

STATE OF MINNESOTA
COUNTY OF KANDIYOHI

DISTRICT COURT
EIGHTH JUDICIAL DISTRICT

CASE TYPE – Other Civil

Derrick Gilbert,

Plaintiff,

v.

Christopher Flatten, in his individual and
official capacity, and City of Willmar,

Defendants.

Complaint

Jury Trial Demanded

Case No. _____

Plaintiff Derrick Gilbert, for his Complaint against above-named Defendants, states and alleges as follows:

INTRODUCTION

1. This is a civil rights action arising from Defendants' unlawful arrest of Derrick Gilbert for walking while Black on June 22, 2022. Defendants stopped Mr. Gilbert as he walked to work to arrest him for a warrant under the name of another, unrelated Black man. Instead of allowing Mr. Gilbert to go after any reasonable person would have realized he was not the other unrelated Black man, Defendants grabbed him, slammed him to the ground, cut off his backpack, and handcuffed him. They searched him and found his identification; but once again, instead of releasing him, Defendants took Mr. Gilbert to jail and booked him for obstructing the legal process without probable cause and in violation of the law.

2. Mr. Gilbert's causes of action include violations of his constitutional rights under Article 1 of the Minnesota Constitution, as well as claims under the Minnesota Human Rights Act and state tort claims.

PARTIES

3. Plaintiff Derrick Gilbert is a 39-year-old Black man who currently resides in Kandiyohi County, Minnesota.

4. Defendant Christopher Flatten was a police officer employed by the City of Willmar at the time of the incident giving rise to this case. Upon information and belief, he is currently a resident of Kandiyohi County, Minnesota. At all times relevant hereto, he was acting under color of state law. Defendant Flatten is being sued in his personal and official capacity.

5. Defendant City of Willmar is a city in the State of Minnesota, and through its police officer employees, is responsible for the actions that are the subject of this lawsuit.

JURISDICTION AND VENUE

6. The District Courts of Minnesota are courts of general jurisdiction, having original jurisdiction over “all civil actions within their respective districts.” Minn. Stat. § 484.01, subd. 1(1).

This action arises under Minnesota law. Plaintiff brings his claims under Minn. Stat. § 466.02; Minn. Stat. § 3.736; the Minnesota Human Rights Act, Minnesota Statutes Chapter 363A, the Uniform Declaratory Judgments Act;¹ and the Minnesota Constitution.

7. Venue is proper in Kandiyohi County because the cause of action or some part thereof arose in Kandiyohi County.

FACTS

8. On June 22, 2022, at around 8:50 a.m. in Willmar, Minnesota, while driving his patrol car, Defendant officer Christopher Flatten witnessed a Black man walking in the same direction that his car was going. That Black man was Derrick William Gilbert.

¹ The UDJA is remedial in nature and is to be liberally construed and administered to “settle and to afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations.” Minn. Stat. § 555.12 (2006).

9. Mr. Gilbert was on his way to work that morning, the sun shining brightly overhead. He was wearing a red sleeveless hooded sweatshirt with the hood up and headphones over the hood. Mr. Gilbert was wearing shorts, and his arms were bare. All Officer Flatten would have been able to see at this point was that the pedestrian was a Black man.

10. Despite not being able to see Mr. Gilbert's face, Defendant Flatten assumed Mr. Gilbert was another Black man, Sammy Price. Defendant Flatten reported that he based that assumption on multiple prior interactions he had had with Sammy Price.

11. Defendant Flatten had in fact trespassed Mr. Price from a different property within Willmar only ten days earlier.

12. Defendant Flatten knew what Sammy Price looked like as a result of those prior interactions.

13. Both Derrick Gilbert and Sammy Price are Black men. Other than that, they bear no resemblance to each other. Mr. Price is seven years younger, four inches shorter, and at least 90 pounds heavier than Mr. Gilbert. Mr. Gilbert's skin is significantly darker than Mr. Price's.

14. On information and belief, Mr. Price also has significant scar/markings on his face that Mr. Gilbert does not have.

15. Defendant Flatten, baselessly assuming the Black man walking down the street was Sammy Price, asked dispatch for a warrant check on Sammy Price. The search revealed an arrest warrant for Sammy Price.

16. A short time later, Defendant Flatten saw the same Black man, this time walking towards Defendant Flatten. Defendant Flatten decided to arrest that Black man for the arrest warrant on Sammy Price. That Black man was, in fact, Mr. Derrick William Gilbert.

17. Defendant Flatten parked his car—without the lights on so no dashcam video would be created—and got out of the car to arrest Mr. Gilbert for Mr. Price’s warrant. While required by Willmar Police Department policy to turn on his body worn camera, Defendant Flatten “forgot” to do so.

18. As he got out of the car, Defendant Flatten said to Mr. Gilbert, “Sammy Price, you have a warrant.”

19. Mr. Gilbert told Defendant Flatten that he was not Sammy.

20. Based on his previous encounters with Mr. Price and his close proximity to Mr. Gilbert, Defendant Flatten then knew that Mr. Gilbert was not Mr. Price. Because of the significant differences in age, height, weight, skin color, and facial markings, no reasonable officer could reasonably think that Mr. Gilbert was Mr. Price.

21. However, Defendant Flatten harassed and arrested Mr. Gilbert anyway.

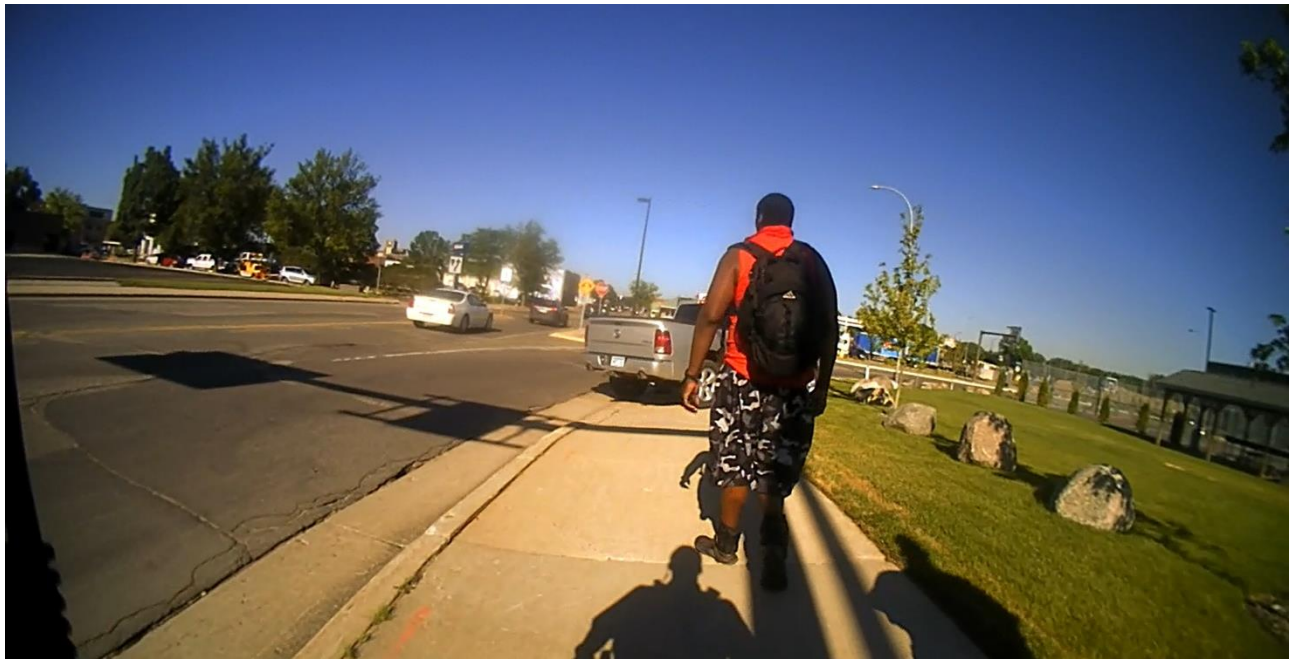
22. Defendant Flatten continued to follow Mr. Gilbert as he tried to go to work, repeatedly calling him “Sammy.” Mr. Gilbert consistently told him he was not Sammy and asked Defendant Flatten to leave him alone.

23. Defendant Flatten refused to allow Mr. Gilbert to make his way to work in peace; rather, he taunted Mr. Gilbert by continuing to call him Sammy, which Flatten knew was false, and called for other officers to come help him. Mr. Gilbert continued to state that he was not Sammy.

24. The Kandiyohi County Sheriff’s Deputy Jordan Lemke arrived at approximately 8:52 a.m. Mr. Lemke’s dashcam captured some of the final moments of the interaction between Mr. Gilbert and Defendant Flatten.

25. About one minute after Deputy Lemke got there, two more men arrived in a grey

pickup truck. The men were not wearing any uniforms and the pickup truck was not identifiable as a law enforcement truck.



26. The driver of the truck jumped the sidewalk and within five seconds Defendant Flatten and the other men descended upon Mr. Gilbert. Three men pulled Mr. Gilbert in different directions while a fourth man picked him up. The arresting officers nearly dropped Mr. Gilbert on his face on the hard sidewalk.

27. At no time did Mr. Gilbert deny any lawful order from Defendant Flatten or any other law enforcement official.

28. Officers handcuffed Mr. Gilbert, and did so improperly, causing Mr. Gilbert to suffer unnecessary pain.

29. An officer cut off his backpack, destroying it.

30. Defendant Flatten then taunted Mr. Gilbert by saying “why didn’t you tell me your name, you put this on you” despite never having a legal justification for asking for his name.

Defendant Flatten also did not acknowledge that Mr. Gilbert had repeatedly stated that he was not Sammy. Defendant Flatten arrested Mr. Gilbert for obstruction of the legal process. Specifically, Defendant Flatten referenced Mr. Gilbert’s “clenched fists.”

31. Mr. Gilbert was charged with a misdemeanor. Defendants did not need to detain Gilbert to prevent bodily injury to himself or others—including themselves. Defendants had no reason to believe that further criminal conduct would occur if they did not detain him. Defendants had no reason to believe that there was a substantial likelihood that Mr. Gilbert would not respond to a citation. Instead of issuing a citation and releasing him, Defendants took him to jail.

32. Under these facts, arrest is unlawful under Minn. R. Crim. Pr. 6.01.

33. Mr. Gilbert was transported to Kandiyohi County Jail where he was booked for obstructing the legal process. All charges would later be dismissed.

34. Due to Defendant Flatten’s false allegations, Mr. Gilbert had to face criminal proceedings. Mr. Gilbert had to attend several court appearances for which he had to take time off work. He missed about a week of work because of Defendant Flatten’s actions. It was not until December 1, 2022—six months after Defendant Flatten harassed and unlawfully arrested Mr. Gilbert—that the prosecutor dismissed the criminal charges against him.

35. Defendant Flatten had no legal or other justification for arresting Mr. Gilbert.

36. Mr. Gilbert filed a complaint against Defendants with the Minnesota Department of Human Rights on June 15, 2023. In response, Defendants admitted that they updated their impartial policing policy after Defendant Flatten’s arrest of Mr. Gilbert but claimed that the facts are just an unfortunate reality of a Black man living in Willmar, callously stating that Mr. “Gilbert was also in the right place at the right time, that is, in the City of Willmar where Sammy resides.” Under

Defendants' theory, any Black man, between the ages 22 and 38, 5'8" to 6'4" in height, and weight 220 to 366 pounds walking in the City of Willmar would also be in the right place at the right time and therefore subject to police harassment and arrest.

37. As a result of the Defendants' actions, Mr. Gilbert - who continues to live and work in the City of Wilmar - fears that he will be the subject of police harassment as he goes about his daily life.

38. As a result of Defendants' actions, Plaintiff Gilbert has suffered physical pain and injury, mental and emotional distress, economic losses, embarrassment and humiliation, the invasion of his person, and has incurred other losses and damages, altogether well in excess of \$50,000.

CAUSES OF ACTION

39. Plaintiff hereby realleges and incorporates by reference all facts and allegations contained in paragraphs 1 through 39 of this Complaint.

COUNT I DISCRIMINATION IN VIOLATION OF THE MINNESOTA HUMAN RIGHTS ACT, MINN. STAT. § 363A.12, SUBD. 1

40. "It is an unfair discriminatory practice to discriminate against any person in the access to, admission to, full utilization of or benefit from any public service because of race, color, creed, religion, national origin, disability, sex, sexual orientation, or status with regard to public assistance or to fail to ensure physical and program access for disabled persons unless the public service can demonstrate that providing the access would impose an undue hardship on its operation." Minn. Stat. § 363A.12, subd. 1.

41. Defendants were providing a public service within the meaning of Minn. Stat. §

363A.12, subd. 1.

42. Mr. Gilbert is a Black man entitled to protection from discrimination based on race in the provision of a public service.

43. Defendant Flatten's behavior toward Mr. Gilbert was malicious as he knew upon seeing Mr. Gilbert that he was not Mr. Price.

44. Defendants arrested Mr. Gilbert in violation of Minn. R. Crim. Pr. 6.01.

45. Defendant Flatten's treatment of Mr. Gilbert was so at variance with what would reasonably be anticipated, absent racial discrimination, that racial discrimination is the probable explanation.

46. Defendant Flatten subjected Mr. Gilbert to discrimination maliciously; that is, he intentionally committed an act he had reason to believe was prohibited.

47. A determination that Mr. Gilbert has been discriminated against in connection with an investigatory stop is distinguishable from a determination that the investigatory stop itself constitutes an unreasonable seizure.

48. Here, Defendants maliciously discriminated against Mr. Gilbert in violation of the Minnesota Human Rights Act by treating him in a manner so at variance with what would reasonably be anticipated, absent discrimination, that discrimination is the probable explanation.

49. As a direct and proximate result of the acts and omissions of Defendants, Mr. Gilbert has suffered physical pain and injury, mental and emotional distress, economic losses, embarrassment and humiliation, the invasion of his person, and has incurred other losses and damages, altogether well in excess of \$50,000.

COUNT II
FALSE ARREST

50. Defendants knew that Mr. Gilbert was not Sammy Price, and they had no lawful reason to detain, let alone arrest, Mr. Gilbert.

51. Defendants, by their above-described actions, wrongfully, illegally, and unjustifiably arrested and restrained Mr. Gilbert without probable cause and thereby falsely arrested him.

52. As a direct and proximate result of the acts and omissions of Defendants, Mr. Gilbert has suffered physical pain and injury, mental and emotional distress, economic losses, embarrassment and humiliation, the invasion of his person, and has incurred other losses and damages, altogether well in excess of \$50,000.

COUNT III
FALSE IMPRISONMENT

53. Defendants knew that Mr. Gilbert was not Sammy Price, and they had no lawful reason to detain, let alone arrest, Mr. Gilbert.

54. Defendants chose to arrest Mr. Gilbert without support of the law.

55. Defendants, by their above-described actions, wrongfully, illegally, and unjustifiably confined and restrained Mr. Gilbert without consent, and thereby falsely imprisoned him.

56. As a direct and proximate result of the acts and omissions of Defendants, Mr. Gilbert has suffered physical pain and injury, mental and emotional distress, economic losses, embarrassment and humiliation, the invasion of his person, and has incurred other losses and damages, altogether well in excess of \$50,000.

COUNT IV
NEGLIGENCE

57. Defendants had a duty of care to Mr. Gilbert to not police in a discriminatory manner, and to follow Minnesota laws faithfully.

58. Defendants breached their duty of care to Mr. Gilbert by arresting him for a misdemeanor charge when they had no reason to believe that he was a danger to himself or others, or that further criminal conduct would occur if they did not detain him. Defendants had no reason to believe that there was a substantial likelihood that Mr. Gilbert would not respond to a citation.

59. Defendants breached their duty of care to Mr. Gilbert by continuing to claim he was Sammy Price even after Defendant Flatten was close enough in proximity to Mr. Gilbert to confirm that Mr. Price and Mr. Gilbert were different individuals.

60. Defendants, by their above-described actions, breached their duty to exercise a reasonable standard of care in dealing with Plaintiff and acted willfully and maliciously.

61. As a direct and proximate result of the acts and omissions of Defendants, Mr. Gilbert has suffered physical pain and injury, mental and emotional distress, economic losses, embarrassment and humiliation, the invasion of his person, and has incurred other losses and damages, altogether well in excess of \$50,000.

COUNT V
NEGLIGENT TRAINING

62. Defendants had a duty of care to Mr. Gilbert to properly train Defendant Flatten on Minnesota law regarding standards to make arrests as well as racial bias free policing.

63. Defendants breached their duty as evidenced by Defendant Flatten acting in a racially charged manner and arresting Mr. Gilbert in violation of Minnesota law.

64. As a direct and proximate result of the acts and omissions of Defendants, Mr. Gilbert has suffered physical pain and injury, mental and emotional distress, economic losses, embarrassment and humiliation, the invasion of his person, and has incurred other losses and damages, altogether well in excess of \$50,000.

COUNT VI
Violation of MN Constitution, Article I, § 10 – Unreasonable Search and Seizure Prohibited

65. Defendant Flatten unreasonably seized Mr. Gilbert as fully set forth above.

66. Defendant Flatten unlawfully detained Mr. Gilbert without reasonable articulable suspicion that he was Mr. Price.

67. Defendant Flatten's continued harassment of Mr. Gilbert after he knew he was not Mr. Price was an unreasonable extension of the detention and not supported by any factual basis. Defendant Flatten should have allowed Mr. Gilbert to move on when he saw Mr. Gilbert's face and it was clear he was not Sammy Price. At that point he had no reason to suspect Mr. Gilbert of any wrongdoing.

68. Instead, Defendants subjected Mr. Gilbert to an unlawful custodial arrest that was not based on probable cause for obstructing the legal process. The arrest was also in violation of Rule 6.01 of the Minnesota Rules of Criminal Procedure.

69. As a direct and proximate result of the acts and omissions of Defendants, Mr. Gilbert has suffered physical pain and injury, mental and emotional distress, economic losses, embarrassment and humiliation, the invasion of his person, and has incurred other losses and damages, altogether well in excess of \$50,000.

COUNT VII
Violation of MN Constitution, Article I, § 2 – Unequal Treatment and Denial of Rights and Privileges

70. Defendants completely unsupported claim that Mr. Gilbert looked like Mr. Price had no support in the law but was instead the product of racial bias.

71. Defendants' harassment of Mr. Gilbert after they knew he was not Mr. Price was racially discriminatory in violation of Mr. Gilbert's rights and privileges, and right to equal

protection under the Minnesota Constitution.

72. As a direct and proximate result of the acts and omissions of Defendants, Mr. Gilbert has suffered physical pain and injury, mental and emotional distress, economic losses, embarrassment and humiliation, the invasion of his person, and has incurred other losses and damages, altogether well in excess of \$50,000.

COUNT VIII
Violation of MN Constitution, Article I, § 7 – Due Process

73. The Minnesota Constitution provides that all people, including Mr. Gilbert, have full due process protections under the law.

74. Defendants subjected Mr. Gilbert to an unlawful custodial arrest in violation of Rule 6.01 of the Minnesota Rules of Criminal Procedure.

75. Defendants' continued harassment of Mr. Gilbert after they knew he was not Mr. Price was unreasonable and not supported by any factual basis.

76. Defendants thus deprived Mr. Gilbert of his liberty without following the correct and lawful process for doing so.

77. As a direct and proximate result of the acts and omissions of Defendants, Mr. Gilbert has suffered physical pain and injury, mental and emotional distress, economic losses, embarrassment and humiliation, the invasion of his person, and has incurred other losses and damages, altogether well in excess of \$50,000.

COUNT IX
Violation of MN Constitution, Article I, § 8 – Redress of injuries or wrongs

78. Every person in Minnesota is entitled to a remedy for all injuries or wrongs received to his person, property or character. Ms. Gilbert is entitled to a remedy for the injuries and wrongs done to him by Defendants through their unlawful detention and arrest of his person, the excessive

force they used against him, the destruction of his property, and the emotional damage they inflicted on him throughout this interaction.

79. As a direct and proximate result of the acts and omissions of Defendants, Mr. Gilbert has suffered physical pain and injury, mental and emotional distress, economic losses, embarrassment and humiliation, the invasion of his person, and has incurred other losses and damages, altogether well in excess of \$50,000.

COUNT X
RESPONDEAT SUPERIOR

80. At all times, Defendant Flatten was working under the color of law. Defendant City of Willmar is responsible for the actions of Defendant Flatten.

81. Under the doctrine of respondeat superior, Defendant City of Willmar is liable for Defendant Flatten's actions.

82. As a direct and proximate result of the acts and omissions of Defendants, Mr. Gilbert has suffered physical pain and injury, mental and emotional distress, economic losses, embarrassment and humiliation, the invasion of his person, and has incurred other losses and damages, altogether well in excess of \$50,000.

DECLARATORY AND INJUNCTIVE RELIEF

83. Mr. Gilbert is entitled to declaratory and injunctive relief to prevent further harm from Defendants. Specifically, Mr. Gilbert seeks an order:

1. Declaring that the Defendants have violated the guarantees against unreasonable searches and seizures, equal protection, and due process of law under the Minnesota Constitution; and
2. Permanently enjoining and prohibiting Defendants from interfering with

Plaintiff's constitutional rights by Defendants from:

- a. Retaliating against Plaintiff or his family for bringing this lawsuit
- b. From subjecting Plaintiff to illegal search and seizures in the future.

RELIEF REQUESTED

WHEREFORE Plaintiff prays for Judgment in his favor as follows:

1. Awarding judgment in favor of Plaintiff, and against the Defendants and each of them jointly and severally in an amount **in excess of** \$50,000.00 as and for compensatory damages.
2. Awarding Plaintiff all of his costs and disbursements herein, and prejudgment interest.
3. Grant injunctive relief against Defendants as requested.
4. Awarding Plaintiff reasonable attorney fees and costs, including pursuant to the Minnesota Human Rights Act, Minnesota Statutes Chapter 363A.
5. Such other and further relief as the Court may deem just and proper.

Date: June 21, 2024

AMERICAN CIVIL LIBERTIES UNION OF MINNESOTA

By: /s/ Ian Bratlie

Teresa Nelson (Bar No. 0269736)

Ian Bratlie (Bar No. 0319454)

Alicia Granse (Bar No. 0400771)

AMERICAN CIVIL LIBERTIES UNION OF MINNESOTA

P.O. Box 14720

Minneapolis, MN 55414

Tel: (651) 645-4097

tnelson@aclu-mn.org

ibratlie@aclu-mn.org

Attorneys for Plaintiff

ACKNOWLEDGMENT REQUIRED BY MINN. STAT. § 549.211

Plaintiff, by his undersigned attorney, hereby acknowledges that, pursuant to Minn. Stat. § 549.211, costs, disbursements, and reasonable attorney and witness fees may be awarded to the opposing party in this litigation.

Dated: June 21, 2024

By: /s/ Ian Bratlie
Ian Bratlie