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9
10 ***UNITED STATES DISTRICT COURT***
11 ***NORTHERN DISTRICT OF CALIFORNIA***
12

13 Alonzo Shelton

14
15 Plaintiff,

16 vs.

17 Ahmed Khalfan, City of Richmond,
18 California
19 Does 1-50.

20 Defendants.
21 _____/

JURY TRIAL REQUESTED

No. 20-4400

COMPLAINT FOR DAMAGES
(Civil Rights Violations- 42 USC 1983)

22 **INTRODUCTION**
23

24 1. This case arises out of the unconstitutional use of force, violation of First Amendment
25 Rights and wrongful arrest of Alonzo Shelton on May 17, 2020 by Richmond Police officer
26 Ahmed Khalfan. Alonzo Shelton was advising a young person being arrested to cooperate, be

27 Complaint for Damages
Case No. 20-4400

1 peaceful and not to speak. However, when he also informed the officers that they were breaking
2 the law by entering a house with a warrant to chase a person who had a cell phone and was
3 making a video.

4 2. The arresting officer, Khalfan and Alonzo Shelton knew each other prior to this arrest
5 and the arresting officer had acted violent just weeks earlier against Alonzo Shelton's brothers.
6 During that incident two people were arrested in violation of their First Amendment rights to
7 criticize Officer Khalfan.

8 3. Mr. Shelton is an active member of the New Hope Missionary Baptist Church 321
9 Alamo Ave, Richmond, California. He is a community activist involved with the Richmond
10 "Cease Fire" program and with the schools.

11 4. Alonzo Shelton was arrested by Officer Khalfan with significant violence applied to
12 Mr. Shelton whose face was slammed into a metal utility pole.

13 5. Officer Khalfan has a history of arresting people who exercise their First Amendment
14 rights. At times the First Amendment exercises have been harsh and critical but in this case, a
15 video of the incident shows that Mr. Shelton was peaceful, respectful, responsible and truly
16 acting in the interests of the community. In fact the video shows that Mr. Shelton stated to the
17 man being arrested, "Don't do that. Stay still. Stay still young man." and "Just keep your
18 mouth shut, don't resist."

19 **Prior Incidents Relevant to This Incident**

20 **March 25, 2020**

21 6. On March 25, 2020 at night, a person struck a parked car. The car was parked and
22 police were called. Police came cuffed the individual and prepared to tow the car.

23 7. The police allowed people who were in the car to get their belongings and one of them
24 was Alonzo's brother, Dejon Brown.

25 8. Dejon Brown is a graduate and former star athlete from Kennedy High School in
26 Richmond, just blocks from where he now lives and from where the car was about to be towed.

1 9. For reasons unclear at this time, an officer approached Dejon as Dejon attempted to
2 retrieve his belongings from the parked car. The officer began to physically engage Dejon.

3 10. Khalfan started to approach to join in the physical involvement.

4 11. Alonzo Shelton was present on scene, watching. When he saw the police escalate
5 toward violence, he intervened by stating in a loud, assertive voice, words similar to, "You're not
6 going jump my brother !"

7 12. Officer Khalfan and the others ceased their physical contact with Dejon Brown who
8 then peaceably left.

9 **April 29, 2020**

10 13. On April 29, 2020, Alonzo Shelton's brother, Dejon Brown, lawfully, consistent with
11 Houston v. Hill (1987) 482 U.S. 451 criticized the Richmond police for removing two people
12 from a car, handcuffing one and searching one, for the alleged purpose of seeing if they were
13 properly storing marijuana in their car. Dejon was arrested by the same officer, Ahmed Khalfan.

14 14. The arrest of Dejon was violent and Dejon's brother, Dareron pushed the officer off
15 of Dejon only to be shot with a taser and arrested. Lawsuits were filed and those cases are
16 pending in this United States District Court under the case numbers, 3:20 cv 03712 CRB and
17 4:20-cv-04035 CRB respectively. Another person was arrested on April 29, 2020 (by Ahmed
18 Khalfan) after verbally (but peacefully) criticizing Officer Khalfan. That person, Johnathan
19 Spragan has filed suit in this court under Case No. 4:20 cv 3807 CRB.

20 **May 17, 2020 (The Incident Underlying this Case)**

21 15. Alonzo Shelton was at a tire shop when he observed Officer Khalfan and others with
22 a man in handcuffs.

23 16. A younger man was present but not under arrest. The younger man left to get a cell
24 phone to video the arrest. He then went into his house and came out with the phone.

25 17. The officers responded by seizing the young man in rough and aggressive manner.

26 18. Alonzo Shelton strongly, clearly and repeatedly told the young man not to resist.

1 19. His words included “Don’t do that. Stay still. Stay still young man.” and “Just keep
2 your mouth shut, don’t resist.”

3 20. The officers then started to enter a person’s house and Alonzo Shelton told the police,
4 “you’re doing some illegal shit now”, “you can’t go into the house”, “illegal shit going into your
5 house without a search warrant, make sure you let them know”.

6 21. Alonzo Shelton was then arrested.

7 22. He was cited for a violation of Penal Code § 148 (resisting, delaying and/or
8 obstructing a police officer).

9 23. The arrest was violent and Mr. Shelton’s face was smashed into a lamppost.

10 **JURISDICTION**

11 24. This action arises under Title 42 of the United States Code, § 1983. Title 28 of the
12 United States Code, §§ 1331 and 1343 confers jurisdiction upon this Court. The unlawful acts
13 and practices alleged herein occurred in the City of Richmond, County of Contra Costa,
14 California, which is within the judicial district of this Court. This Court also has supplemental
15 jurisdiction over Plaintiff’s state law causes of action under 28 U.S.C. § 1367.

16 **VENUE**

17 25. Venue is proper in this Court under 28 U.S.C. § 1391(b) because Defendants are
18 believed to reside in this district and all incidents, events, and occurrences giving rise to this
19 action occurred in this district.

20 **PARTIES**

21 26. Plaintiff Alonzo Shelton, is a resident of the state of California and are United States
22 Citizens.

23 27. Defendant CITY OF Richmond (hereinafter "City") is an incorporated public entity
24 duly authorized and existing as such in and under the laws of the State of California; and at all
25 times herein mentioned, Defendant City has possessed the power and authority to adopt policies
26 and prescribe rules, regulations and practices affecting the operation of the Richmond Police

1 Department and its tactics, methods, practices, customs and usage. At all relevant times,
2 Defendant City was the employer of DOES Defendants, individually and as a peace officers.

3 28. Plaintiff is ignorant of the true names and capacities of those Defendants named
4 herein as DOES 1 through 25, inclusive. Plaintiff will amend this Complaint to allege said
5 Defendants true names and capacities when that information becomes known to Plaintiff.
6 Plaintiff is informed and believes, and thereon alleges that DOES 1 through 25, inclusive, are
7 legally responsible and liable for the incident, injuries, and damages hereinafter set forth, and that
8 each of said Defendants proximately caused the injuries and damages by reason of negligent,
9 careless, deliberately indifferent, intentional, or willful misconduct, including the negligent,
10 careless, deliberately indifferent, intentional, willful misconduct in creating and otherwise
11 causing the incidents, conditions, and circumstances hereinafter set forth, or by reason of direct
12 or imputed negligence or vicarious fault or breach of duty arising out of the matters herein
13 alleged. Plaintiff will seek to amend this Complaint to set forth said true names and identities of
14 DOES 1 through 25, inclusive, when they have been ascertained.

15 29. Plaintiff is ignorant of the true names and capacities of Defendants DOES 26 through
16 50, inclusive, and therefore sues these defendants by such fictitious names. Plaintiff is informed
17 and believes and thereon alleges that each Defendant so named was employed by Defendant City
18 at the time of the conduct alleged herein. Plaintiff alleges that each of Defendants DOES 26
19 through 50 were responsible for the training, supervision and/or conduct of the police officers
20 and/or agents involved in the conduct alleged herein. Plaintiff alleges that each of Defendants
21 DOES 26 through 50 was also responsible for and caused the acts and injuries alleged herein.
22 Plaintiff will amend this Complaint to state the names and capacities of DOES 26 through 50,
23 inclusive, when they have been ascertained.

24 30. Ahmed Khalfan is a police officer employed by the Richmond Police Department
25 (City of Richmond).

26 31. Each defendant named in this complaint, acted in concert with the others and with

1 knowledge of the unlawful conduct of each of the others. Each such defendant acted to aid and
2 abet, in conspiracy with and to further and/or coverup the unlawful conduct
3 of the other. The filing of a false police report is an act in furtherance of a conspiracy, aiding and
4 abetting in unlawful conduct and a civil rights violation.

5 **PRELIMINARY ALLEGATIONS**

6 32. The City of Richmond is a public entity and is being sued under Title 42 U.S.C. §
7 1983 for violations of the Fourth Amendment of the United States Constitution, California state
8 law, the California Tort Claims Act, and the Government Code for the acts and omissions of
9 DOES 1 through 50, and each of them, who, at the time they caused Plaintiff's injuries and/or
10 damages, were duly appointed, qualified and acting officers, employees, and/or agents of City
11 and acting within the course and scope of their employment and/or agency.

12 33. Each of the Defendants caused and is responsible for the unlawful conduct and
13 resulting harm by, inter alia, personally participating in the conduct, or acting jointly and in
14 concert with others who did so, by authorizing, acquiescing, condoning, acting, omitting or
15 failing to take action to prevent the unlawful conduct, by promulgating or failing to promulgate
16 policies and procedures pursuant to which the unlawful conduct occurred, by failing and refusing
17 to initiate and maintain proper and adequate policies, procedures and protocols, and by ratifying
18 and condoning the unlawful conduct performed by agents and officers, deputies, medical
19 providers and employees under their direction and control.

20 34. The conduct described generally in paragraph 22 includes but is not limited to,
21 preparation of a false police report, the signing off on a false police report by superior and
22 supervising officers, by conspiring to cover up the assaults and false arrests perpetrated by
23 officers, by falsifying "vacations" to delay the preliminary hearing of defendants where they
24 would clear their names and avoid potential pretrial incarceration, and by other conduct and
25 practices as set forth herein and proven at trial.

26 35. Whenever and wherever reference is made in this Complaint to any act by Defendants

1 DOES 1 through 50, such allegations and references shall also be deemed to mean the acts and
2 failures to act of each DOE Defendant individually, jointly, or severally.

3 36. Does 1-50, inclusive, breached their duty of care to the public in that they have failed
4 to discipline DOES 1 through 25. Their failure to discipline DOES 1 through 25 inclusive,
5 demonstrates the existence of an entrenched culture, policy or practice of promoting, tolerating
6 and/or ratifying with deliberate indifference the making of improper detentions and arrests, the
7 use of excessive force and the fabrication of official reports to cover up DOES 1 through 25's
8 inclusive, misconduct.

9 37. Said Does further failed to correct the conduct on site, post arrest or at any time
10 thereafter despite the fact that the body worn camera footage clearly shows that plaintiff Dejon
11 Brown was walking away when he was assaulted by defendant officer. Further the officer's
12 police report contains demonstrably lies, the report was reviewed by Superior Officers (on
13 information and belief) and allowed to be filed, resulting false criminal charges being pursued
14 against defendants. This is ratification, compounding and constitutes complicity in the criminal
15 conduct of defendants and each of them. It is part of a pattern and practice existing among
16 defendants Richmond Police Department to cover up criminal and unlawful conduct and blame
17 the victims.

18 38. The conduct herein is part of a systemic, deliberate, policy and practice to allow
19 officer excesses, officer civil rights violations, excessive use of force, escalation of situations to
20 be perpetrated against residents of the City of Richmond. This policy and practice arose at a
21 time when telephones did not record video and before body worn cameras were standard. It is
22 part of a broader policy and practice of inadequate supervision, discipline, training and correction
23 leading to unnecessary confrontations and unsupervised unconstitutional conduct.

24 39. The pattern, practice and culture of abuse and lies by the Richmond Police
25 Department is entrenched and efforts to establish a pattern of just behavior, honest policing and
26 honest reporting have been inadequate, tentative and have contributed to the problem by creating

1 a veneer of concern for abuse covering up the fact that at the highest levels of the department the
2 continuing abuses are known and are known to exist without penalty to the offending officers.

3 40. Plaintiff is informed and believes and thereon alleges that members of the Richmond
4 Police Department, including, but not limited to DOES 1 through 25 and/or each of them, have
5 individually and/or while acting in concert with one another, engaged in a repeated pattern and
6 practice of using excessive, arbitrary and/or unreasonable force against individuals, including,
7 but not limited to Plaintiffs.

8 41. Plaintiff is informed and believes and thereon alleges that City knew or had reason to
9 know by way of actual or constructive notice of the aforementioned policy, culture, pattern
10 and/or practice and the complained of conduct and resultant injuries/violations.

11 42. At all material times, and alternatively, the actions and omissions of each Defendant
12 were conscience-shocking, reckless, deliberately indifferent to Plaintiff's rights, negligent, and
13 objectively unreasonable.

14 **DAMAGES**

15 43. As a consequence of Defendants' violations of Plaintiff's federal civil rights under 42
16 U.S.C. §1983 and the First and Fourth Amendment, Plaintiffs were physically, mentally,
17 emotionally, and financially injured and damaged as a proximate result of Defendants' wrongful
18 conduct.

19 44. Plaintiff found it necessary to engage the services of private counsel to vindicate their
20 constitutional rights under the law. Plaintiffs are therefore entitled to an award of attorneys' fees
21 and/or costs pursuant to statute(s) in the event that they are the prevailing party in this action
22 under 42 U.S.C. §§ 1983 and 1988.

23 45. Plaintiff is entitled to punitive damages under 42 U.S.C. §§ 1983 and 1988.

24 **JURY TRIAL REQUESTED**

25 46. Plaintiffs each demand a jury trial and by no conduct or admission waive that right
26 unless such waiver is expressly made in writing.

FIRST CAUSE OF ACTION (42 U.S.C. Section 1983)

(Violation of the Fourth Amendment of the United States Constitution-Unlawful Seizure)

(Against Defendants DOES 1-25)

47. Plaintiff hereby re-alleges and incorporates by reference herein paragraphs 1 through 46 of this Complaint.

48. Defendants' above-described conduct violated Plaintiff's rights as provided for under the Fourth Amendment to the United States Constitution to be free from unreasonable searches and seizures because Defendants lacked the requisite probable cause to arrest Plaintiff.

50. The unreasonable search and seizure includes but is not limited to the physical detention, physical arrest and incarceration.

SECOND CAUSE OF ACTION (42 U.S.C. Section 1983)

(Violation of the Fourth Amendment of the United States Constitution-First Amendment

(Against Defendants DOES 1-25)

51. Plaintiff hereby re-alleges and incorporates by reference herein paragraphs 1 through 48 of this Complaint.

52. Defendant's above-described conduct violated Plaintiff's rights under the First Amendment to the United States Constitution to exercise his right to speech, to criticize police conduct and to observe the conduct of police officers.

THIRD CAUSE OF ACTION (42 U.S.C. Section 1983)

(Violation of the Fourth Amendment of the United States - False Prosecution

(Against Defendants DOES 1-25)

53. Plaintiff hereby re-alleges and incorporates by reference herein paragraphs 1 through 48 of this Complaint.

54. The lies in the police report compound the violations and seizures described in the First Cause of Action and are a separate and additional offense as the prosecution is based upon false statements designed to mislead the Contra Costa County District Attorney.

1 55. Defendants and each of them are aware that the initial charging decision is made
2 based upon the police recommendations and written reports. By falsification these writings, the
3 defendants are deliberately seeking to induce a prosecution when plaintiffs to this case are in fact
4 the crime victims and the officers are the criminal perpetrators.

5 **FOURTH CAUSE OF ACTION (42 U.S.C. Section 1983)**

6 (Violation of the Fourth Amendment of the United States - Excessive Force

7 (Against Defendants DOES 1-25)

8 56. Plaintiff hereby re-alleges and incorporates by reference herein paragraphs 1 through
9 48 of this Complaint.

10 57. The amount of force used upon plaintiffs by defendant was abusive, aggressive and
11 unnecessary even under circumstances where an arrest was lawful.

12 **FIFTH CAUSE OF ACTION**

13 (42 U.S.C. Section 1983)

14 (Monell - Municipal Liability for Unconstitutional Custom or Policy)

15 (Against Defendants City and DOES 26-50)

16 58. Plaintiff hereby re-alleges and incorporates by reference herein paragraphs 1 through
17 48 of this Complaint.

18 59. On information and belief, Defendants DOES 1-25's conduct, individually and as
19 peace officers, was ratified by City's police department supervisorial officers DOES 26-50.

20 60. On information and belief, Defendants were not disciplined for their use of excessive
21 force against Plaintiff, were not disciplined for their lies in their police reports, not disciplined
22 for their violation of plaintiff's First Amendment rights

23 61. On and for some time prior to the date of the wrongful conduct set forth above, (and
24 continuing to the present day), Defendants, individually and as peace officers, deprived Plaintiff
25 of the rights and liberties secured to him by the First, Fourth, and Fourteenth Amendments to the
26 United States Constitution, in that said Defendants and their supervising and managerial

1 employees, agents, and representatives, acting with gross negligence and with reckless and
2 deliberate indifference to the rights and liberties of the public in general, and of Plaintiff, and of
3 persons in Plaintiff's class, situation and comparable position in particular, knowingly
4 maintained, enforced and applied an official recognized custom, policy, and practice of:

5 a. Employing and retaining as police officers and other personnel, including Defendants,
6 individually and as peace officers; who at all times material herein knew or reasonably should
7 have known had dangerous propensities for abusing their authority and for mistreating citizens by
8 failing to follow written City Police Department policies, including the use of excessive force,
9 respect for the First Amendment, and permitting access to medical care;

10 b. Of inadequately supervising, training, controlling, assigning, and disciplining City Police
11 officers, and other personnel, including Defendants, who City knew or in the exercise of
12 reasonable care should have known had the aforementioned propensities and character traits,
13 including the propensity for violence and the use of excessive force and denying access to
14 medical care;

15 c. By maintaining grossly inadequate procedures for reporting, supervising, investigating,
16 reviewing, disciplining and controlling the intentional misconduct by Defendants, who are Police
17 Officers employed by City;

18 d. By failing to discipline City Police Officers' conduct, including but not limited to,
19 unlawful seizures, excessive force, denying access to medical care, and violations of the First
20 Amendment;

21 e. By ratifying the intentional misconduct of Defendants and other officers, who are Police
22 Officers employed by City;

23 f. By having and maintaining an unconstitutional policy, custom and practice of arresting
24 individuals without probable cause or reasonable suspicion, and using excessive force, which
25 also is demonstrated by inadequate training regarding these subjects. The policies, customs and
26 practices of Defendants were done with a deliberate indifference to individuals' safety and rights;

1 and

2 g. By failing to properly investigate claims of unlawful seizures and excessive force by City
3 Police Officers.

4 h. By allowing officers to maintain a culture of “us vs. them” that allows and promotes
5 coverups, false police reports and escalation of interactions.

6 I. By establishing policies that pretend to respect and enforce human rights when these
7 policies are known to be ineffective or of limited effect and to then pretend that the
8 department has changed its long standing policy of “us vs. them” as a policy and practice.

9 j. By reason of the aforementioned policies and practices of Defendants, individually and as
10 peace officers, Plaintiffs were injured as set forth herein and for all of which Plaintiff is entitled
11 to recover damages.

12 62. These Monell allegations apply to each and every action, each and every claim herein.

13 63. Defendants, individually and as peace officers, together with various other officials,
14 whether named or unnamed, had either actual or constructive knowledge of the deficient policies,
15 practices and customs alleged in the paragraphs above. Despite having knowledge as stated
16 above, these defendants condoned, tolerated and through actions and inactions thereby ratified
17 such policies.

18 64. Said defendants also acted with deliberate indifference to the foreseeable effects and
19 consequences of these policies with respect to the constitutional rights of Plaintiff and other
20 individuals similarly situated.

21 65. By perpetrating, sanctioning, tolerating and ratifying the outrageous conduct and other
22 wrongful acts, Defendants, individually and as peace officers, acted with an intentional, reckless,
23 and callous disregard for the rights of Plaintiff. Each of their actions was willful, wanton,
24 oppressive, malicious, fraudulent, and extremely offensive and unconscionable to any person of
25 normal sensibilities.

26 66. Furthermore, the policies, practices, and customs implemented and maintained and

1 still tolerated by Defendants, individually and as peace officers, were affirmatively linked to and
2 were a significantly influential force behind the injuries of Plaintiff.

3 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

- 4 1. General damages according to proof;
- 5 2. Special damages according to proof;
- 6 3. Attorney's Fees and costs of suit according to proof;
- 7 4. Such statutory and other damages and awards as allowed by law;
- 8 5. For such other and further relief as the Court deems proper.

9
10 Dated: June 5, 2020

Daniel Horowitz

Daniel Horowitz
Attorney for Plaintiffs

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13 Dated: June 5, 2020

Thomas Kensok

Thomas Kensok
Attorney for Plaintiffs

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Complaint for Damages
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