

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA**

GREGORY WASHINGTON, JORDAN MILES, CURTIS LOGAN, ISAAH WALKER, CONNELL WILSON, BLAKE BANKS, KEITH GREEN, MESIAH HOWARD, SHAKARI ORE, DAVID MITCHELL, MARIO JAMAL KING, SHERROD SMITH, MARCUS VANIRVIN, KADEJAH WILLIAMS, KRYSTAL HAMLETT, YOLANDA IRVING, JUWAN HARRINGTON, CYDNEEA HARRINGTON, and JALEN IRVING,

Plaintiffs,

v.

THE CITY OF RALEIGH, Officer OMAR I. ABDULLAH, Sergeant WILLIAM ROLFE, Officer RISHAR PIERRE MONROE, Officer JULIEN DAVID RATTELADE, Officer MEGHAN CAROLINE GAY, Officer DAVID CHADWICK NANCE, Officer JASON GWINN, Lieutenant JENNINGS BUNCH, Officer T.J. OUELLETTE, Officer DANIEL TWIDDY, in their individual capacities, and LLOYD'S, LONDON, as the City of Raleigh's Insurance Provider,

Defendants.

5:21-CV-00194-M

**AMENDED COMPLAINT
(Jury Trial Demanded)**

NOW COMES Plaintiffs, demanding a jury trial and alleging the following against the Defendants:

INTRODUCTION

1. Plaintiffs are Nineteen individuals: twelve Black males who were wrongfully prosecuted on fabricated heroin trafficking charges; one Black male wrongfully prosecuted on fabricated marijuana distribution charges; and six Black women and children whose homes were illegally raided and were wrongfully detained because of false allegations by the Raleigh Police Department ("RPD").

2. Raleigh Police Officer Omar Abdullah and individual officers in the RPD VICE unit repeatedly conspired with a confidential informant to plant fake heroin and fabricate drug charges.
3. As a result, twelve Plaintiffs were falsely charged with heroin trafficking, were held in jail on up to \$500,000 bond and faced mandatory minimum sentences of up to 7.5 years in prison.
4. The twelve Plaintiffs, combined, served approximately 2.5 years in jail before the charges against each of them were dismissed.
5. The other Plaintiffs had their homes raided by RPD SWAT and VICE Officers and were illegally detained because of the false allegations.
6. Plaintiffs bring this action for compensatory damages and punitive damages pursuant to 42 U.S.C. §§ 1983 and 1988, and the Fourth, Fifth, Sixth and Fourteenth Amendments to the United States Constitution and under North Carolina law.

PARTIES

7. Plaintiff Gregory Washington is a resident of Wake County, North Carolina.
8. Plaintiff Jordan Miles is a resident of Wake County, North Carolina.
9. Plaintiff Isaiah Walker is a resident of Wake County, North Carolina.
10. Plaintiff Curtis Logan is a resident of Wake County, North Carolina.
11. Plaintiff Connell Wilson is a resident of Wake County, North Carolina.
12. Plaintiff Blake Banks is a resident of Wake County, North Carolina.
13. Plaintiff Keith Green is a resident of Wake County, North Carolina.
14. Plaintiff Messiah Howard is a resident of Wake County, North Carolina.
15. Plaintiff Shakari Ore is a resident of Wake County, North Carolina.
16. Plaintiff David Mitchell is a resident of Wake County, North Carolina.

17. Plaintiff Mario Jamal King is a resident of Wake County, North Carolina.
18. Plaintiff Krystal Hamlett is a resident of Wake County, North Carolina.
19. Plaintiff Sherrod Smith is a resident of Wake County, North Carolina.
20. Plaintiff Marcus VanIrvin is a resident of Wake County, North Carolina.
21. Plaintiff Yolanda Irving is a resident of Wake County, North Carolina.
22. Plaintiff Cydneea Harrington is a resident of Wake County, North Carolina.
23. Plaintiff Juwan Harrington is a resident of Wake County, North Carolina.
24. Plaintiff Jalen Irving is a resident of Wake County, North Carolina.
25. Plaintiff Kadejah Williams is a resident of Wake County, North Carolina.
26. Defendant City of Raleigh (the “City”) is a municipal corporation organized by charter under Chapter 160A of the North Carolina General Statutes. It maintains and operates the Raleigh Police Department (“RPD”). Employees of RPD are employees and agents of the City, which bears legal responsibility under state law for negligent acts and omissions of RPD in the course of their employment. The City is responsible for the appointment, training, supervision, promotion and discipline of police officers and supervisory police officers, including the individually named defendants herein.
27. Further, on information and belief, the City of Raleigh, at the time of the wrongful arrests, had waived governmental or sovereign immunity from the state law tort claims in this case pursuant to G.S. § 160A-485, either by participation in a government risk pool or through purchase of commercial insurance that will indemnify the City and its agents for any judgment against it or its agents named in this action.
28. Defendant Certain Underwriters at Lloyd’s, London (“Lloyd’s”), is sued as the City’s commercial insurance provider. On information and belief, it has issued insurance coverage

for any injury caused by the intentional acts, neglect or malfeasance of the City of Raleigh or its employees. Lloyd's maintains an office for service at Corporation Service Company, 2626 Glenwood Avenue, Suite 550, Raleigh, NC 27608.

29. All Individual Defendant RPD Officers, listed below, are entitled to indemnification by the City of Raleigh under North Carolina law for any liability arising from conduct described herein.
30. Officer Omar Abdullah is a police officer employed by the Raleigh Police Department, being sued in his individual capacity.
31. Sergeant William Rolfe is a police officer employed by the Raleigh Police Department, being sued in his individual capacity.
32. Officer Rishar Pierre Monroe is a police officer employed by the Raleigh Police Department, being sued in his individual capacity.
33. Officer Julien David Rattelade is a police officer employed by the Raleigh Police Department, being sued in his individual capacity.
34. Officer Meghan Caroline Gay is a police officer employed by the Raleigh Police Department, being sued in her individual capacity.
35. Officer David Chadwick Nance is a police officer employed by the Raleigh Police Department, being sued in his individual capacity.
36. Lieutenant Jennings Bunch is a police officer employed by the Raleigh Police Department, being sued in his individual capacity.
37. Officer Jason Gwinn is a police officer employed by the Raleigh Police Department, being sued in his individual capacity.

38. Officer T.J. Ouellette is a police officer employed by the Raleigh Police Department, being sued in his individual capacity.
39. Officer Daniel Twiddy is a police officer employed by the Raleigh Police Department, being sued in his individual capacity.

JURISDICTION

40. Jurisdiction is conferred upon this Court by 28 U.S.C. §§ 1331, 1343(a)(3) and (a)(4) because Plaintiffs' claims arise under law of the United States and seek redress of the deprivation under color of state law of rights guaranteed by the United States Constitution.
41. Plaintiffs further invoke this Court's supplemental jurisdiction pursuant to 28 U.S.C. § 1367(a) over any and all North Carolina state law claims and causes of action which derive from the same nucleus of operative facts and are part of the same case or controversy that gives rise to the federally based claims and causes of action.

VENUE

42. Venue is proper for the United States District Court for the Eastern District of North Carolina, pursuant to 28 U.S.C. §§ 1391(b)(1) and (b)(2), and 28 U.S.C. § 1402(b), where Defendants reside and maintain their relevant places of business, and where the actions complained of herein occurred.

JURY DEMAND

43. Plaintiffs respectfully demand a trial by jury of all issues in this matter pursuant to Fed. R. Civ. P. 38(b).

FACTS

RPD VICE Recruits an Unreliable Confidential Informant

44. In the fall of 2018 RPD Officers arrested a target they suspected of selling cocaine.

45. This target was arrested using a confidential informant employed by the RPD.
46. The target sold the confidential informant crushed aspirin and claimed it was cocaine.
47. The target was arrested and charged with selling fake drugs.
48. After his arrest, RPD VICE Officers David Chadwick Nance and Omar Abdullah recruited the target to work as a confidential informant with the RPD.
49. Officers Nance and Abdullah nicknamed the confidential informant Aspirin¹ because he had sold them aspirin he claimed was cocaine.
50. Aspirin had a lengthy criminal record, including arrests for violent felonies.
51. On August 16, 2018, Aspirin was approved to work as a confidential informant for the RPD.

Aspirin Starts out Making a few Small Level Crack Buys

52. Aspirin was homeless at the time of his arrest and agreed to be a confidential informant to work off his pending criminal charges and to make money.
53. He initially reported to Officers Nance and Abdullah and completed a few controlled drug buys.
54. The officers provided him pre-marked United States currency.
55. And Aspirin bought crack valued at less than \$100.
56. In late 2018, Officer Nance was transferred to a different unit within the RPD and Officer Abdullah began to supervise Aspirin alone.
57. Around this time, Aspirin was arrested in Nash County and jailed until February 2019 on a felony larceny charge.
58. In September of 2019, Aspirin was re-recruited by Abdullah to continue his work as a CI.
59. According to VICE Officer Julien Rattelade, after Aspirin complained about his pay, Abdullah

¹ Aspirin's true name is known to Plaintiffs' counsel. We have withheld his name from this Complaint because he served as a confidential informant but will disclose it to the Court upon request.

told him he could make more money if he brought in bigger cases.

60. After his transfer, Officer Nance learned from other RPD officers that Abdullah was charging defendants with trafficking heroin, even though the allegedly purchased heroin was brown sugar or a substance not heroin.

Officer Abdullah, RPD VICE Officers, and Aspirin Conspire to Fabricate Heroin Trafficking Offenses

61. Officer Abdullah, Aspirin, and VICE officers Gay, Rattelade, Monroe, Gwinn, Ouellette, and Sgt. Rolfe, conspired to fabricate heroin trafficking charges and wrongfully prosecute at least 15 individuals.
62. None of the falsely charged Plaintiffs had a prior history of heroin distribution or possession.
63. The RPD VICE officers always worked as a team when making controlled buys and arrests.
64. Before each fabricated buy, the RPD VICE officers including Sgt. Rolfe, and Officers Abdullah, Monroe, Rattelade, Gay, Ouellette and Gwinn met at the site and discussed the buy plan.
65. Aspirin, before each buy, was outfitted with at least one electronic surveillance device that recorded video and audio.
66. RPD VICE officers Rolfe, Monroe, Rattelade, Gay, Ouellette and Gwinn staged around the buy area and listened to and observed the alleged transaction.
67. Aspirin with the knowledge and assistance of Abdullah, and the individual RPD officers, hid fake heroin on his body before each alleged buy.
68. Abdullah claimed he searched Aspirin before each alleged buy and never located any contraband on his person.
69. Aspirin would shield the surveillance cameras, in violation of RPD procedure, so each alleged buy would not be video recorded.
70. After each controlled buy, Aspirin, Abdullah, and the VICE team, produced fake heroin

allegedly purchased from Plaintiffs.

71. Abdullah claimed he also searched Aspirin after each controlled buy and never located any contraband on his person.
72. Abdullah, against RPD policy on Management of Informants, met alone with Aspirin, before and after buys.
73. Abdullah always paid Aspirin without any other officers present, also a violation of RPD procedure.
74. VICE Officers including Rolfe, Ouellette, Rattelade, Moylette, and Nance, assisted in this scheme by signing receipt of informant funds sheets falsely stating that they had witnessed payment of informant funds to Aspirin.
75. After each fabricated buy, Sgt. Rolfe, Abdullah, Monroe, Rattelade, Gay, Ouellette and Gwinn attended a debriefing where they would view and process the evidence recovered, including the fake heroin.
76. RPD VICE officers including Monroe, Rattelade and Gay informed Abdullah on numerous occasions, while processing evidence, that the alleged drugs were not heroin but brown sugar.
77. RPD VICE officers informed Abdullah that the alleged drugs were not packaged the same way as heroin.
78. RPD VICE officers sometimes conducted field tests on the fake heroin—immediately after the alleged buy from Plaintiffs—and each time it tested negative for a controlled substance.
79. Even faced with a negative field test results and other officers' observations that the alleged heroin appeared to be brown sugar or a substance other than heroin, Abdullah and the other individual VICE officers still charged Plaintiffs with trafficking heroin.
80. Abdullah and other officers often failed to submit the alleged heroin for lab testing until weeks

or months after Plaintiffs' incarceration.

81. In each case, the City County Bureau of Identification ("CCBI") Lab reported that the alleged heroin tested negative and was not a controlled substance.
82. RPD VICE officers continued to use Aspirin for months as a CI even after he repeatedly conspired to fabricate heroin buys and conspired to produce heroin that tested negative for a controlled substance.
83. RPD VICE officers failed to, or severally delayed, informing the Wake County District Attorney ("DA") or the Court about the negative CCBI tests.
84. RPD VICE officers failed to inform the DA or the Court about the negative field tests.
85. The negative field tests were never preserved, recorded, or noted in the RPD officers' reports.
86. RPD VICE officers failed to inform the DA or the Court that they believed the alleged heroin was actually brown sugar, or about the unreliability of Aspirin.
87. Through this scheme, Defendants fabricated heroin trafficking charges against Plaintiffs, and multiple other individuals, all people of color.
88. RPD VICE officers including Monroe, reported Abdullah's ongoing scheme and pattern of wrongful arrests to Sergeant Rolfe and Lt. Bunch but neither supervisor intervened.
89. Officers Monroe and Rattelade stated that Abdullah was never disciplined or stopped from making false arrests by supervisors because he is Muslim, he had previously accused a supervisor of discrimination, and that Sgt. Rolfe and Lt. Bunch were afraid of also being accused of discrimination.
90. RPD VICE Officers William Rolfe, Rishar Pierre Monroe, Julien David Rattelade, Meghan Caroline Gay, David Chadwick Nance, Jason Gwinn, T.J. Ouellette and Lieutenant Jennings

Bunch were aware of and participated in Abdullah's scheme and failed to intervene to prevent the wrongful prosecution and incarceration of plaintiffs.

Sgt. Rolfe and Abdullah Repeatedly Violated RPD Policy on Management of Informants and Use of Funds

91. During his time as an informant, Aspirin, according to RPD records, was paid \$3,545.
92. Informant funds are approved and distributed by the City finance department, which then releases them to the Chief of Police, who releases them to the Division commander and then to the Supervisor of the officer working with the confidential informant.
93. RPD policy requires the office of professional standards to make quarterly audits of the use of informant funds.
94. Each time funds are disbursed to informants for payment, RPD policy requires (1) a record of transaction with the date and time the money was received, (2) all witness signatures of the release of funds, and (3) that the officer and informant involved both sign the receipt of funds sheet.
95. Sgt. Rolfe, Abdullah's supervisor, was responsible for maintaining records of all transactions involving informant funds.
96. Monthly summaries of the use of informant funds are required to be sent to the Division Commander, Lt. Bunch, and a Quarterly Report is sent to the Chief of Police.
97. VICE Officers, including Rolfe, Ouellette, Rattelade, Moylette, and Nance, repeatedly signed receipt of informant funds sheets stating that they had witnessed payment of informant funds to Aspirin.
98. VICE Officers Gay, Monroe, and Sgt. Rolfe, stated that Abdullah would always meet and pay Aspirin alone.
99. Thus, the VICE officers assertion that they had witnessed payment to Aspirin was

fabricated.

Mesiah Howard, Blake Banks and Krystal Hamlett

100. On November 26, 2019, Abdullah falsely claimed that Messiah Howard and Blake Banks sold heroin to Aspirin.
101. Messiah Howard and Blake Banks have never met.
102. Sgt. Rolfe approved distribution of \$140 in controlled buy money for this fabricated buy.
103. \$20 was returned as unused, the rest was never recovered.
104. Sgt. Rolfe approved payment of \$100 to Aspirin “for the purchase on an amount of heroin.”
105. Abdullah claimed that he searched Aspirin before the controlled buy and located no contraband on his person.
106. Sgt. Rolfe reviewed and approved Abdullah’s incident report.
107. Officer Ouellette processed the fake heroin as evidence.
108. On or about December 11, 2019, at approximately 9 p.m., Officer Abdullah alleged that Banks and Howard made a second heroin sale to Aspirin.
109. Banks, at the time, was working for Pinnacle Freight Solutions as a Truck Driver and was not in the state of North Carolina at the time of the alleged sale.
110. On the morning of December 11, 2019, Banks left Mebane, NC in his truck, and drove to Wilmington, DE, where he arrived on December 12, 2019.
111. Krystal Hamlett, on December 11, 2019, was arrested and detained by RPD officers, including Abdullah, who claimed they detained her because they were looking for her partner, Messiah Howard.
112. Hamlett was handcuffed at her home in front of her three young children.
113. After approximately one hour of being held in a RPD squad car, Hamlett was released

without any charges.

114. On or about December 19, 2019, the City County Bureau of Identification (“CCBI”) Lab reported that the heroin—allegedly sold by Howard and Banks—tested negative and was not a controlled substance.
115. On December 20, 2019, Blake Banks was arrested for allegedly selling heroin—that had already tested negative—to the confidential informant Aspirin.
116. Banks was pulled over and arrested while he was driving in his car with his family present.
117. Banks was interrogated by Abdullah and informed him that he was a truck driver for Affluent Logistics and was out of the state on the night of December 11, 2019.
118. Abdullah falsely charged Banks with selling trafficking amounts of heroin.
119. Sgt. Rolfe reviewed and approved Abdullah’s incident report.
120. Banks’ bond was set at \$150,000.
121. His family raised approximately \$12,000 for his release.
122. Banks was released on approximately December 30, 2019.
123. On or about March 10, 2020, Mesiah Howard discovered he had a warrant for his arrest and turned himself in to the RPD.
124. Even with the CCBI results proving the alleged heroin was not a controlled substance, Howard was arrested and charged by Abdullah for allegedly selling heroin to the confidential informant Aspirin.
125. Howard’s bond was set at \$500,000.
126. On March 31, 2020, Howard was released after his bond was reduced to \$6,000.
127. On June 30, 2020, all charges against Howard and Banks were dismissed.
128. Because of the fabricated charges and resulting incarceration, Howard was unable to receive

treatment for his lung cancer and suffered severe stomach pain.

129. Because of this arrest and incarceration Banks lost his employment as truck driver.

Curtis Logan

130. On January 2, 2020, Curtis Logan was arrested for allegedly selling heroin to the confidential informant Aspirin.

131. Logan was driving his car with his two young children when he was arrested.

132. Abdullah claimed that he searched Aspirin before the controlled buy and located no contraband on his person.

133. Abdullah falsely claimed that Logan sold Aspirin 20 grams of heroin for \$400.

134. Officer Rishar Pierre Monroe stated to Abdullah that the street price of 20 grams of heroin would have been approximately \$2000.

135. Officer Monroe conducted a field test on the alleged heroin, confirmed it was not a controlled substance, and reported these results to Abdullah.

136. The field test was never provided to the DA's office or defense counsel and the negative results were not included in any officers' report.

137. Even with the negative field test and Monroe's statements, Officer Abdullah charged Logan with trafficking heroin.

138. Logan's bond was set at \$500,000.

139. On or about February 17, 2020, the CCBI lab reported that the alleged heroin tested negative for a controlled substance.

140. Faced with the possibility of serving years in jail, Logan, on April 15, 2020, pled guilty to sale of a counterfeit controlled substance.

141. Logan had served 104 days in custody.

142. He was given a suspended sentence of 4 to 14 months in custody, and 18 months supervised probation.
143. Logan was ordered to have no contact with his two minor children.
144. On September 24, 2020, pursuant to a joint Motion for Appropriate Relief, Logan's judgment and sentence was vacated by a Wake County District Court Judge.
145. All charges against Logan were dismissed.

Jordan Miles

146. On January 28, 2020, Jordan Miles was arrested for allegedly selling heroin to the confidential informant Aspirin.
147. Miles was taken to the ground by Abdullah and SEU officers during his arrest.
148. Abdullah stated that he searched Aspirin before the controlled buy and located no contraband on his person.
149. Abdullah falsely claimed Miles sold Aspirin over 8 grams of heroin.
150. In violation of RPD policy, no audio or video recording was taken of this fabricated buy.
151. Sgt. Rolfe reviewed and approved Abdullah's incident report.
152. Officer Rattelade processed the fake heroin as evidence.
153. Miles was charged with trafficking heroin and his bond was set at \$150,000.
154. RPD delayed submitting the fake heroin to the CCBI lab until February 19, 2020.
155. On May 18, 2020, the CCBI lab reported that the alleged heroin tested negative for a controlled substance.
156. On June 23, 2020, Miles' bond was reduced to \$5,000 and he was released from custody.
157. On June 30, 2020, all charges against Miles were dismissed.
158. Because of this wrongful prosecution and incarceration Miles lost his construction job and

was separated from his three young children for almost 5 months.

Gregory Washington

159. On February 28, 2020, Gregory Washington was arrested for allegedly selling heroin to the confidential informant Aspirin.
160. Abdullah stated that he searched Aspirin before the controlled buy and located no contraband on his person.
161. Abdullah falsely claimed Washington sold Aspirin 6 grams of heroin.
162. After the fabricated buy, Abdullah and Aspirin discussed field testing the fake heroin.
163. A field test was never disclosed to the DA, the Court or defense counsel, or noted in any police report.
164. In violation of RPD policy, no audio or video recording was preserved of this fabricated buy.
165. Sgt. Rolfe reviewed and approved Abdullah's incident report.
166. Officer Rattelade processed the fake heroin as evidence.
167. Washington was charged with trafficking heroin and his bond was set at \$500,000.
168. Washington had no criminal record, and after 5 days his bond was reduced to \$300,000, an amount his family could pay, and he was released from custody.
169. The CCBI lab reported that the alleged heroin tested negative for a controlled substance.
170. On June 5, 2020, all charges against Washington were dismissed.

Sherrod Smith

171. On March 12, 2020, Sherrod Smith was arrested for allegedly selling heroin to the confidential informant Aspirin.
172. Abdullah claimed that he searched Aspirin before the controlled buy and located no

contraband on his person.

173. Officer Twiddy slammed Smith on the ground during the arrest.
174. Abdullah falsely claimed Smith sold Aspirin a trafficking amount of heroin.
175. Smith was strip searched after his arrest by Abdullah and Sgt. Rolfe.
176. Sgt. Rolfe approved payment of \$200 to Aspirin “for the purchase on an amount of heroin.”
177. Sgt. Rolfe reviewed and approved Abdullah’s incident report.
178. Officer Monroe processed the fake heroin as evidence.
179. Smith was charged with trafficking heroin and his bond was set at an amount he could not pay.
180. On or about March 31, 2020, Smith’s bond was reduced, and he was released from custody.
181. On April 1, 2020, Abdullah falsely alleged that Aspirin saw Smith on the street, chased him, and pointed a gun at him.
182. Abdullah falsely charged Smith with Assault by Pointing a Gun, Witness Intimidation, and Obstructing Justice.
183. On May 18, 2020, Smith was arrested and held on these fabricated charges.
184. Smith was released on or about May 23, 2020.
185. In June of 2020, CCBI lab reported that the alleged heroin tested negative for a controlled substance.
186. On June 30, 2020, all charges against Smith, including the charges for the fabricated assault, were dismissed.
187. Because of these two false arrests resulting periods of incarceration, Smith suffered from severe anxiety and gastritis.

Keith Green

188. On March 19, 2020, Keith Green was arrested for allegedly selling heroin to the confidential informant Aspirin.
189. Abdullah claimed that he searched Aspirin before the controlled buy and located no contraband on his person.
190. Sgt. Rolfe reviewed and approved Abdullah's incident report.
191. Sgt. Rolfe approved payment of \$300 to Aspirin "for the purchase on an amount of heroin."
192. Abdullah falsely claimed Green sold Aspirin 8.5 grams of heroin.
193. Officers Gwinn and Rattelade were present during this arrest.
194. Gwinn stated that no evidence of heroin distribution was located or observed during the arrest of Green.
195. Gwinn processed the fake heroin as evidence.
196. Rattelade conducted a field test, confirmed the alleged heroin tested negative for a controlled substance, and reported these results to Abdullah.
197. The negative field test results were never reported to the DA, defense counsel or the Court.
198. The negative field test results were never included in any officer's report.
199. Even with the negative field test, Green was charged with trafficking heroin and his bond was set at \$250,000.
200. The CCBI lab reported that the alleged heroin tested negative for a controlled substance.
201. On or about July 30, 2020, all charges against Green were dismissed and he was released from custody.
202. Green lost his employment for approximately 4 months because of this false arrest.

Shakari Ore

203. On April 9, 2020, Shakari Ore was arrested for allegedly selling heroin to the confidential

informant Aspirin.

204. Abudllah falsely claimed Ore sold Aspirin a trafficking amount of heroin.
205. Abdullah claimed that he searched Aspirin before the controlled buy and located no contraband on his person.
206. Ore was strip searched after his arrest by Abdullah and Sgt. Rolfe.
207. Sgt. Rolfe reviewed and approved Abdullah's incident report.
208. Rattelade and Gwinn processed the fake heroin as evidence.
209. Ore was charged with trafficking heroin and his bond was set at an amount he could not pay.
210. The CCBI lab reported that the alleged heroin tested negative for a controlled substance.
211. On or about June 9, 2020, Ore was released from custody.
212. On July 17, 2020, all charges against Ore were dismissed.
213. Because of this false arrest and incarceration, Ore lost his employment and for approximately 3 months was unable to see his newborn daughter.

Isaiah Walker

214. On April 9, 2020, Isaiah Walker was arrested for allegedly selling heroin to the confidential informant Aspirin.
215. Abdullah claimed that he searched Aspirin before the controlled buy and located no contraband on his person.
216. Officer Gwinn recovered the fabricated heroin from Aspirin.
217. Abdullah falsely claimed Walker sold Aspirin a trafficking amount of heroin.
218. Walker was strip searched after his arrest by Abdullah and Sgt. Rolfe.
219. Sgt. Rolfe reviewed and approved Abdullah's incident report.
220. Rattelade and Gwinn processed the fake heroin as evidence.

221. Walker was charged with trafficking heroin and his bond was set at \$300,000.
222. The CCBI lab reported that the alleged heroin tested negative for a controlled substance.
223. On or about July 9, 2020, Walker was released from custody.
224. On July 17, 2020, all charges against Walker were dismissed.

Connell Wilson

225. On May 15, 2020, Connell Wilson was arrested for allegedly selling heroin to the confidential informant Aspirin.
226. Abdullah claimed that he searched Aspirin before the controlled buy and located no contraband on his person.
227. Officer Twiddy slammed Wilson on the ground during the arrest.
228. Abdullah falsely claimed Wilson sold Aspirin a trafficking amount of heroin.
229. Sgt. Rolfe reviewed and approved Abdullah's incident report.
230. Sgt. Rolfe approved payment of \$100 to Aspirin "for the purchase on an amount of heroin."
231. Officer Rattelade processed the fake heroin as evidence.
232. Wilson was charged with trafficking heroin and his bond was set at an amount he could not pay.
233. The CCBI lab reported that the alleged heroin tested negative for a controlled substance.
234. On July 30, 2020, all charges against Wilson were dismissed and he was released from custody.

David Mitchell

235. On May 12, 2020, Abdullah claimed that David Mitchell sold Aspirin 8.2 grams of heroin for \$80.
236. This amount of heroin would typically cost approximately \$800.

237. On May 15, 2020, Mitchell was arrested for allegedly selling heroin again to Aspirin.
238. Abdullah falsely claimed Mitchell sold Aspirin 10.2 grams of heroin for \$200.
239. Abdullah claimed that he searched Aspirin before the controlled buy and located no contraband on his person.
240. Sgt. Rolfe reviewed and approved Abdullah's incident report.
241. Sgt. Rolfe approved payment of \$100 to Aspirin "for the purchase on an amount of heroin."
242. Officers Rattelade and Gay processed the fake heroin as evidence.
243. Mitchell was charged with trafficking heroin and his bond was set at an amount he could not pay.
244. The CCBI lab reported that the alleged heroin tested negative for a controlled substance.
245. On or about July 30, 2020, all charges against Mitchell were dismissed and he was released from custody.

Marcus VanIrvin and Kadejah Williams

246. On May 20, 2020, Officer Abdullah falsely claimed that Marcus VanIrvin sold heroin to Aspirin.
247. Abdullah fabricated this sale by copying a report previously used in the wrongful prosecution of Shakari Ore.
248. In this report, Abdullah claimed VanIrvin acted in conspiracy with Shakari Ore to make a sale to Aspirin.
249. At this time Shakari Ore was incarcerated.
250. On May 21, 2020, Marcus VanIrvin was arrested for allegedly selling heroin to Aspirin.
251. After his arrest, Kadejah Williams, the mother of his children, was detained and her home was searched.

252. Abdullah falsely claimed, for the second time, that VanIrvin sold heroin to Aspirin.
253. Aspirin was given \$800 by Rolfe and Abdullah to make this controlled buy.
254. \$740 went missing and was never recovered.
255. Officers Gwinn and Rattelade observed the alleged heroin recovered by Aspirin and stated that it appeared to be brown sugar.
256. Officer Rattelade stated that the alleged heroin was not packaged as heroin typically is.
257. Officer Rattelade also field tested the alleged heroin and it tested negative for a controlled substance.
258. The negative field test was never provided to the DA, Court, or defense counsel, or noted in a police report.
259. Officer Monroe observed the undercover buy video and noted that Aspirin blocked the video camera, so the alleged buy was not recorded.
260. Officer Gay, observed that the alleged heroin had tested negative and still drafted a warrant for VanIrvin's arrest.
261. VanIrvin was charged with trafficking heroin and his bond was set at \$250,000.
262. On June 9, 2020, VanIrvin's bond was reduced to \$5,000 and he was released from custody.
263. On or about June 30, 2020, all charges against VanIrvin were dismissed.

Yolanda Irving, Jalen Irving, Juwan Harrington, and Cydneea Harrington

264. On the afternoon of May 21, 2020, Yolanda Irving was at home with her three children.
265. At the time they resided at 1628 Burgundy St, Apt B, Raleigh, NC.
266. Yolanda Irving is a Wake County Bus Driver for Special Needs children.
267. Jalen Irving, 14, is a student at Sanderson HighSchool.

268. Juwan is 22, paralyzed on his left side, wheelchair bound, and works at a café for special needs people.
269. Cydneea, is 19, and works at Food Lion.
270. Yolanda Irving had just gotten out of the shower and her children were sitting in their rooms upstairs playing video games or watching TV.
271. Approximately 15 SEU and VICE Officers then ran through their door in full SWAT gear and pointed their guns at the family as they ran up the stairs.
272. Ms. Irving and her three children were all terrified they would be killed if they made the wrong move.
273. They were then taken downstairs and forced to sit on the ground for approximately 1 hour.
274. No drugs or contraband were found at the apartment and the VICE and RPD Officers eventually left their home.
275. Abdullah provided Ms. Irving the warrant and she informed him that the apartment pictured was not hers and that they had raided the wrong location.

Mario Jamal King

276. On October 21, 2019, Mario King was arrested for allegedly selling marijuana to the confidential informant Aspirin.
277. Abdullah falsely claimed King sold Aspirin marijuana.
278. King was held in jail for approximately one week before he could pay his bond.
279. On or about March 2020, all charges against King were dismissed.

Officer Abdullah is Suspended

280. In September of 2020, Abdullah was placed on administrative leave pending the results of

investigations by the State Bureau of Investigation and District Attorney's office.

INJURIES AND DAMAGES

281. This action seeks damages on behalf of Plaintiffs for the loss of liberty, extraordinary emotional pain and suffering, and injuries to their person, that Plaintiffs were forced to endure as a consequence of Defendants' decidedly wrongful actions.
282. As a result of Plaintiffs' wrongful arrests and unjust imprisonment, despite their actual innocence of the crime, Plaintiffs were incarcerated for a combined period of over 2.5 years.
283. Plaintiffs have suffered, and continue to suffer, severe and ongoing damages, specifically including lost educational and professional opportunities, physical pain and injuries, inadequate medical care, serious psychological and emotional damage, loss of familial relationships, and loss of quality of life.
284. The acts and omissions of Defendants entitle Plaintiff to compensatory and punitive damages.

FIRST CLAIM:

Malicious Prosecution or Prosecution Without Probable Cause under 42 U.S.C § 1983 Against RPD Defendants

285. Plaintiffs repeat, reiterate, and re-allege each and every allegation contained in the above paragraphs with the same force and effect as if fully set forth herein.
286. At all times relevant to this action, Plaintiff had the right under the Fourth Amendment to not be prosecuted without probable cause. *See Durham v. Horner*, 690 F.3d 183 (4th Cir. 2012).²

² *Durham v. Horner*, 690 F.3d 183, 188 (4th Cir. 2012) ("More specifically, 'we have required that [1] the defendant have 'seized plaintiff pursuant to legal process that was not supported by probable cause and [2] that the criminal proceedings have terminated in plaintiff's favor.'")

287. RPD VICE Officers Abdullah, Rolfe, Monroe, Rattelade, Gay, Gwinn and Ouellette despite knowing that probable cause did not exist to arrest and prosecute Plaintiffs, intentionally, recklessly, and with malice caused Plaintiffs to be arrested, held on bail, and prosecuted.
288. Defendants knew that Plaintiffs had not sold heroin to the informant Aspirin.
289. Defendants knew that Aspirin, with the assistance of Abdullah, hid fake heroin on his person and later falsely claimed that he had purchased it from Plaintiffs.
290. Defendants knew that Aspirin would cover his camera when conducting alleged buys to hide the fact that he was not actually purchasing heroin.
291. Defendants knew that the alleged heroin was actually brown sugar.
292. Defendants, on numerous occasions, field tested the heroin, saw it tested negative for a controlled substance, yet still arrested and charged Plaintiffs with trafficking heroin.
293. Even after Aspirin had repeatedly provided fake heroin, which had tested negative in field tests and by the CCBI lab, Defendants continued to use him as a confidential informant resulting in additional prosecutions of innocent plaintiffs.
294. Defendants failed to inform the DA or the Court about the negative field tests of the fake heroin.
295. Defendants failed to timely send the alleged heroin to the CCBI lab and delayed reporting the results of the lab tests to the DA.
296. Defendants failed to inform the DA or the Court about Aspirin's unreliability.

Burrell v. Virginia, 395 F.3d 508, 514 (4th Cir.2005) (quoting *Brooks v. City of Winston-Salem*, 85 F.3d 178, 183–84 (4th Cir.1996)) (alterations and emphasis omitted)).

297. Defendants failed to forward the exonerating video surveillance evidence to the DA or the Court.
298. Defendants intentionally provided false or misleading information and made material omissions in their statements to the DA and the Court.³
299. As a result of Defendants' acts Plaintiffs were arrested, charged and prosecuted without probable cause.
300. Plaintiffs are all innocent.
301. All of the charges against Plaintiffs were dismissed.
302. As a direct and proximate result of the Defendants acts, Plaintiffs were wrongfully arrested and imprisoned, causing them to suffer the injuries and damages described above.

SECOND CLAIM

Fabrication of Evidence under 42 U.S.C § 1983 Against RPD Defendants

303. Plaintiffs repeat, reiterate, and re-allege each and every allegation contained in the above paragraphs with the same force and effect as if fully set forth herein.

³ *Hupp v. Cook*, 931 F.3d 307, 324 (4th Cir. 2019) (“An officer who lies to secure a probable-cause determination can hardly be called reasonable. Likewise, where an officer provides misleading information to the prosecuting attorney or where probable cause is “plainly lacking,” *McKinney v. Richland Cty. Sheriff's Dep't*, 431 F.3d 415, 419 (4th Cir. 2005), the procedural steps taken by an officer no longer afford a shield against a Fourth Amendment claim. This is because “[l]egal process has gone forward, but it has done nothing to satisfy the Fourth Amendment's probable-cause requirement.” *Manuel*, 137 S. Ct. at 918–19.).

304. Plaintiffs have a fundamental right to be free from fabrication of evidence pursuant to the Fourth, Fifth, Sixth and Fourteenth Amendments of the United States Constitution and under 42 U.S.C. § 1983.⁴
305. Aspirin with the knowledge and assistance of Defendants hid fake heroin on his body before each alleged buy.
306. Officers Abdullah, Rolfe, Monroe, Rattelade, Gay, Ouellette and Gwinn and knew from field testing and observing the alleged heroin that it was fake.
307. Defendants knew that Plaintiffs had not sold heroin and that the alleged heroin trafficking charges were fabricated.
308. Despite knowing that the heroin was fake and that the trafficking allegations were fabricated, Defendants forwarded the false allegations and false information to the DA.
309. The individual Defendants fabrication of evidence violated Plaintiffs rights and caused them to be wrongfully arrested, charged, and incarcerated.

THIRD CLAIM

Failure to Intervene under 42 U.S.C § 1983 Against RPD Defendants

310. Plaintiffs repeat, reiterate, and re-allege each and every allegation contained in the above paragraphs with the same force and effect as if fully set forth herein.

⁴ *Willis v. Blevins*, 966 F. Supp. 2d 646, 657 (E.D. Va. 2013) (“The Fourth Circuit has recognized that the fabrication of evidence by an officer “acting in an investigating capacity” constitutes a violation the Fourth Amendment. *Washington v. Wilmore*, 407 F.3d 274, 282 (4th Cir.2005).”); *see also Gilliam v. Sealey*, 932 F.3d 216, 241 (4th Cir. 2019), *cert. denied*, 140 S. Ct. 2641, 206 L. Ed. 2d 713 (2020) (“[A]n individual has a constitutional right not to be deprived of liberty as a result of the intentional, bad-faith withholding of evidence by an investigating officer. *See Jean v. Collins*, 221 F.3d 656, 663 (4th Cir. 2000) (holding that it was clearly established in 1982 that when police intentionally withhold or destroy evidence, or otherwise act in bad faith, their actions violate the due process rights of a criminal defendant).”).

311. Defendants that were present for and observed the aforementioned unlawful conduct, had a duty to intervene and prevent such conduct and failed to intervene.
312. Accordingly, the defendants who failed to intervene violated the Fourth, Fifth, Sixth and Fourteenth Amendments.⁵
313. Officers Abdullah, Rolfe, Monroe, Rattelade, Gay, Nance, Ouellette and Gwinn knew from field testing and observing the alleged heroin that it was fake.
314. Defendants also knew that Plaintiffs had not sold heroin and that the alleged heroin trafficking charges were fabricated.
315. Defendants failed to intervene in the false arrest and continued prosecution of plaintiffs although they knew that these charges were fabricated and that these arrests occurred without probable cause.
316. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged.

FOURTH CLAIM:

**Malicious Prosecution under North Carolina State Law
Against RPD Defendants**

317. Plaintiffs repeat, reiterate, and re-allege each and every allegation contained in the above paragraphs with the same force and effect as if fully set forth herein.

⁵ See *Ensley v. Soper*, 142 F.3d 1402, 1407 (11th Cir. 1998) (“[i]f a police officer, whether supervisory or not, fails or refuses to intervene when a constitutional violation . . . takes place in his presence, the officer is directly liable under Section 1983.”); see also *Velardo v. Lewko*, No. 3:18-CV-1885, 2019 WL 5095657, at *8 (M.D. Pa. Aug. 22, 2019) (“(1) the officer had a duty to intervene; (2) the officer had the opportunity to intervene; and (3) the officer failed to intervene.”).

318. By their conduct, as described herein, and acting under color of state law, Defendants are liable to Plaintiffs under North Carolina law for the violation of their constitutional right to be free from malicious prosecution.⁶
319. Officers Abdullah, Rolfe, Monroe, Rattelade, Gay, Gwinn and Ouellette, despite knowing that probable cause did not exist to arrest and continue to prosecute Plaintiffs, intentionally, recklessly, and with malice caused Plaintiffs to be arrested, held on bail, and prosecuted.
320. Defendants knew that Plaintiffs had not sold heroin to the informant Aspirin.
321. Defendants knew that Aspirin, with the assistance of Abdullah, hid fake heroin on his person and later falsely claimed that he had purchased it from Plaintiffs.

⁶ See *Braswell v. Medina*, 255 N.C. App. 217, 228–29, 805 S.E.2d 498, 507 (2017) (“As shown above, Braswell’s complaint alleged facts showing that (1) the Officers initiated or participated in the criminal proceeding against him; (2) they lacked probable cause to believe he committed the offense []; (3) they acted with malice; and (4) the prosecution was terminated in Braswell’s favor. “ ‘Malice’ in a malicious prosecution claim may be shown by offering evidence that defendant was motivated by personal spite and a desire for revenge or that defendant acted with reckless and wanton disregard for plaintiffs’ rights.” *Lopp v. Anderson*, — N.C. App. —, —, 795 S.E.2d 770, 780 (2016) (citation and quotation marks omitted). Moreover, “[m]alice can be inferred from the want of probable cause alone.” *Id.* at —, 795 S.E.2d at 779 (citation and quotation marks omitted).

Here, Braswell has adequately alleged malice by pleading facts showing that the Officers not only lacked probable cause to believe he was guilty of the crime for which he was ultimately charged but also concealed and fabricated evidence in order to cause him to be prosecuted for that offense. Accordingly, Braswell has properly stated claims for malicious prosecution against the Rocky Mount Defendants under North Carolina law, and the trial court erred in dismissing these claims. See *Chidnese v. Chidnese*, 210 N.C. App. 299, 310, 708 S.E.2d 725, 734 (2011) (“Treating these allegations as true, these facts can be construed to state that [the defendant] procured a criminal prosecution against plaintiff with malice and without probable cause, and that the prosecution terminated favorably for the plaintiff, satisfying all of the elements of malicious prosecution.” (citation omitted)).

322. Defendants failed to inform the DA or the Court about the negative field tests of the fake heroin.
323. The Defendants continued to aid the prosecution of Plaintiffs even after field testing and viewing surveillance footage which proved that Plaintiffs had not sold any heroin to Aspirin.
324. Defendants intentionally provided false or misleading information and made material omissions in their statements to the DA and the Court.
325. As a result of Defendants' acts Plaintiffs were arrested, charged and prosecuted without probable cause.
326. All of the charges against Plaintiffs were dismissed.
327. As a direct and proximate result of the Defendants acts, Plaintiffs were wrongfully arrested and imprisoned, causing them to suffer the injuries and damages described above.

FIFTH CLAIM

Civil Conspiracy under 42 U.S.C. § 1983 Against RPD Defendants

328. Plaintiffs repeat, reiterate, and re-allege each and every allegation contained in the above paragraphs with the same force and effect as if fully set forth herein.
329. Officers of the VICE team, including Officers Abdullah, Rolfe, Monroe, Rattelade, Gay, Gwinn, Ouellette and Bunch, conspired to deprive Plaintiffs of their constitutional rights.
330. Despite knowing that probable cause did not exist to arrest and continue to prosecute Plaintiffs, Defendants conspired to cause Plaintiffs to be arrested, held on bail, and prosecuted in violation of the Fourth Amendment.

331. In furtherance of their conspiracy, each of these co-conspirators committed overt acts and were willful participants in joint activity.
332. In furtherance of the conspiracy, RPD officer Defendants engaged in and facilitated numerous overt acts, including the following:
- a. One or more of the individual Defendants planted drugs on Plaintiffs, or fabricated evidence against Plaintiffs, and then in concert proceeded to arrest them for a crime they did not commit.
 - b. The individual Defendants continued to lie to prosecutors regarding Plaintiffs' purported guilt, and they intentionally failed to disclose exculpatory evidence to these prosecutors.
 - c. Defendants participated directly in the conspiracy by field testing and observing the fake drugs, witnessing, and participating in the fabricated buys conducted by the VICE team and Aspirin, and assisting Abdullah in charging and prosecuting Plaintiffs with fabricated charges.
333. Defendants also acquiesced⁷ in the conspiracy by having full knowledge of the conspiracy and failing to intervene or prevent the fabricated charges against Plaintiffs.

SIXTH CLAIM

Unreasonably Prolonged Detention in violation of the Fourth Amendment and 42 U.S.C. § 1983 Against RPD Defendants

334. Plaintiff repeats and realleges each and every allegation contained in the preceding paragraphs as if fully set forth herein, and he further alleges as follows.

⁷ *Hafner v. Brown*, 983 F.2d 570, 576–78 (4th Cir. 1992) (finding that a claim of civil conspiracy can be proven “by a mere showing of acquiescence” in the conspiracy.).

335. Officers Abdullah, Rolfe, Monroe, Rattelade, Gay, Gwinn, and Ouellette violated Plaintiffs' rights under the Fourth Amendment and Fourteenth Amendments.
336. The officers unnecessarily prolonged Plaintiffs' detention by delaying the submission of the alleged heroin to the CCBI.
337. The officers then failed to timely review and failed to timely forward the exonerating results to the DA or the Court.
338. Upon receiving the CCBI results the DA dismissed all charges against Plaintiffs.
339. This delay resulted in Plaintiffs' spending additional weeks and months in jail.

SEVENTH CLAIM

Failure to Train and or Supervise Under 42 U.S.C § 1983 Against Sergeant Rolfe and Lieutenant Bunch

340. Plaintiffs repeat, reiterate, and re-allege each and every allegation contained in the above paragraphs with the same force and effect as if fully set forth herein.
341. Sergeant Rolfe and Lieutenant Bunch failed to properly supervise RPD officers, despite having actual knowledge of the need for better and additional training and supervision.
342. Officers Monroe and Rattelade informed Defendants Rolfe and Bunch on numerous occasions about the fake heroin and fabricated charges by Abdullah.
343. Sgt. Rolfe stated that he never reviewed buy video from Abdullah's arrests.
344. Rolfe stated that he was aware that Abdullah—in violation of RPD procedure—would always meet with Aspirin alone before the buy and then again meet with him alone after the buy.
345. Rolfe and Bunch were responsible for reviewing the accuracy of Abdullah's reports and his compliance with RPD policy, including the policy on management of informant funds.

346. Neither Rolfe nor Bunch intervened to ensure that Abdullah was complying with proper procedure for distributing funds to the informant Aspirin.
347. Defendants Rolfe and Bunch failed to take any steps to correct Abdullah or prevent this unconstitutional activity from recurring.
348. Because of Defendants' inaction Plaintiffs were wrongfully prosecuted and held in jail.
349. The repeated and sustained failures of Defendants to supervise officers of the Raleigh Police Department constituted deliberate indifference to and reckless disregard for the rights and life of Plaintiffs and the public.

EIGHTH CLAIM

Equal Protection Violation Under 42 U.S.C § 1983 Against Officer Abdullah

350. Plaintiffs repeat, reiterate, and re-allege each and every allegation contained in the above paragraphs with the same force and effect as if fully set forth herein.
351. Officer Abdullah violated the Equal Protection Clause of the Fourteenth Amendment when he targeted Plaintiffs for fabricated drug arrests.
352. Officer Abdullah, along with officers Rolfe, Monroe, Rattelade, Gay, Nance, and Gwinn falsely arrested and charged at least 15 black males with selling drugs.
353. Officer Abdullah, conspired with Aspirin to intentionally target only black males with these fabricated charges.⁸

⁸ *Green v. Maroules*, 211 F. App'x 159, 162 (4th Cir. 2006) (“To state an equal protection claim, a plaintiff must plead sufficient facts to ‘demonstrate that he has been treated differently from others with whom he is similarly situated and that the unequal treatment was the result of intentional or purposeful discrimination.’ *Williams v. Hansen*, 326 F.3d 569, 576 (4th Cir.2003) (quoting *Morrison v. Garraghty*, 239 F.3d 648, 654 (4th Cir.2001)). Here, Green alleged that she was racially profiled and, consequently, falsely arrested.”).

354. Similarly situated white males were not targeted by Abdullah for these false charges and arrests.

355. Abdullah knew that Plaintiffs were innocent of the alleged charges yet continued to arrest them and then aid in their continued prosecution.

NINTH CLAIM

Excessive Force Under 42 U.S.C. § 1983 Against Officer Twiddy and John Jane Doe 1-10

356. Plaintiffs repeat, reiterate, and re-allege each and every allegation contained in the above paragraphs with the same force and effect as if fully set forth herein.

357. Officer Twiddy, along with other John and Jane Doe members of the RPD SEU team, used excessive force when they arrested Plaintiffs Miles, Wilson, Washington and Smith.

358. Officer Twiddy and other John and Jane Doe officers pointed assault rifles at Plaintiffs, then grabbed Plaintiffs while they were sitting in their cars and slammed them on the ground.

359. Plaintiff Washington was sitting in his vehicle when his car was struck multiple times by police projectiles.

360. Washington was then forcefully removed from his car and slammed to the ground.

361. Plaintiffs posed no threat to the officers at the time they were the victims of excessive force.

TENTH CLAIM

False Imprisonment Under North Carolina State Law of Krystal Hamlett, Kadejah Williams, Yolanda Irving, Juwan Harrington, Cydneea Harrington and Jalen Irving, Against RPD Defendants

362. Plaintiffs repeat, reiterate, and re-allege each and every allegation contained in the above paragraphs with the same force and effect as if fully set forth herein.

363. Officer Abdullah, and other John and Jane Doe members of the VICE team, violated North Carolina law because they seized Krystal Hamlett, Kadejah Williams, Yolanda Irving, Juwan Harrington, Cydneea Harrington, and Jalen Irving, without probable cause.⁹
364. VICE team officers handcuffed and detained Hamlett in the back of a police vehicle for approximately one hour without any cause for her arrest.
365. VICE team officers detained Kadejah Williams, with her two young children, at gun point in the front of her home for approximately one hour.
366. VICE team officers including Gay and Abdullah, detained Yolanda Irving, Juwan Harrington, Cydneea Harrington and Jalen Irving, after raiding their home, for approximately 2 hours.
367. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages herein alleged.

ELEVENTH CLAIM

Monell Liability Under 42 U.S.C § 1983 Against the City of Raleigh

368. Plaintiffs repeat and reallege each allegation contained in the preceding paragraphs as if fully set forth herein.
369. The City of Raleigh maintains a policy of not field-testing alleged heroin.
370. On the rare occasions RPD officers do field test heroin the City has a policy to not disclose these results to the DA, defense counsel or the Court.

⁹ The elements of false imprisonment include: “(1) the illegal restraint of plaintiff by defendant, (2) by force or implied threat of force, and (3) against the plaintiff’s will. . . The restraint requirement of this action requires no appreciable period of time, simply sufficient time for one to recognize his illegal restraint. The tort is complete with even a brief restraint of the plaintiff’s freedom.” *Wilkerson v. Duke Univ.*, 229 N.C. App. 670, 674 (2013).

371. The failure to field test alleged heroin, or when tested, the failure to immediately turn the results over to the DA, defense counsel or the Court resulted in the false arrest and wrongful imprisonment of Plaintiffs.
372. Under the principles of municipal liability, the City and the RPD, owed a duty to the public at large and to Plaintiff to implement policies, procedures, customs, and practices sufficient to prevent, deter, and avoid conduct by subordinates that violate the constitutional rights of criminal suspects or defendants and of other members of the public.
373. However, the RPD and its designees, as policymakers for the City, knowingly and intentionally breached, or were deliberately indifferent to, this duty.

TWELFTH CLAIM

Permanent Injunctive Relief

374. Plaintiffs respectfully request at the conclusion of this action that the Court enter a permanent injunction – for the reasons set forth below:
375. Plaintiffs repeat and reallege each allegation contained in the preceding paragraphs as if fully set forth herein.
376. Plaintiffs request injunctive relief requiring Defendants field test any alleged controlled substance obtained as part of an arrest or investigation and that the results of this field test be immediately provided to the DA.
377. Plaintiffs have demonstrated a likelihood of success on the merits of each of their claims for relief.

378. By failing to field test heroin in every arrest and, even when tested, failing to immediately turn the results of field tests over the DA or the Court, Defendants are continuing to put Plaintiffs and the public at risk for false arrest and false imprisonment.
379. Irreparable harm will continue without an order from this Court enjoining Defendants' unconstitutional acts.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that the Court enter judgment for Plaintiff and order relief as follows:

- A. Compensatory damages against all defendants, jointly and severally
- B. Punitive damages against the individual officer defendants, jointly and severally;
- C. Pre-judgment and post-judgment interest and recovery of costs, as well as reasonable attorneys' fees, pursuant to 42 U.S.C. § 1988, and other applicable laws;
- D. Entry of permanent injunction on a finding that Defendants have violated Plaintiffs' rights under 42 U.S.C § 1983 and North Carolina state law;
- E. That the Court grant any other and further relief it deems equitable and just.

Respectfully submitted, this the 20th day of October 2021.



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