained in paragraphs 1 through 26 of this Complaint

41.

Defendant Colson's intentional acts as described more fully hereinabove, put Mr. Long in actual, subjective apprehension of immediate harmful or offensive contact.

42.

Mr. Long's apprehension was objectively reasonable under the circumstances in that a person of ordinary care and prudence under the same or similar circumstances would have believed that harmful, or offensive contact was about to occur.

43.

Defendant Colson's actions against Mr. Long were unreasonable and unlawful. At the time Mr. Long was physically assaulted by Defendant Colson, Mr. Long did not pose any threat or harm to any law enforcement officers or others.

Defendant Colson acted with a depraved indifference to human life and conscious disregard for the safety of the general public, constituted an intentional unwelcome and unprivileged touching of Mr. Long, and was undertaken in bad faith and with actual malice.

44.

As a further direct and proximate result of the conduct described above, Mr. Long suffered permanent vision loss. Mr. Long suffered loss of his liberty and freedom, bodily injury resulting in pain and suffering, mental anguish, and medical expenses for treatment and care. Mr. Long did not consent to contact from Defendant Colson.

45.

WHEREFORE, Plaintiffs prays for the following relief:

1. Judgment for compensatory damages in excess of \$5,000,000.00.
2. Judgment for exemplary or punitive damages;
3. Cost of suit;
4. Reasonable attorney fees;
5. Trial by jury as to all issues so triable; and

Such other relief as this Honorable Court may deem just and appropriate.

**THRID CLAIM FOR RELIEF
(Assault and Battery)**

(Against Sheriff Jack E. Smith, in his official capacity as Sheriff of Northampton
County)

46.

Plaintiff realleges and incorporates herein by reference each and every allegation contained in paragraphs 1 through 26 of this Complaint.

47.

At the time of the complained incident Defendant Colson was acting within the scope of his employment with Sheriff Jack E. Smith, Sheriff of Northampton County. At the time all Defendant Colson committed the acts described herein, they were acting within the course and scope of their employment and/or agency with Northampton County Sheriff's Office. As such, Sheriff Jack E. Smith, in his Official Capacity as Sheriff of the Northampton County, North Carolina is liable for the intentional acts of Defendant Colson. Therefore, the intentional acts of all Defendant Colson are imputed to Sheriff Jack E. Smith, in his Official Capacity as Sheriff of the Northampton County, North Carolina through the doctrines of agency, vicarious liability and respondeat superior.

48.

As a further direct and proximate result of the conduct described above, Mr. Long suffered permanent vision loss. Mr. Long suffered loss of his liberty and freedom, bodily injury resulting in pain and suffering, mental anguish, and medical

expenses for treatment and care. Mr. Long did not consent to contact from Defendant Colson.

49.

WHEREFORE, Plaintiffs prays for the following relief:

1. Judgment for compensatory damages in excess of \$5,000,000.00.
2. Judgment for exemplary or punitive damages;
3. Cost of suit;
4. Trial by jury as to all issues so triable; and

Such other relief as this Honorable Court may deem just and appropriate.

PRAYER FOR RELIEF

Plaintiff prays that this Court enter judgment for the Plaintiff and against each of the Defendants and grant:

- A. compensatory and consequential damages, including damages for emotional distress, humiliation, loss of enjoyment of life, and other pain and suffering on all claims allowed by law in an amount in excess of \$20,000,000.00
- B. economic losses on all claims allowed by law;
- C. special damages in an amount to be determined at trial;
- D. punitive damages on all claims allowed by law against all Defendants and in an amount in excess of \$1,000,000.00
- E. attorneys' fees and the costs associated with this action under 42 U.S.C. §

1988, including expert witness fees, on all claims allowed by law;

F. pre- and post-judgment interest at the lawful rate; and,

G. any further relief that this court deems just and proper, and any other appropriate relief a law and equity.

PLAINTIFF REQUESTS A TRIAL BY JURY.

Respectfully submitted,

This the 11th day of June 2026.

Law Offices of Harry M. Daniels, LLC

/s/ Harry M. Daniels

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Special appearance as attorney for Don D. Long, II in the above-captioned matter, in association with Local Civil Rule 83.1(d)

/s/ Chantel Cherry-Lassiter

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*Pending Special appearance as attorney for
Don D. Long, II in the above-captioned
matter, in association with Local Civil Rule
83.1(d)*