

STATE OF MAINE
York, ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. ____

CALEB GAUL,)
)
Plaintiff,)
)
v.)
)
YORK COUNTY SHERIFF’S OFFICE; YORK)
COUNTY; YORK COUNTY SHERIFF)
WILLIAM KING; DEPUTY JOSHUA E.)
MORNEAU; JOHN DOE #1; JOHN DOE #2,)
)
Defendants.)

COMPLAINT

INTRODUCTION

1. All people have the fundamental right to freedom from imprisonment and bodily restraint. A custodial arrest—in which a person is arrested, handcuffed, searched, booked into jail, and incarcerated until they are able to pay bail or until the underlying criminal charge is resolved—is a serious intrusion on a person’s basic rights.

2. This case is about the right to be free from unreasonable custodial arrest. A custodial arrest for a misdemeanor offense is unreasonable unless there are important governmental interests—such as an imminent risk to public safety or flight from criminal process—to justify the intrusion.

3. In this case, an officer of the York County Sheriff’s office arrested Caleb Gaul for an alleged misdemeanor offense for which the prosecutor ultimately dropped all charges. This arrest—which the officer knew would result in a multi-hour incarceration, humiliating strip search, and long-term employment consequences—was undertaken for no legitimate public

interest and in violation of state statutory law. Mr. Gaul posed no public-safety or flight risk that could justify subjecting him to an invasive, humiliating, and costly custodial arrest. Any legitimate interest in charging Mr. Gaul could have been equally satisfied by issuing a summons for Mr. Gaul to appear in court.

4. The unnecessary and unlawful arrest of Mr. Gaul and his subsequent treatment in the York County Jail violated the prohibition of unreasonable search and seizure and constitutional protections of safety and due process, *see* Me. Const. Art. I, §§ 1, 5, 6-A, as well as Maine statute and a prior contractual agreement by York County. Mr. Gaul seeks declaratory relief, compensatory damages arising from the unlawful arrest and treatment, and punitive damages to deter York County and its agents from flouting constitutional and statutory protections.

PARTIES

5. Plaintiff Caleb Gaul is a resident of the Town of Waterboro, County of York, State of Maine, where he lives with his wife and four young children. Mr. Gaul is a successful audio engineer who often works for government and military clients that require background checks to access their secure facilities.

6. Defendant York County Sheriff's Office is responsible for providing law enforcement protection for fourteen rural towns, including Waterboro, as well as York County generally. It is also responsible for the operations of the York County Jail.

7. Defendant York County is a political subdivision in the State of Maine.

8. Defendant Sheriff William King is the Sheriff of York County, who is responsible for law enforcement and corrections in York County. Defendant Sheriff King is sued in his official capacity.

9. Defendant Joshua E. Morneau was at all times relevant to this complaint a Deputy with the York County Sheriff's Office, County of York, State of Maine. At all times relevant to this complaint, Deputy Morneau acted under color of state law. Defendant Morneau is sued in his individual capacity.

10. Defendant John Doe #1 is an employee of the York County Jail. At all times relevant to this complaint, John Doe #1 was acting under color of state law. Defendant Doe #1 is sued in his individual capacity.

11. Defendant John Doe #2 is an employee of the York County Jail. At all times relevant to this complaint, John Doe #2 was acting under color of state law. Defendant Doe #2 is sued in his individual capacity.

JURISDICTION AND VENUE

12. Jurisdiction is pursuant to 4 M.R.S. § 105, 5 M.R.S. § 4682, and 14 M.R.S. § 8106.

13. Venue is proper in York County, pursuant to 14 M.R.S. §501.

FACTS

I. Custodial Arrest Is a Serious Intrusion on Individual Rights

14. Custodial arrest is highly intrusive and must be used sparingly in any free society.

15. In a custodial arrest, the police officer typically handcuffs the arrestee, searches them and their personal effects in the immediate vicinity, transports them to jail in a police cruiser, fingerprints them, books them into jail, and keeps them detained in jail until they are able to pay bail or until the underlying criminal charge is resolved. *See, e.g., Dunaway v. New York*, 442 U.S. 200, 212-14 (1979) (describing the circumstances incident to a formal arrest).

16. Pre-trial incarceration resulting from a custodial arrest can cause the arrestee a great deal of harm, even when the arrestee is detained only for a matter of hours or days.

17. To state the obvious, an arrestee suffers from a serious intrusion of their freedom of movement. After a custodial arrest, arrestees are detained in jail, without any freedom of movement or ability to conduct their daily routines.

18. Pre-trial detainees are locked down in cells for significant parts of the day and subject to limits on visitation and telephone communication with family and friends.

19. While detained in jail, arrestees are unable to perform their basic life obligations, like caring for children or reporting to work.

20. Depending on the length of the detention, the arrestee may be absent from work for hours or days at a time, leading to missed wages, discipline, or termination. This is especially harmful when the arrestee works as the primary breadwinner for his or her family.

21. Many arrestees who miss work because of their arrest must report the arrest to their employer, causing further embarrassment and risk to their livelihood.

22. Even in cases resulting in acquittal or dismissal, arrest records may be maintained and disseminated, further damaging the individual's reputation. *See* 16 M.R.S. §§ 704, 706.

23. For years to come, an arrestee must truthfully report their arrest when asked about criminal history in job applications, which can lead to worse long-term employment outcomes. "Many people who have never faced charges, or have had charges dropped, find that a lingering arrest record can ruin their chance to secure employment, loans, and housing." Fields & Emshwiller, *As Arrest Records Rise, Americans Find Consequences Can Last a Lifetime*, THE WALL STREET JOURNAL, <https://www.wsj.com/articles/as-arrest-records-rise-americans-find-consequences-can-last-a-lifetime-1408415402> (last visited July 30, 2019).

24. Arresting someone in public—complete with handcuffing and driving away in a police cruiser—also causes public shame. If the arrestee’s family observes the arrest, they will suffer harm by having to watch a loved one experience this distressing and traumatic experience.

25. The system of money bail makes arrest even more harmful, especially for low-income arrestees. After custodial arrest, an arrestee is detained in jail until a judicial officer sets bail and the arrestee is able to pay it. In Maine, a bail commissioner can set bail for pre-trial detainees. 15 M.R.S. § 1023. If the pre-trial detainee is unable to pay the bail commissioner-set bail, he must wait up to 48 hours to appear before a judge, who can adjust the amount of bail. 15 M.R.S. §§ 1021-23. Some pretrial detainees are never able to make bail, resulting in lengthy pretrial detention until the resolution of their criminal case.

26. Even for those who are ultimately able to make bail, it can take hours, days, or even weeks for arrestees to come up with the money to do so. Many arrestees are poor and have no savings or other resources to cover the amount of bail. The time it takes for arrestees to gather the bail money—or have other people gather it on their behalf—frequently delays their release, leading to longer absence from work, childcare, and other duties of everyday life.

27. People subject to custodial arrest suffer all of these harms even when they have committed no crime, pose no public safety risk, present no flight risk, and are presumed innocent.

28. Instead of subjecting someone to an invasive and damaging custodial arrest, an officer may issue a summons requiring the person to appear in court to respond to charges of criminal conduct. Under Maine law, “[a] law enforcement officer who has probable cause to believe a crime has been or is being committed by a person may issue or have delivered a written

summons to that person directing that person to appear in the appropriate trial court to answer the allegation that the person has committed the crime.” 17-A M.R.S. 15-A(1).

29. Unless there is some important government interest requiring custodial arrest—such as an imminent risk to public safety or flight from criminal process—it is unreasonable for an officer to subject someone to custodial arrest in lieu of issuing a summons.

II. Additional Limitations on Arrest for Misdemeanor Offenses

30. For more than 100 years, Maine courts have imposed special limitations on warrantless arrests for misdemeanor offenses. *Caffini v. Hermann*, 112 Me. 282, 91 A. 1009, 1010 (1914); *see also Palmer v. Maine Cent. R. Co.*, 92 Me. 399 (Me. 1899); *State v. Boynton*, 143 Me. 313, 321, 62 A.2d 182, 187–88 (1948); *State v. Cowperthwaite*, 354 A.2d 173, 176 (Me. 1976) (collecting cases).

31. As the Maine Supreme Judicial Court has explained, “the law is well settled that even an officer may not arrest for a misdemeanor without a warrant, on information or suspicion, unless the misdemeanor was actually committed in his presence.” *Caffini*, 91 A. at 1010. And in many cases, “it seems to have been held that the authority of an officer to arrest for a misdemeanor, without warrant, is limited to breaches of the peace or affrays, committed in his presence.” *Palmer*, 42 A. at 803.

32. These principles regulating arrest were “designed to promote the safety of the public, and the due administration of public justice, on the one hand, and, on the other, *to afford citizen security against unwarrantable restraints upon his personal liberty.*” *Palmer*, 42 A. 803 (emphasis added).

33. The limitations on warrantless misdemeanor arrests reflect the heavy intrusion on personal liberty presented by arrest, compared with the slight imposition on law enforcement

officers to seek a warrant before arresting someone for a misdemeanor offense. Importantly, moreover, misdemeanors are offenses that the legislature has deemed to be less worthy of punishment than felony offenses.

34. “The duty thus imposed upon an officer is but co-extensive with the common law powers of an officer to make arrests without a warrant for offenses committed in his presence. Failure to obtain a warrant within a reasonable time makes the officer a trespasser ab initio, and subjects him to civil liability[.]” *State v. Boynton*, 143 Me. 313, 321, 62 A.2d 182, 187–88 (1948) (emphasis added).

35. Decades later, this principle has remained important to the rule of law in Maine.

36. Current law imposes restrictions on an officer’s authority to conduct warrantless misdemeanor arrests for Class D or E offense, which are the current equivalent of misdemeanors in the Maine Criminal Code. *See* 17-A M.R.S. § 15(1)(B).

37. Under Maine statute, which is rooted in the common law tradition, an officer may generally conduct a warrantless arrest for Class D or E offenses (like the Class D offense for which Mr. Gaul was arrested) only when the person “has committed or is committing [the crime] in the officer’s presence.” *See* 17-A M.R.S. § 15(1)(B).

38. The legislature has carved out exceptions to this general “in-presence” rule for particular misdemeanor offenses that particularly endanger public safety (e.g., domestic violence offenses) or that present a flight risk. *See id.* For such offenses, an officer may arrest based on probable cause, regardless of whether the offense was committed “in the officer’s presence.” 17-A M.R.S. § 15(1)(A).

39. For instance, the statute permits probable-cause arrest for “[a]ssault, criminal threatening, terrorizing, or stalking,” but only “if the officer reasonably believes that the person

may cause injury to others unless immediately arrested.” 17-A M.R.S. § 15(5). It also permits probable-cause arrest for theft, but only “if the officer reasonably believes that the person will not be apprehended unless immediately arrested.” 17-A M.R.S. § 15(6); *see also* 17-A M.R.S. § 15-A(2) (describing the narrow circumstances in which refusal to provide correct information for a summons justifies an arrest).

40. “The bill of rights in the constitution of this state declares prohibition against ‘all unreasonable searches and seizures.’” *State v. Riley*, 86 Me. 144, 29 A. 920, 920 (1893) (citing Me. Const. Art. I, § 5); *State v. Guthrie*, 90 Me. 448, 38 A. 368, 369 (1897). The constitutional definition of reasonableness in Article I, section 5, must be interpreted against the backdrop of these longstanding restrictions on warrantless misdemeanor arrests.

41. This case demonstrates the importance of maintaining Maine’s strong preference against warrantless arrests for misdemeanor offenses. Without such a requirement, there is a risk that a single officer, misusing his or her authority, could wreak devastating consequences on an arrestee’s life through unreasonable custodial arrest—all for actions that posed no imminent threat to public safety nor any risk of flight.

42. As described below, Officer Morneau unreasonably arrested Mr. Gaul for a Class D offense without a warrant, even though Mr. Gaul committed no crime in Officer Morneau’s presence, presented no safety or flight risk, and, to the contrary, acted reasonably in protecting his family from harm on their own private property.

III. Mr. Gaul Encounters A School Bus Dangerously Blocking His Private Road

43. Mr. Gaul’s home is located at the end of a long, private road which is owned by Mr. Gaul and abutting landowners. Mr. Gaul and the abutting landowners maintain the road for their private use.

44. On or about January 30, 2018, after a major snow storm, Caleb Gaul drove down the steep decline of the private road, to make sure the path was clear for his wife, who was following him in the family van to drive their small children to school.

45. At the base of the road, Mr. Gaul found a school bus illegally and dangerously parked on his private property.

46. The bus was waiting to begin the morning pickup, so there were no students on the school bus—only the bus driver, Craig Theriault, and a school bus attendant, Cathy Shriver.

47. The school bus had no permission to park on Mr. Gaul's private property.

48. Mr. Gaul was concerned that the position of the school bus posed a danger to his wife and children, and to other vehicles traveling down the private road. Snow drifts from the recent snow storm made the road narrower than usual, and with the full-sized school bus parked on the private road, there was very little passable space for Mr. Gaul or his family to access the public road.

49. Even more dangerous, the bus was parked at the bottom of a steep hill that was covered in ice and snow because of the recent storm.

50. As Mr. Gaul drove down the hill, he had trouble maneuvering his truck around the school bus because of the snow and ice and the dangerous position of the school bus.

51. After narrowly avoiding the school bus, Mr. Gaul exited his truck and notified the school bus driver that he was illegally and dangerously parked on Mr. Gaul's private land.

52. Mr. Theriault insisted he had permission, yet provided no documentation.

53. The school department later conceded that it had no record of any agreement or permission for the school bus to park on Mr. Gaul's private property.

54. Mr. Gaul asked the school bus driver, Mr. Theriault, to move the bus out of the way so that Mr. Gaul's wife did not accidentally crash into it.

55. The school bus driver refused to comply.

56. When the school bus driver refused to move the bus off of Mr. Gaul's private property, Mr. Gaul parked his truck in front of the school bus. He could not park his truck next to the school bus, because that would have completely blocked the road from any other traffic. Nor did Mr. Gaul feel safe backing his truck up the steep and icy incline.

57. Mr. Gaul left the school bus to walk back up the slippery road to warn his wife to be careful descending the road.

58. The bus driver then called his supervisor at the school transportation department, who called the York County Sheriff's Department to report to the scene.

IV. Officer Morneau Wrongfully Arrested Mr. Gaul on his own Property

59. Officer Joshua E. Morneau of the York County Sheriff's Office responded to the call.

60. Officer Morneau spoke with the school bus driver, Mr. Theriault, and school bus attendant, Ms. Shriver, out of earshot of Mr. Gaul.

61. According to a contemporaneous video recording from the school bus, Officer Morneau told Mr. Theriault that he would like to arrest Mr. Gaul, and he asked Mr. Theriault and Ms. Shriver if they would write reports in support of his arrest.

62. Officer Morneau told Mr. Theriault and Ms. Shriver that he wanted to arrest Mr. Gaul because "I think the right thing to do from a law enforcement standpoint is to hold him accountable."

63. Once Mr. Gaul returned to the bottom of the hill, Officer Morneau asked Mr. Gaul to move his truck. Mr. Gaul immediately complied.

64. At this point, Officer Morneau knew the following facts, none of which showed that Mr. Gaul has committed any crime in his presence or presented a public safety or flight risk:

- a. A school bus was parked on Mr. Gaul's "private road" without Mr. Gaul's permission.
- b. Mr. Gaul parked in front of the school bus, rather than backing his truck up the icy hill.
- c. When Officer Morneau asked Mr. Gaul to move his truck, Mr. Gaul complied.
- d. Mr. Gaul never applied any force.
- e. Mr. Gaul never used any violence.
- f. Mr. Gaul never engaged in any intimidation.
- g. There was no reason to suspect that Mr. Gaul had committed any felony, a drug offense, a domestic violence offense, or a weapons offense.
- h. There was no reason to suspect that Mr. Gaul presented a flight risk.

65. Despite these facts, Officer Morneau placed Mr. Gaul under arrest for obstructing government administration, 17-A M.R.S. § 751, handcuffed him, shoved him in the police cruiser, and took him into the custody of the York County Sheriff's Office.

66. Mr. Gaul's wife and children were forced to witness Officer Morneau handcuffing Mr. Gaul, pushing him into a police cruiser, and driving away.

V. The Manner of Arrest and Detention Violated Mr. Gaul's Rights and Violated a Court-Ordered Consent Decree

67. When Mr. Gaul arrived at the York County Jail, he was fingerprinted, and those fingerprints were saved in a database along with a record of his arrest. 16 M.R.S. § 706. The

arrest record also includes Mr. Gaul’s “name, year of birth, residence and occupation[.]” *Id.* § 706(1).

68. This arrest record is available indefinitely and is likely to follow Mr. Gaul for the rest of his life.

69. After booking, Mr. Gaul was strip searched by two guards, John Doe #1 and John Doe #2—including an invasive and humiliating anal-cavity search.

70. The strip search was in violation of an existing settlement agreement, requiring that York County maintain a written policy prohibiting indiscriminate strip searches. *See, e.g., Nilsen v. York Cnty.*, 382 F. Supp. 2d 206 (D. Me. 2005).

71. Specifically, on September 8, 2005, the U.S. District Court for the District of Maine approved the class action settlement agreement between Michele Nilsen, on behalf of herself and other similarly situated members of the plaintiff class, and the York County Jail. Order, *Nilsen v. York Cnty.*, Civ. No. 02-212-PH (D. Me. Sept. 8, 2005). The Settlement Agreement protected class members who were “waiting for bail to be set or for a first court appearance after being arrested on charges that did not involve a weapon or drugs or a violent felony”—just like Mr. Gaul in this case. *See* Second Amended Settlement Agreement, Civ. No. 02-212-PH (D. Me. Sept. 6, 2005) (Att. A).

72. The settlement required jail employees to “allow these detainees to change into a jail uniform without exposing . . . bare genitals or buttocks of either gender to the ‘inspection’ of a correctional officer.” *Id.*

73. Another part of the settlement agreement required York County to maintain a policy to comply with these limitations: “York County agrees that it will maintain a formal written policy that provides that a pre-arraignment detainee for a non-excluded crime is to

remove his or her underclothing behind a screen to protect the person from displaying his or her genitals, anus or, in the case of females, bare breasts, to the inspection by a correctional officer unless the officer is conducting a strip search based on reasonable suspicion and documented at the time of the search in a log of all such searches.” *Id.* (emphasis added). By requiring specific and documented reasonable suspicion to conduct a strip search, the policy prohibits indiscriminate strip searches of arrestees.

74. Despite this settlement agreement prohibiting indiscriminate strip searches for people like Mr. Gaul, John Doe #1 and John Doe #2 of the York County Sheriff’s Office conducted an invasive and humiliating strip search of Mr. Gaul—including an anal cavity search—without any basis for suspicion and without any need for subjecting him to such trauma.

75. Upon information and belief, the suspicionless strip search of Mr. Gaul occurred pursuant to county policy, practice, or custom to perform strip searches of arrestees, without any basis of suspicion or justification for the invasive strip search and anal cavity search.

76. Upon information and belief, Officer Morneau knew that, by arresting Mr. Gaul, Mr. Gaul would be subjected to the York County Jail policy of suspicionless strip searches, and this is one of the ways that Officer Morneau intended to hold Mr. Gaul “accountable.”

77. The unlawful arrest and strip-search of Mr. Gaul were undertaken pursuant to York County Jail policies, practices, and customs.

VI. Mr. Gaul Is Forced to Pay \$360 to Obtain Release from the Wrongful Arrest

78. Mr. Gaul was detained in jail for five hours before he was ultimately granted bail.

79. The bail commissioner imposed bail in the amount of \$300. Mr. Gaul was released after paying \$300 in bail, plus a \$60 fee for the bail commissioner.

80. Many Mainers would be unable to afford an unexpected cost of \$360. Indeed, the Federal Reserve has found that *44 percent* of Americans (nearly half) could not cover an only slightly higher emergency expense of \$400 without selling something or borrowing money. Bd. of Governors of the Fed. Res., Report on the Economic Well-Being of U.S. Households in 2016 (May 2017), <https://www.federalreserve.gov/publications/files/2016-report-economic-well-being-us-households-201705.pdf>).

VII. All Charges Were Dismissed

81. Mr. Gaul was originally charged by Officer Morneau for “[o]bstructing government administration”—17-A M.R.S. § 751—a Class D crime, punishable by up to 364 days in jail.

82. Upon review, the prosecutor withdrew the Class D charge of “obstructing government administration” and substituted the equally inapplicable Class E charge of obstructing a public way. *See* 17-A M.R.S. § 505 (“A person is guilty of obstructing public ways if he unreasonably obstructs the free passage of foot or vehicular traffic on any public way, and refuses to cease or remove the obstruction upon a lawful order to do so given him by a law enforcement officer.”).

83. Mr. Gaul did not obstruct a public way because he parked “on” his own private property not a public way.

84. Nor did Mr. Gaul obstruct government administration because he immediately complied with Officer Morneau’s request to move his car.

85. Mr. Gaul reported to the courthouse on March 27, 2018, when his charge was set for hearing. (Summons 3162969, Atn # 257416B).

86. The district attorney unilaterally dismissed all charges against Mr. Gaul, without any conditions.

VIII. Mr. Gaul Suffered Serious Damage as a Result of the Wrongful Arrest

87. As a result of the wrongful arrest, Mr. Gaul suffered adverse employment consequences, physical and psychological injury, damage to his reputation, and financial harm.

88. Mr. Gaul is an audio and technical engineer who is successful in his field. Among other positions, Mr. Gaul has worked as a Technology Specialist for the United States Court of Appeals for the Ninth Circuit and a Communications Engineer at Unum. Most recently, Mr. Gaul has worked as an audio engineer for a Maine company with clients that include governmental and military organizations that require background checks to access secure facilities. Mr. Gaul's clients include sensitive facilities with high level security requirements.

89. Mr. Gaul missed four hours of work because of his period of incarceration on January 30, 2018, and he had to notify his employer of the arrest. Because of the arrest, Mr. Gaul's employer placed him on a period of employment probation for more than one year—from February 1, 2018, to April 2, 2019.

90. Mr. Gaul also had to notify his then-current client—a military site requiring a background check to access their facility—of his arrest record and updated his background-check questionnaire to reflect the arrest. The client then completed an internal, discretionary process to decide whether to allow Mr. Gaul to continue accessing the site despite the arrest. Mr. Gaul had to suffer a period of uncertainty when he did not know whether he would be able to continue in his current employment. Although the client ultimately allowed Mr. Gaul to continue accessing the site, the process caused Mr. Gaul additional embarrassment and shame.

91. Advancement in Mr. Gaul's field and career path would require Mr. Gaul to be eligible for a high-level or top-secret security clearance. As a result of the wrongful arrest, Mr. Gaul is unlikely to be successful in gaining a high-level or top-secret security clearance, limiting his long-term earnings and overall success in his career.

92. Additionally, Mr. Gaul's arrest record—including his fingerprint data, his name, birth year, residence, and occupation—is publicly available and is likely to follow him the rest of his life. 16 M.R.S. § 706.

93. Mr. Gaul's arrest record remains available for any employer or future employer conducting a background check, which will continue to be a major hindrance in seeking future employment in Mr. Gaul's career field.

94. Mr. Gaul suffered physical harm from the force used incident to the arrest, in which Officer Morneau handcuffed Mr. Gaul behind his back and forcefully yanked him out onto the road and into the police cruiser.

95. Mr. Gaul also suffered physical and psychological harm from the humiliating and invasive strip search.

96. Mr. Gaul suffered embarrassment and harm from being taken away in handcuffs in front of his wife and small children.

97. Mr. Gaul suffered reputational harm in the community because of arrest.

98. Finally, Mr. Gaul never recovered the \$60 bail commissioner fee that he had to pay to be released on bail after the wrongful arrest.

IX. Exhaustion of Maine Tort Claims Act Requirements

99. On June 11, 2018, within 180 days of the January 30, 2018 incident, Mr. Gaul, through counsel, filed notice pursuant to the Maine Tort Claims Act (MTCA), 14 M.R.S. § 8107, to Officer Morneau and Gregory T. Zinser, County Manager of York County.

100. The notice alerted Officer Morneau and County Manager Zinser of claims based on the torts of false arrest, false imprisonment, abuse of process, malicious prosecution, trespass, intentional infliction of emotional distress, and negligence, and described the relevant incident.

See Att. B.

101. The notice provided all elements required by the MTCA, including the name and address of counsel for Mr. Gaul, a concise statement of the basis of the claim, the name and address of the governmental employee known to be involved, a concise statement of the nature and extent of injury, and a statement of the amount of monetary damages claimed.

102. The notice was sent via certified mail, and the return receipts were completed on June 13, 2018. Return receipts for the certified mailing are attached as Att. C, D.

CLAIMS FOR RELIEF

Count I. Unreasonable Warrantless Misdemeanor Arrest (Me. Constitution Art. I, §§ 1, 5, Me. Civil Rights Act, 5 M.R.S. § 4682) (Officer Morneau)

103. Plaintiffs incorporate the allegations contained in paragraphs 1-102.

104. Article I, section 5 prohibits unreasonable custodial arrest.

105. Officer Morneau's arrest of Mr. Gaul was unreasonable because the humiliation and harm of the custodial arrest clearly outweighed any legitimate interest the state could have in imposing a custodial arrest instead of a summons.

106. At the time of arrest, Officer Morneau had no reasonable basis to believe that Mr. Gaul posed any threat to public safety or risk of flight.

107. Officer Morneau intentionally interfered with Mr. Gaul's right to be free from unreasonable arrest when he arrested Mr. Gaul for a misdemeanor offense without a warrant or any legitimate state interest in custodial arrest, by trespassing on Mr. Gaul's private property and using physical force to effectuate the arrest, in violation of the Maine Constitution Art. I, § 5 and 17-A M.R.S. § 15, and the Maine Civil Rights Act, 5 M.R.S. § 4682.

**Count II. Unreasonable Warrantless Misdemeanor Arrest
(17-A M.R.S. § 15, Me. Civil Rights Act, 5 M.R.S. § 4682)
(Officer Morneau)**

108. Plaintiffs incorporate the allegations contained in paragraphs 1-102.

109. Pursuant to 17-A M.R.S. § 15, an officer may not perform a warrantless arrest for a misdemeanor crime (with the exception of certain enumerated misdemeanors not applicable here) unless a person commits or is committing the misdemeanor "in the officer's presence."

110. There was no evidence of facts and circumstances sufficient to justify the belief that Mr. Gaul was committing any crime in Officer Morneau's presence.

111. Officer Morneau intentionally interfered with Mr. Gaul's right to be free from unlawful arrest when he arrested Mr. Gaul without a warrant for a misdemeanor offense, without Mr. Gaul committing any crime in Officer Morneau's presence on January 30, 2018, by trespassing on Mr. Gaul's private property and using physical force to effectuate the arrest, in violation of the Maine Constitution Art. I, § 5 and 17-A M.R.S. § 15, and the Maine Civil Rights Act, 5 M.R.S. § 4682.

**Count III. Tort of False Arrest
(Maine Tort Claims Act)
(Officer Morneau)**

112. Plaintiffs incorporate the allegations contained in paragraphs 1-102.

113. Pursuant to the Maine Tort Claims Act, government officials like Officer Morneau are not immune from tort liability for intentional acts or omissions that are not with the course or scope of employment. 14 M.R.S. § 8111(1)(E).

114. Officer Morneau intentionally confined Mr. Gaul in the police cruiser and in the York County Jail, without any legitimate authority to do so and outside the course or scope of his employment, causing serious harm to Mr. Gaul, in violation of Mr. Gaul's common law right to be free from false imprisonment.

115. The false arrest of Mr. Gaul was not privileged under the common law because Officer Morneau had no reasonable suspicion that Mr. Gaul had committed or attempted to commit any felony or any breach of the peace.

**Count IV. Battery
(Maine Tort Claims Act)
(Officer Morneau)**

116. Plaintiffs incorporate the allegations contained in paragraphs 1-102.

117. Pursuant to the Maine Tort Claims Act, government officials like Officer Morneau are not immune from tort liability for intentional acts or omissions that are not with the course or scope of employment. 14 M.R.S. § 8111(1)(E).

118. Officer Morneau intentionally caused a harmful and offensive contact against Mr. Gaul by forcibly handcuffing him and pushing him into the police cruiser, causing harm to Mr. Gaul, in violation of Mr. Gaul's common law right to be free from battery.

119. No common law privilege authorized Officer Morneau to use force against Mr. Gaul because the *ultra vires* arrest was outside Officer Morneau's lawful authority.

**Count V. Unreasonable Search in Violation Maine Constitution
(Maine Constitution Art. I, § 5, Maine Civil Rights Act, 5 M.R.S. § 4682)
(John Doe I, John Doe II, York County Sheriff's Office, Sheriff William King)**

120. Plaintiffs incorporate the allegations contained in paragraphs 1-102.

121. The constitutional right to be free from unreasonable searches and seizures includes the right not to be subjected to invasive and humiliating forceful strip searches for a pretrial detainee without any individualized suspicion or justification.

122. The York County Sheriff's Office, Sheriff King, John Doe #1, and John Doe #2 are each subjectively aware of the right to be free from indiscriminate strip searches.

123. The York County Sheriff's Office, Sheriff King, John Doe #1, and John Doe #2 intentionally interfered by physical force, with Mr. Gaul's right to be free from unreasonable search and seizure by subjecting Mr. Gaul to a strip search, including an anal cavity search, without any individualized suspicion.

**Count VI. Breach of Contract
(Settlement Agreement, 02-cv-00212-GZS)
(York County, York County Sheriff's Office, Sheriff William King)**

124. Plaintiffs incorporate the allegations contained in paragraphs 1-102.

125. Pursuant to the settlement agreement in 02-cv-00212-GZS (D. Me.), York County is required to maintain and follow a written policy prohibiting suspicionless strip searches.

126. The parties in 02-cv-00212-GZS (D. Me.) intended that York County would maintain and follow this policy "for people who are held at the York County Jail while waiting for bail to be set," like Mr. Gaul. As a result, Mr. Gaul was an intended beneficiary of this settlement agreement.

127. York County, the York County Sheriff's Office, and Sheriff King, intentionally breached the contract provision requiring York County to maintain and follow a policy prohibiting suspicionless strip searches, by maintaining a policy or practice of subjecting arrestees to suspicionless strip searches.

128. Pursuant to their policy or practice, York County, the York County Sheriff's Office, and Sheriff King subjected Mr. Gaul to a strip search, including an anal cavity search, without any individualized suspicion, in violation of the contractual settlement agreement entered in 02-cv-00212-GZS.

Count VII. Unlawful Pretrial Punishment
(Me. Constitution Art. I, §§ 1, 6-A, Me. Civil Rights Act, 5 M.R.S. § 4682)
(Officer Morneau)

129. Plaintiffs incorporate the allegations contained in paragraphs 1-102.

130. As the logical corollary of the presumption of innocence, all people have the constitutional right not to be punished before trial and conviction.

131. Under the due process clause of Maine's constitution, a person cannot be punished prior to adjudication of guilt in accordance with the due process of law. *See* Me. Const. Art. I, § 6-A.

132. Upon information and belief, Officer Morneau subjected Mr. Gaul to an invasive custodial arrest for the purpose of holding him accountable and punishing him for perceived wrongdoing.

133. Using physical force, Officer Morneau intentionally interfered with Mr. Gaul's due process right to be free from pretrial punishment by arresting him for the purpose of holding him accountable and subjecting him to humiliating conditions of incarceration in violation of 5 M.R.S. § 4682 and the Maine Constitution Art. I, § 6-A.

PRAYER FOR RELIEF

134. Plaintiff therefore respectfully request that the Court enter a judgment including, but not limited to:

- a) A declaration that the warrantless custodial arrest of Mr. Gaul for a minor alleged misdemeanor offense, without any reasonable basis for choosing custodial arrest instead of a summons, was an “unreasonable . . . seizure” in violation of Maine’s Constitution, Article I, section 5;
- b) A declaration that the custodial arrest and subsequent strip search of Mr. Gaul was in excess of Defendants’ authority and in violation of the Maine Constitution, statute, and common law;
- c) Damages to compensate for the physical, mental, financial, and reputational harms from Defendants’ actions;
- d) Punitive damages to deter future constitutional and statutory violations;
- e) Recovery of attorneys’ fees and costs; and
- d) Such additional and further relief as the Court deems just and equitable.

Respectfully submitted, this 31th day of July, 2019,

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