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Attorney for Plaintiffs Stephen Aiken and Deborah Aiken

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Stephen Aikens and Deborah Aikens,

Plaintiffs,

vs.

Town of Sahuarita, Sergeant Eric Heath,
Lieutenant Juan Zamora, Sergeant Oscar
Fruge, and Officer Zachery Woodrow

Defendants.

Case No.

COMPLAINT

Plaintiffs, by and through counsel undersigned, brings this civil rights action against the Town of Sahuarita and the individual officers named above pursuant to 42 U.S.C. § 1983. Herein, Plaintiffs seek both monetary damages and equitable relief. In support of the same, Plaintiff alleges the following:

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff Stephen and Deborah Aiken are residents of Pima County, Arizona.

2. Defendant, Town of Sahuarita, is a town incorporated in Pima County, Arizona.

3. Defendant, Eric Heath, was, at all relevant times, a police officer employed by the Town of Sahuarita and was, at all relevant times, acting under color of state law.

4. Defendant Heath is sued in his individual and official capacities.

1 5. Defendant, Juan Zamora, was, at all relevant times, a police officer
2 employed by the Town of Sahuarita and was, at all relevant times, acting under color
3 of state law.

4 6. Defendant Zamora is sued in his individual and official capacities.

5 7. Defendant, Oscar Fruge, was, at all relevant times, a police officer
6 employed by the Town of Sahuarita and was, at all relevant times, acting under color
7 of state law.

8 8. Defendant Fruge is sued in his individual and official capacities.

9 9. Defendant, Zachery Woodrow, was, at all relevant times, a police
10 officer employed by the Town of Sahuarita and was, at all relevant times, acting
11 under color of state law.

12 10. Defendant Woodrow is sued in his individual and official capacities.

13 11. Plaintiffs bring claims against all Defendants for federal civil rights
14 violations pursuant to 42 U.S.C. § 1983.

15 12. Plaintiffs also bring state law claims against all Defendants, over which
16 this Court has pendant jurisdiction pursuant to 28 U.S.C. § 1367.

17 13. Plaintiffs gave proper notice of their state law claims to Defendants
18 pursuant to A.R.S. § 12-821 and § 12.821.01.

19 **FACTUAL ALLEGATIONS COMMON TO ALL COUNTS**

20 14. Plaintiffs, a married couple, are residents of the Town of Sahuarita.

21 15. On April 9, 2023, Plaintiffs were in bed at their home when Sahuarita
22 officers Fruge and Woodrow approached their home and pulled Steve from his bed
23 to answer the door.

24 16. As officers approached the house, the home was dark and the whole
25 neighborhood was quiet.

26 17. Officers were dispatched to the Aiken home after a 911 caller reported
27 a verbal argument going on inside the house.
28

1 18. The caller, who was reluctant to provide her call back information,
2 claimed to live nearby and to have heard the disturbance while out walking.

3 19. In response to a question from the 911 dispatcher, the caller agreed
4 that she had heard a crashing sound from inside the house.

5 20. When Steve Aiken came to the door, Sergeant Fruge shined his
6 flashlight into the vertical window next to the Aikens' front door.

7 21. Steve assured Sergeant Fruge that everyone in the home was okay,
8 that he and his wife had been upset earlier in the evening because their grandson
9 was in the hospital with a serious medical condition.

10 22. Sergeant Fruge repeatedly asked Steve to come outside or to let him
11 into the house, and Steve consistently refused.

12 23. Steve asked Sergeant Fruge whether he had a warrant; Sergeant
13 Fruge did not.

14 24. Steve engaged with Sergeant Fruge through the window pane next to
15 his front door but never opened the door.

16 25. Sergeant Fruge was able to see Steve through the window. He was
17 also able to see past Steve into the Aikens' home, asking Steve at one point why
18 the vacuum was on the floor. Steve simply responded that it had fallen over.

19 26. Sergeant Fruge asked Steve several times to talk with his wife. Steve
20 said no, that his wife was in bed and that she was ill.

21 27. After several minutes of interacting with Sergeant Fruge and answering
22 his questions, Steve asked Sergeant Fruge to leave so he (Steve could go back to
23 bed).

24 28. Sergeant Fruge refused to leave the Aikens' property.

25 29. Sergeant Fruge told Mr. Aiken that he could stay there (on the Aikens'
26 porch) all night and that someone else could take over for him in the morning.

27 30. During the time that Sergeant Fruge interacted with Mr. Aiken through
28 the windowpane, Sergeant Heath and Lieutenant Zamora arrived on scene.

1 31. Sergeant Fruge told Steve that if he could just talk to Deborah, the
2 officers could leave.

3 32. Steve gave officers a phone number for Deborah, and Officer Woodrow
4 contacted her over the phone.

5 33. Deborah assured Officer Woodrow that she was fine and did not need
6 any help.

7 34. Officers asked Deborah to come to the front door, telling her that if they
8 could just see her for 30 seconds, they would be able to leave.

9 35. Deborah came to the front door and interacted with Sergeant Fruge,
10 again assuring him that she was okay. At that point, officers had been on the Aikens'
11 property for 33 minutes.

12 36. Sergeant Fruge asked Deborah to step outside and talk with him, and
13 Deborah refused. She told officers that her house was a mess and she'd been ill.
14 She did not want to come out and did not want anyone to come in.

15 37. In the meantime, officers called the 911 caller and spoke with her in a
16 conversation not captured by their body worn cameras.

17 38. Officers also summoned a door breaching device to the Aikens' home.

18 39. 36 minutes after officers arrived, while Sergeant Fruge was speaking
19 with Deborah, one of the officers told Fruge to tell her that if she did not open the
20 door, they would "have to force entry to check welfare."

21 40. Sergeant Fruge threatened Deborah that if she did not open the door,
22 "we're going to have to break it in."

23 41. Notably, during the time that officers talked with the Aikens, called the
24 911 caller, and waited for the door breaching device to be brought to the scene, they
25 made no effort to obtain a warrant.

26 42. After 38 minutes on the Aikens' property, and while Sergeant Fruge still
27 had visual and verbal contact with both Aikens, officers broke down the
28 Aikens' door with a breaching tool.

1 43. When the door flew open, it struck Deborah Aiken, the very person
2 whose welfare officers were supposedly trying to protect.

3 44. Officers physically pulled Deborah from her home, though she was
4 suspected of no crime, even pulling her hands from the door frame she tried to grab
5 onto.

6 45. Officers entered the Aikens' home and placed Steve in handcuffs.

7 46. Steve spent the next 22 minutes in handcuffs in his front yard under the
8 watch of Officer Woodrow.

9 47. During that time, one of Steve's neighbors arrived home, most certainly able
10 to see him handcuffed in his own yard.

11 48. Deborah continued to assure officers she was fine and explain that
12 Steve had been upset earlier in the evening over his grandson but that there had
13 been no altercation.

14 49. Officers went through the Aikens' home, conducting a visual search of
15 every room.

16 50. While being questioned, Deborah asked officers several times to leave
17 her home, and they refused, continuing to ask her questions about the state of her
18 furniture and a broken glass.

19 51. Deborah explained that she had been sick and hadn't felt up to cleaning
20 up the dropped glass that night, deciding to leave it until morning.

21 52. Even once the house had been "cleared," Steve remained in handcuffs.

22 53. After 22 minutes, officers removed Steve's handcuffs and gave him the
23 phone number for their Risk Management division.

24 54. Officers were on the Aikens' property for more than hour total, despite
25 multiple requests from both Aikens to leave.

26 55. During that hour, officers did nothing to verify the veracity of the 911
27 caller's report.
28

1 56. Upon information and belief, the 911 caller was not a neighbor at all but
2 a disgruntled former employee of Mr. Aikens’.

3 **COUNT I: FALSE ARREST IN VIOLATION OF THE FOURTH AMENDMENT**

4 57. Plaintiffs hereby incorporate by reference the allegations contained in
5 paragraphs 1-56 as though set forth fully herein.

6 58. Officers Heath, Zamora, Fruge, and Woodrow participated in Plaintiff
7 Steve Aiken’s warrantless arrest.

8 59. No reasonable officer could have concluded, under the totality of the
9 circumstances known at the time, that Steve had committed any crime.

10 60. No reasonable officer could have concluded, under the totality of the
11 circumstances known at the time, that Steve posed a threat to officer safety or that
12 he posed a risk of destroying evidence.

13 61. Steve was calm and cooperative, and no exigent circumstances
14 warranted placing him in handcuffs.

15 62. Plaintiff was damaged as a result of Defendants’ violation of his
16 Constitutional rights.

17 63. To the extent that any policy or practice of the Town of Sahuarita was
18 the moving force behind the violation, the Town is also liable under *Monell v. Dep’t*
19 *of Social Services of the City of New York*, 436 U.S. 658 (1978).

20 **COUNT II: ILLEGAL SEARCH IN VIOLATION OF THE FOURTH AMENDMENT**

21 64. Plaintiffs hereby incorporates by reference the allegations contained in
22 paragraphs 1-63 as though set forth fully herein.

23 65. Officers committed an unlawful search of the Aikens’ home first by
24 shining a flashlight through the window and, later, by conducting a visual search of
25 every room of the Aikens’ home.

26 66. This constitutes a violation of both Steve and Deborah Aikens’ Fourth
27 Amendment rights.

1 circumstances made their repeated refusals to leave the property a violation
2 of the Fourth Amendment.

3 79. Plaintiffs were further damaged as a result of Defendants' actions.

4 80. To the extent that any policy or practice of the Town of Sahuarita was
5 the moving force behind the violation, the Town is also liable under *Monell v. Dep't*
6 *of Social Services of the City of New York*, 436 U.S. 658 (1978).

7 **COUNT V: SUPERVISORY LIABILITY AGAINST LIEUTENANT ZAMORA**

8 81. Plaintiffs hereby incorporate by reference the allegations contained in
9 paragraphs 1-80 as though set forth fully herein.

10 82. Lieutenant Zamora has supervisory liability as a supervisor who
11 participated in the deprivation of the Aikens' Constitutional rights.

12 83. Plaintiffs suffered damages as a result of Zamora's conduct.

13 84. To the extent that any policy or practice of the Town of Sahuarita was
14 the moving force behind the violation, the Town is also liable under *Monell v. Dep't*
15 *of Social Services of the City of New York*, 436 U.S. 658 (1978).

16 **COUNT VI: FAILURE TO TRAIN AND/OR SUPERVISE AND POLICY OR**
17 **PRACTICE**

18 85. Plaintiffs hereby incorporate by reference the allegations contained in
19 paragraphs 1-84 as though set forth fully herein.

20 86. The Town of Sahuarita failed to adequately train and/or supervise
21 officers Woodrow, Fruge, Zamora, and Heath.

22 87. At the scene, Lt. Zamora told Mr. Aiken that the officers' behavior that
23 night was consistent with Sahuarita policy and procedure.

24 88. Plaintiffs were damaged as a result of the Town's failure.

25 **COUNT VII: FALSE ARREST UNDER ARIZONA STATE LAW**

26 89. Plaintiffs hereby incorporate by reference the allegations contained in
27 paragraphs 1-88 as though set forth fully herein.

1. For actual damages incurred as a result of Defendants' conduct;
2. For compensatory damages in a just and reasonable amount;
3. For punitive damages against the individual Defendants in an amount just and reasonable;
4. For Plaintiff's costs and attorney's fees pursuant to 42 U.S.C. § 1988;
5. For declaratory relief on all counts;
6. For specific declaratory relief finding violations of the Aikens' constitutional rights; and
7. For equitable relief, including but not limited to, the adoption of Town of Sahuarita policies that would help prevent a similar incident in the future and additional training of Town of Sahuarita police officers, as well as other equitable relief that this Court may deem just and reasonable.

DATED April 9, 2024.

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