

**IN THE DISTRICT COURT FOR POTTAWATOMIE COUNTY
STATE OF OKLAHOMA**

(1) DONALD SMITH,

Plaintiff,

v.

(2) JOHN SANDERS, in his individual
capacity;
(3) AARON DILLMAN, in his individual
capacity;
(4) TREY BAKER,
(5) DAVID SELLERS, and
(6) CHAD LARMAN,
(7) CITY OF TECUMSEH,

Defendants.

Case No.: **CJ-25-441**

FILED
IN THE DISTRICT COURT

OCT 07 2025

POTTAWATOMIE COUNTY, OK
VALERIE N. UELTZEN, COURT CLERK
[Signature]

PETITION

Donald Smith, for his cause of cause against the above-named Defendants, alleges and states as follow:

I.

PARTIES, JURISDICTION, VENUE

1. Donald Smith (Donald) is a resident and citizen of Oklahoma. He currently resides within the city limits of Defendant City of Tecumseh (City)

2. John Sanders (Sanders) and Aaron Dillman (Dillman) are or were peace officers employed by City and acting within the scope of employment and consistent with the written policies and unwritten practices approved, adopted, maintained, and enforced by City throughout their encounter with the Plaintiff on October 8, 2023. At all times relevant to the facts below, Sanders and Dillman were acting under color and authority of state law.

3. Try Baker (Baker), David Sellers (Sellers), and Chad Larman (Larman) are or were residents of City.

4. City is a municipal corporation located in Pottawatomie County. Upon information and belief, Sanders and Dillman are or were peace officers employed by and working for City at the time of the events described below.

5. The facts detailed below occurred with City making jurisdiction and venue proper.

II.

STATEMENT OF FACT

6. On October 8, 2023, Donald was driving home with his wife Shannon.

7. To get to their home, the Smiths drove past the homes of Baker, Sellers, and Larman.

8. As the Smiths passed the homes, Baker, Sellers, and Larman believed Smith had gestured to them and allowed his dog to bark at them.

9. The Smiths never stopped and continued driving to their home.

10. Unknown to the Smiths, Baker, Sellers, and Larman reported the Smiths to the City police department.

11. In response, City officers Sanders and Dillman were dispatched to the scene and took a report from Baker, Sellers, and Larman.

12. In Dillman's report, Baker stated that (1) Smith had gestured to them; (2) allowed his dog to bark at them from the vehicle; (3) previously used profane language towards them; and (4) made "gestures as if he was going to have his dog attack people."

13. In Sanders report, Larman stated that (1) the Smiths would historically drive slowly through the neighborhood; (2) would allow a large breed dog to "lunge and try to get out

of the vehicle,” (3) would “shout obscenities, extend the middle finger, and generally try to intimidate”;

14. The Sanders report also includes a statement that Sellers and Baker corroborated the Larman claims that the Smiths “willingly and repeatedly harassed them when they continually slowly drove past their houses.”

15. The Sanders report includes assertions by Baker, Sellers, and Larman that each of them were in “constant fear” of “what either [of the Smiths] could be capable of physically doing as well as the possibility of the large breed dog coming out of the vehicle and attacking.”

16. The Sanders report notes that Baker, Sellers, and Larman reported feeling “intimidated and threatened by the actions of [the Smiths],” who were described as being in their mid-60s and “shouting obscenities and acting threatening.”

17. Sanders and Dillman then drove to the Smiths home where they observed the Smiths sitting on their front porch.

18. As soon as Sanders and Dillman exited their patrol car Donald asked if they had a warrant, and one of the officers responded, “No.”

19. Donald then immediately asked, “Then why are you on my property?”

20. Neither officer responded, but both officers continued advancing on Donald and Shannon, but in a more aggressive manner.

21. Upon information and belief, both officers escalated their behaviors from this point forward in retaliation for Donald asking legitimate questions about the officers’ presence on their property without a warrant.

22. Donald then told them “I don’t want to have a consensual encounter with either of you.”

23. Donald's statement was heard by both officers, and despite hearing Donald's statement, both officers continued to advance on Donald and his wife.

24. When Sanders reached the front porch, he told Donald "I'm gonna tell you what ..."

25. Donald interrupted him saying, "You're not going to tell me anything."

26. Sanders continued, saying "We're here to investigate an allegation."

27. Donald was not required to assist the officers in their investigation in any way.

28. Donald then told both officers that "You need to leave my property."

29. Donald's statement was an explicit and unambiguous revocation of the implied right of entry onto the property. *See, e.g., United States v. Carloss*, 818 F.3d 988, 1002 (10th Cir. 2016) ("[I]f a homeowner revokes the license with sufficient clarity, police can no longer avail themselves of the implicit license")

30. Despite the revocation, Sanders and Dillman did not leave.

31. Instead, Sanders again said he was there to "investigate" an allegation.

32. Sanders's decision to "investigate" an allegation did not arise from any exigency or other circumstance that would relieve him of the warrant requirement.

33. Donald again told both officers to leave his property and reminded them both this was the second time he told them to leave.

34. Donald told them explicitly he is not there to help them investigate anything.

35. Sanders and Dillman remained next to the porch and did not leave.

36. Sanders then told Donald he is the subject of the investigation.

37. Being the subject of the investigation did not require Donald to assist Sanders or

Dillman or participate in their investigation in any way.

38. Donald then advised both officers that he has a 5th Amendment right not to speak or assist them.

39. Donald then told both officers that he has a 4th Amendment right to be free on his property and told them again they have been asked to leave.

40. Neither Sanders nor Dillman left.

41. Instead, they remained standing adjacent to the front porch using command presence to intimidate Donald and his wife.

42. Donald told Sanders and Dillman that they do not have a warrant and he has nothing to tell them.

43. Sanders then escalated his behaviors in response to Donald exercising his free speech rights and told Donald "[T]his is how it's gonna work."

44. Donald told both officers again that they need to leave.

45. Neither officer left.

46. Sanders again told Donald "Here's the way its gonna work."

47. Sanders then told Donald and his wife that they needed to provide identification.

48. Donald told them again that they need to leave.

49. Sanders and Dillman did not leave.

50. Sanders again justified his refusal to leave by telling Donald and his wife that they are the subject of an investigation.

51. Donald told them again that he was declining to help the investigation.

52. Donald told them again that they need to leave.

53. Both officers refused to leave.

54. Sanders told Donald that he “is going to provide identification.”
55. Donald declined, noting that this is his property, and both officers had been told to leave.
56. Sanders then told Donald that he will be placed under arrest for obstruction.
57. Sanders then placed Donald in handcuffs.
58. Sanders unreasonably tightened the handcuffs so they would cause pain to Donald.
59. Sanders unreasonably tightened the handcuffs in retaliation for Donald’s exercise of his right to free speech.
60. Dillman stood watching Sanders use unreasonable force on Donald and failed to intervene to stop him despite having time and opportunity.
61. Sanders then told Donald’s wife that he needs to see her identification.
62. With Donald in handcuffs, Sanders then performed a search of Donald’s person.
63. Sanders told Donald it’s a “Terry stop.”
64. Donald again told the officers they need to leave.
65. The officers did not leave.
66. Shannon then walked inside the home and closed and locked the storm door.
67. No officer gave her any commands to stay on the porch.
68. Dillman then approached the storm door and demanded that Shannon come outside, using both his voice and gestures.
69. Shannon responded by telling Dillman, “No.”
70. Undeterred, Dillman again told Shannon to come outside.
71. Shannon responded again by telling Dillman, “No.”

72. Shannon told Dillman multiple times to get a warrant.

73. Sanders then appeared at the storm door and told Shannon to “Open the door or we’re going to open the door” as he simultaneously pressed his index finger onto the glass on the storm door in a menacing fashion designed to intimidate and threaten her.

74. Sanders’s behaviors were designed to strike fear in Shannon and intimidate her by forcing her to choose between exercising her rights or having armed agents of the state break down her door and cause property damage to her home.

75. When Shannon stood on her rights, Sanders reached for the door handle and attempted to break into her home through the locked storm door.

76. Sanders then forcefully and aggressively yanked on the door handle multiple times in an effort to break the locking mechanism so he could continue terrorizing Shannon inside the home.

77. To keep herself safe from Sanders and Dillman, Shannon closed the front door and secured the deadbolt.

78. Dillman was standing there watching Sanders attempt to break into the home without a warrant and failed to intervene to stop him despite having time and opportunity.

79. Dillman again tried to coerce Shannon to exit the home as part of his “investigation” and to “identify” who she is and to talk with her.

80. There is no obvious reason why Dillman could not “talk” to Shannon through the window, and his assertion was clear pretext to further coerce Shannon outside the home to unlawfully arrest her.

81. Dillman then asked Shannon for her name multiple times and she declined.

82. Sanders and Dillman eventually gave up on the attempted breaking and entering

and left the property with Donald, but not before rifling through Donald's mobile phone and Shannon's purse which were located on the front porch.

83. Upon information and belief, the tactics and behaviors exhibited by Sanders and Dillman are directed and motivated by the official policies and practices of the Tecumseh police department such that Tecumseh's policies and practices are the moving force behind the actions of Sanders and Dillman.

84. The actions of these Defendants are the direct and proximate cause of damages and injuries suffered by Plaintiff.

III.

STATEMENT OF CLAIMS

CLAIM NO. 1 – NEGLIGENCE

SELLERS, BAKER, LARMAN

85. Plaintiff adopts and incorporates by reference each paragraph as if fully set forth herein.

86. Sellers, Baker, and Larman owed a duty to the Smiths in the accurate reporting of the encounter. Sellers, Baker, and Larman breached that duty through unreasonable conduct in their inaccurate and incomplete reporting of the incident to Sanders and Dillman, which predictably and foreseeably caused damages and injuries for which these Defendants are liable.

CLAIM NO. 2 – UNLAWFUL ENTRY/PRESENCE

SANDERS AND DILLMAN

87. Plaintiff adopts and incorporates by reference each paragraph as if fully set forth herein.

88. Sanders and Dillman unreasonably entered or maintained their presence upon Donald's property after the implied right of entry was unambiguously revoked for the purpose of unlawfully seizing Donald without a warrant, thereby causing injuries and damages, for which

these Defendants are liable.

CLAIM NO. 3 – EXCESSIVE FORCE

SANDERS

89. Plaintiff adopts and incorporates by reference each paragraph as if fully set forth herein.

90. Sanders and Dillman were actively violating the law when they used an unreasonable amount of force to arrest Donald without a warrant or probable cause, which caused injuries and damages for which these Defendants are liable.

CLAIM NO. 4 – RETALIATION

SANDERS

91. Plaintiff adopts and incorporates by reference each paragraph as if fully set forth herein.

92. Sanders and Dillman used aggressive and unlawful police tactics in retaliation for Donald exercising his right to speak and ask questions of the officers, thereby causing injuries and damages for which these Defendants are liable.

CLAIM NO. 5 – UNLAWFUL SEARCH

SANDERS

93. Plaintiff adopts and incorporates by reference each paragraph as if fully set forth herein.

94. After placing Donald in the patrol car, Sanders returned to the front porch and seized Donald's mobile phone and began going through the device without a warrant or probable cause, thereby causing injuries and damages for which this Defendant is liable.

CLAIM NO. 5 – FAILURE TO INTERVENE (EXCESSIVE FORCE)

DILLMAN

95. Plaintiff adopts and incorporates by reference each paragraph as if fully set forth herein.

96. Dillman was present and observed Sanders use overly tight handcuffing techniques on Donald and had time and opportunity to intervene but failed to do, thereby causing Donald to suffer greater injuries than he otherwise would for which this Defendant is liable.

CLAIM NO. 6 – UNLAWFUL POLICY OR PRACTICE (UNLAWFUL ENTRY)

CITY

97. Plaintiff adopts and incorporates by reference each paragraph as if fully set forth herein.

98. Upon information and belief, City adopted, enforced, ratified, and maintained official written policies and unwritten practices as more fully detailed above that served as the moving force behind the injuries and damages suffered by Plaintiff and for which this Defendant is liable.

CLAIM NO. 7 - UNLAWFUL POLICY OR PRACTICE (UNLAWFUL SEIZURE)

CITY

99. Plaintiff adopts and incorporates by reference each paragraph as if fully set forth herein.

100. Upon information and belief, City adopted, enforced, ratified, and maintained official written policies and unwritten practices as more fully detailed above that served as the moving force behind the injuries and damages suffered by Plaintiff and for which this Defendant is liable.

CLAIM NO. 8 - UNLAWFUL POLICY OR PRACTICE (INADEQUATE TRAINING)

CITY

101. Plaintiff adopts and incorporates by reference each paragraph as if fully set forth herein.

102. Upon information and belief, City adopted, enforced, ratified, and maintained official written policies and unwritten practices as more fully detailed above that served as the moving force behind the injuries and damages suffered by Plaintiff and for which this Defendant is liable.

CLAIM NO. 9 - UNLAWFUL POLICY OR PRACTICE (UNLAWFUL SEARCH)

CITY

103. Plaintiff adopts and incorporates by reference each paragraph as if fully set forth herein.

104. Upon information and belief, City adopted, enforced, ratified, and maintained official written policies and unwritten practices as more fully detailed above that served as the moving force behind the injuries and damages suffered by Plaintiff and for which this Defendant is liable.

WHEREFORE, all premises considered, Plaintiff respectfully requests the Court grant judgment against these Defendants and enter judgment in favor of Plaintiff and against each Defendant in an amount that exceeds \$250,000.00.

Respectfully submitted,

BRYAN & TERRILL

s/J. Spencer Bryan

J. Spencer Bryan, OBA # 19419

Steven J. Terrill, OBA # 20869

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