

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MELISSA JOHNSON on behalf of her minor children, J.B.
And J.D.

Plaintiffs,

vs.

JOHN WILLIAMS individually and in his official capacity
as a Police Officer for the CITY OF POUGHKEEPSIE
POLICE DEPARTMENT, KEVIN D. VANWAGNER
SHIELD #44 individually and in his official capacity as a
Police Officer for the CITY OF POUGHKEEPSIE
POLICE DEPARTMENT

Defendants.

and

CITY OF POUGHKEEPSIE

Nominal Defendant.

By and through their attorney William O. Wagstaff III, plaintiffs allege upon knowledge, information and/or belief as follows:

PRELIMINARY STATEMENT

1. This is a civil rights action in which the plaintiffs J.B. and J.D. are seeking relief for the violation by defendants of their rights, privileges, and immunities secured by the Fourth Amendment to the United States Constitution, New York State Constitution, and laws promulgated by the New York Legislature. This suit is being initiated under 42 U.S.C § 1983, which is the federal mechanism that allows constitutional tortfeasors acting under color of law to be sued in Federal Court.

Civil Action No. 7:19-cv-09935

COMPLAINT FOR DAMAGES

JURY TRIAL DEMANDED

2. The disproportionate treatment of men, women, and children of color, at the hands of police, raises questions about how America values their lives. This harsh reality tends to overwhelm, degrade and leave people of color to question the worth of their flesh and souls.

3. Police Officers take an oath to protect and serve us all, but when their failure to honor that oath harms children it is particularly alarming.

4. On March 11, 2019, J.B. and J.D. were falsely arrested and brutalized by City of Poughkeepsie Police Officers. Video of the encounter went viral, creating Ferguson-like tensions between the community and the police. Over the days following these unlawful arrests, detectives embarked on a campaign of intimidation under the guise of an investigation into the March 11th events.

5. Detectives threatened teenage witnesses with jail time if they refused to give statements or cooperate in ways supportive of the arresting officers' narrative. Even worse, they held one witness in custody for close to five (5) hours while police personnel deleted video evidence off her cellphone. In addition, they forced the teenage witness to provide her login credentials to her cloud account and deleted evidence from the cloud. Contained among the deleted videos were several that captured the events of March 11th.

6. City of Poughkeepsie Mayor Robert Rolison - a retired police officer himself - was made aware of the witness intimidation and destruction of evidence. Despite learning of this, Mayor Rolinson and his administration remained arrogantly defiant to calls from this family and the community for justice. Meetings with Mayor Rolinson seeking an agreement to improve police training and discipline officers, with an eye towards easing the communal tension, were unsuccessful necessitating this action.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 because plaintiff alleges violations of the United States Constitution, 28 U.S.C. § 1343 because relief is sought for the deprivation of Plaintiffs' constitutional rights under color of State Law.

8. Venue in the Southern District of New York is proper under 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to this action occurred within the district.

PARTIES

Plaintiffs

9. **J.B.** is an African American female sixteen-year-old, who resides with her sister J.D. and mother Melissa Johnson within this judicial district. At the time of the events complained of herein she was fifteen years old.

10. **J.D.** is an African American female thirteen-year-old, who resides with her sister J.B. and mother Melissa Johnson within this judicial district. At the time of the events complained of herein she was twelve years old.

Defendants

11. **Officer John Williams**, at all times relevant to the facts of the Complaint, was employed by the City of Poughkeepsie and acting under color of law. Officer Williams' actions were malicious and intentional; accordingly, he is also being sued individually.

12. **Officer Kevin D. VanWagner Shield #44**, at all times relevant to the facts of the Complaint, was employed by the City of Poughkeepsie and acting under

color of law. Officer VanWagner's actions were malicious and intentional; accordingly, he is also being sued individually.

Nominal Defendant

13. **The City of Poughkeepsie** is a municipal corporation duly incorporated and existing pursuant to the laws of the State of New York. The City has established and maintained a police department. The City is responsible for the illegal actions of its police department, police officials, the rank and file as well as units it creates unilaterally or through inter-municipal agreement.

STATEMENT OF FACTS

14. On March 11, 2019, plaintiffs were with a group of children after school in the vicinity of the intersection of Church Street and Hammersley Ave in the City of Poughkeepsie.

15. The children were spectators to a fight that spilled over from an earlier confrontation. While spectators, neither plaintiff was a participant in either dispute.

16. Defendants were among the battalion of officers dispatched to the scene. Instead of speaking to the group of teenagers with the respect they would want shown to their own children, defendants immediately barked profanity laced commands at the children present, despite the fact that the fight already ended.

17. In response to defendants' diatribe plaintiffs exercised their right to express themselves and cursed back, which violated no laws.

18. Ego bruised and upset, Defendant Officer VanWagner grabbed J.D. and proceeded to effectuate an unlawful arrest. J.D. committed no crime, but apparently committed the cardinal sin of not accepting, with no response, the disrespect shown to her by the Poughkeepsie Police at the scene.

19. Instinctively knowing J.D. did nothing illegal multiple bystanders tried to intervene and stop her arrest. Interestingly, despite being pushed and shoved by other teenagers who were attempting to stop J.D.'s unlawful arrest, defendants did not arrest any of the other children. To no avail, J.D. pleaded with the defendants that she did nothing wrong and should not be arrested.

20. Defendant VanWagner jarringly grabbed J.D. suspending her in air until he dropped her twelve-year-old body on the cold concrete landing on top of her with the force of his entire body.

21. Witnessing her younger sister be manhandled and arrested J.B. screamed out. Before she could get close to her sister J.D., J.B. was slammed by her arm -- with enough force to dislocate her shoulder -- hitting her head on the cold concrete where she lost consciousness.

22. The crowd of children tried to prevent J.B.'s unlawful arrest as well, to no avail. When she regained consciousness, J.B. realized she was arrested and that both her and J.D. were being taken to the Poughkeepsie Police Department.

23. Once at the Poughkeepsie Police Department plaintiffs were held against their will and separated with no parent/guardian or lawyer present.

24. It gets worse, J.B. was on her period and as a result of the way she was flung around like a rag doll by Defendant Williams her clothing moved, and she was leaking menstrual blood. J.B. was denied sanitary napkins and when she couldn't use her cuffed hands to fix herself, she just fell to the floor embarrassed that if she remained standing her blood soiled pants would be on display.

25. After hours in custody both plaintiffs were released to their mother Melissa Johnson and given desk appearance tickets charging them both with

Obstruction of Governmental Administration and J.D. was additionally charged with Resisting Arrest

26. In the days following plaintiffs' arrest a seventeen (17) second video of defendant Williams using excessive force on J.B. surfaced and went viral creating Ferguson-like tension between the community and the Poughkeepsie Police.

27. Detective Cowles and other members of the Poughkeepsie Police Department started calling children that witnessed the events of March 11th and their parents. The tone of these calls was authoritarian and intended to intimidate the children into providing statements that would corroborate the narratives of the arresting officers, despite their falsehoods. Unfortunately, multiple witnesses were under some form of probation or supervision from the Rockland County Department of Probation. Acutely aware of how vulnerable these children were members of the Poughkeepsie Police preyed on their vulnerability to cover up the malfeasance of their comrades.

28. On or about March 16, 2019, William Murphy presented his daughter Laprincea Murphy to the Poughkeepsie Police Department (PPD) for questioning and she was threatened with prosecution for her alleged involvement in a March 9, 2019 incident if she didn't cooperate. Reasonably afraid she complied with demands to produce her cellphone so it could be searched for evidence of what happened on March 11th involving plaintiffs. *See Exhibit 1 Affidavit of William Murphy*

29. On or about March 20, 2019, William Murphy presented Iseeasia Villani his other daughter¹ to PPD for questioning and she was threatened with being sent to Rockland County Jail if she too didn't provide her cellphone and sign a statement typed by Det Cowles. Iseeasia was held in custody for close to five (5) hours while police personnel deleted video evidence off her cellphone. In addition, they forced her to

¹ Mr. Murphy and Iseeasia's mother were previously in a relationship that ended years ago; however, she still lives with him and he has been a surrogate father while not her biological father.

provide her login credentials to her cloud account and deleted evidence from the cloud. Contained among the deleted videos were several that captured the events of March 11th. *See Exhibit 2 Affidavit of Iseeasia Villani*

30. As a direct and proximate result of defendants' acts, plaintiffs suffered violations of their civil rights, including loss of physical liberty, degradation, humiliation, loss of reputation and severe emotional distress which will be carried with them for life.

CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

False Arrest in violation of the Fourth Amendment

31. Plaintiffs repeat and reallege the foregoing paragraphs as if the same were fully set forth at length herein.

32. Defendants, at the time of the conduct, complained of herein, were both employees of the nominal defendant City of Poughkeepsie and acted under color of law.

33. The defendants individually and as co-conspirators subjected plaintiffs J.B. and J.D. to false arrest without probable cause, reasonable suspicion, or legal justification, and of which plaintiffs were aware and did not consent. As a direct and proximate result of the acts of the defendants individually and as co-conspirators, the plaintiff has been deprived of his rights under the Fourth Amendment to the United States Constitution and are entitled to compensatory damages, punitive damages, and attorney's fees for their injuries.

SECOND CAUSE OF ACTION

Excessive Force in violation of the Fourth Amendment

34. Plaintiff repeats and realleges the foregoing paragraphs as if the same were fully set forth at length herein.

35. Defendants, at the time of the conduct, complained of herein, were both employees of the defendant City of Poughkeepsie and acted under color of law.

36. Defendants individually and as co-conspirators used excessive force against plaintiffs J.B. and J.B.. As a direct and proximate result of the acts of the defendants individually and as co-conspirators, the plaintiffs have been deprived of their rights under the Fourth Amendment to the United States Constitution and are entitled to compensatory damages, punitive damages, and attorney's fees for his injuries.

PUNITIVE DAMAGES

37. Plaintiffs repeat and reallege the foregoing paragraphs as if the same were fully set forth at length herein.

38. The acts of the individual defendants were willful, wanton, malicious and oppressive and were motivated solely by a desire to harm plaintiffs without regard for their rights secured as an American citizens and were based on a lack of concern and ill-will towards the plaintiffs because they placed their egos and emotions above the recognition of the plaintiffs' rights. Such acts, therefore, warrant an award of punitive damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment and relief against Defendants as follows:

- a. Award Compensatory Damages in an amount to be determined at trial;
- b. Award Punitive Damages in an amount to be determined at trial;

- c. Award costs and expenses of this action including attorneys' fees to Plaintiffs pursuant to 43 U.S.C. § 1988;
- d. Any such other and further relief as this Court may deem appropriate.

A JURY TRIAL IS DEMANDED

DATED: White Plains, New York
October 27, 2019

LAW OFFICE OF WILLIAM O. WAGSTAFF III P.C.

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Counsel for Plaintiffs

EXHIBIT 1

**FAMILY COURT OF STATE OF NEW YORK
COUNTY OF DUTCHESS**

In the Matters of

Jamelia Barnett & Julissa Dawkins

**AFFIDAVIT OF
WILLIAM MURPHY**

Docket #: D-02367-19
Family Unit Nos. 42444
54357

Persons Alleged to be Juvenile Delinquents

Respondents.

STATE OF NEW YORK)
) ss. :
COUNTY OF DUTCHESS)

William Murphy, being duly sworn, deposes and says:

1. I am over the age of eighteen (18) years old and of sound mind with no mental disabilities. I make this affidavit based upon my personal knowledge.

2. I am Laprincea Murphy's father and have been a surrogate father to Iseeasia Villani since her mother, and I dated years ago, despite the relationship ending.

3. I have been involved as of late when either has had interactions with law enforcement.

4. On or about March 14, 2019, my daughters started receiving calls from the City of Poughkeepsie detectives about an alleged incident on March 9, 2019.

5. A few days later, I accompanied Laprincea to the City of Poughkeepsie Police Department. I learned that she was being charged with Third Degree Assault for

her alleged involvement in a fight on March 9, 2019.

6. Laprincea was interrogated by multiple officers – I only recall the name of Detective Cowles – for information about another incident on March 11, 2019, involving two of their officers. The officers tried to manipulate her into providing information about the events of March 11th by promising to have the charges dismissed in the assault case.

7. It was disturbing that their inquiry focused on the March 11th incident more than the assault case they were ostensibly investigating.

8. I was vocal about my objection to the questions they were asking her. At the time, I did not understand why they were so interested in an event for which she had not been arrested.

9. Over my objections, the officers demanded that she give them her cell phone, which she did so that they could search for videos of the March 11th incident.

10. In an attempt to appease me, the officers claimed they needed the information to help out Jamelia Barnett and Julissa Dawkins.

11. Despite giving the officers access to her cell phone and cloud storage account, Laprincea was still prosecuted for Third Degree Assault.

12. Days later, I accompanied Iseeasia Villani, and she was arrested and also charged with Third Degree Assault.

13. The same promises of a favorable outcome were made to Iseeasia. However, the approach by the detective – who I believe was Detective Cowles- was

more aggressive than with Laprincea. Iseeasia was threatened with county jail time if she did not tell the officers what they wanted to hear.

14. Despite Iseeasia's tough girl persona, I could tell she was scared of the prospect of prison.

15. The officers did not ask about Iseeasia's involvement in the alleged assault on March 9, 2019. The police dedicated the five or six hours spent at the department to find out about Jamelia Barnett and Julissa Dawkins' involvement in the March 11, 2019 incident.

16. They seized Iseeasia's phone, and it was not returned until after several hours only because I demanded its return before we would leave. Also, she was forced to give the login credentials for her cloud account.

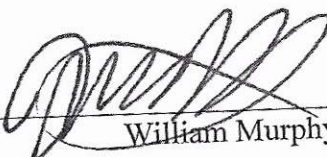
17. When the officer(s) returned with her phone, they appeared gleeful, celebratory even, that they found videos of the March 11th incident on the phone and in the cloud. They praised Iseeasia for her compliance, saying things like, "you did good."

18. When she received the phone back, all the videos on her phone had been deleted. Included among those deleted videos was footage of Poughkeepsie police officers using excessive force on Jamelia Barnett and Julissa Dawkins.

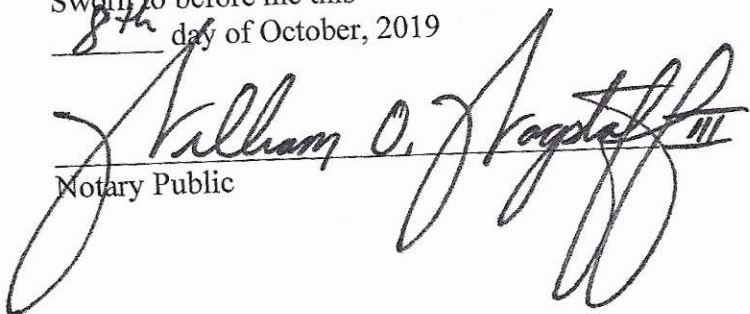
19. Once I confirmed that the videos were deleted from the cloud as well, I felt overcome with shame because I realized at that moment that Iseeasia got played. I failed to protect her from being used as an accessory to their cover-up.

20. The City of Poughkeepsie Police lied to my daughters and me about their motivations. I am convinced they brought my daughters in only looking for evidence to

destroy to protect their fellow officers.


William Murphy

Sworn to before me this
8th day of October, 2019


Notary Public

WILLIAM OTIS WAGSTAFF III
NOTARY PUBLIC-STATE OF NEW YORK
No. 02WA6355304
Qualified In Westchester County
My Commission Expires 03-06-2021

EXHIBIT 2

**FAMILY COURT OF STATE OF NEW YORK
COUNTY OF DUTCHESS**

In the Matters of

Jamelia Barnett & Julissa Dawkins

**AFFIDAVIT OF
ISEEASIA VILLANI**

Docket #: D-02367-19
Family Unit Nos. 42444
54357

Persons Alleged to be Juvenile Delinquents

Respondents.

STATE OF NEW YORK)
) ss. :
COUNTY OF DUTCHESS)

Iseeasia Villani, being duly sworn, deposes and says:

1. I am eighteen (18) years old and of sound mind with no mental disabilities. I make this affidavit based upon my personal knowledge to provide an accurate account of how the City of Poughkeepsie Police handled me while in their custody on or about March 20, 2019.
2. I have not been offered anything from the respondents, their attorney, or any other party in exchange for my statement.
3. On March 20, 2019, I reported to the City of Poughkeepsie Police Department with William Murphy, my surrogate father. Before my presentment, my sister Laprincea Murphy and I received multiple calls from officers/detectives about our alleged involvement in a fight on March 9, 2019.

4. I was initially confused about why they would be calling about this incident. On the date of the events, I reported being the victim of an assault and provided medical documentation, but the police refused to take my complaint against the aggressor.

5. When we arrived at the police department, I was arrested, fingerprinted, and photographed. The arrest charge was Assault in the Third Degree.

6. Officers questioned me before I saw a judge, but not about the circumstances that led to my assault charge, only about an incident that happened on March 11, 2019. The detective promised that if I gave him information that helped the "investigation" of the March 11th incident involving two other officers that he would take care of the assault case.

7. This arrest exposed me to significant consequences, which I presumed he knew, because I was on interim probation for another fight in the Town of Poughkeepsie.

8. I admit that the prospect of having my probation violated in the Town of Poughkeepsie and being faced with a new charge was terrifying.

9. After my arraignment, I was sent to the Dutchess County Probation Department for intake because pretrial supervision was a condition of my release. I immediately returned to the City of Poughkeepsie Police Department, where the tone of the interrogation changed and became more aggressive.

10. The detective threatened me with county jail time even though my guilt or innocence in the assault cause had yet to be determined.

11. Detective Cowles forced me to sign a statement he typed, surrender my cellphone, and provide the login credentials for my cloud account. I was detained for hours and questioned about the events of March 11th with no lawyer present while the officers/detectives kept my cellphone. The officer(s) said that it was being “worked on” by a third party, at the time, I did not know what that meant.

12. Before the detective/officers confiscating my cellphone, it contained several videos of the incident on March 11th. More specifically, it had footage of the City of Poughkeepsie Police arresting Jamelia Barnett and Julissa Dawkins, even though they were not involved in the fight. Furthermore, the video showed the male officers using excessive force on these young girls. As someone who has been arrested, I recognized that the force used was unlike anything I have experienced.

13. When the officers returned with my phone, they were excited. They praised me for being compliant, even though they knew or should have known that I complied with them out of fear.

14. The City of Poughkeepsie Police Department wiped my cellphone clean and deleted the videos from my cloud that captured Jamelia and Julissa’s arrests and the misconduct of the officers on March 11, 2019.

Iseeasia Villani
Iseeasia Villani

Sworn to before me this
8th day of October 2019

Alma J Covone

Notary Public

ALMA J COVONE
NOTARY PUBLIC, State of New York
No. 04CO6367801
Qualified in Dutchess County
Commission Expires 11/27/2021