

JURY FEE PAID

THIS DATE

FEB 25 1986

STATE OF MICHIGAN

IN CIRCUIT COURT FOR THE COUNTY OF WAYNE

\*\*\*

FANNIE TULLY,

86-60507A NO 02-25-86 HATHR  
TULLY V CITY OF DETROIT ET AL

Plaintiff,

-VS-

CITY OF DETROIT, a municipal corporation,  
STEVEN PONGRACZ, and STANLEY POLANSKI,

Defendants,  
jointly and severally.

ROBERT S. ERNSTEIN - P 13221  
Attorney for Plaintiff

COMPLAINT AND DEMAND FOR JURY

NOW COMES the above-named plaintiff, FANNIE TULLY, by and through her attorneys, Manason & Earnstein, P.C., and for her cause of action states as follows:

COMMON ALLEGATIONS

1. Plaintiff is a resident of the City of Detroit, Wayne County, Michigan.

2. Defendant CITY OF DETROIT is a Michigan municipal corporation and defendants STEVEN PONGRACZ and STANLEY POLANSKI were employed as Detroit police officers at all times relevant to this complaint.

3. That on or about August 22, 1984 at approximately 3:45 a.m., plaintiff heard loud voices outside her home at 1626 Cavalry, Detroit, Michigan, and she stepped out onto the front

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porch to investigate.

4. Plaintiff saw a Detroit police officer who was talking to a neighbor in a loud voice and the said officer was walking in an unstable, staggering and drunken manner.

5. When the Detroit police officer, later identified as defendant STEVEN PONGRACZ, saw plaintiff on her porch, he, using foul language, shouted that he wanted to talk to her.

6. When defendant PONGRACZ approached plaintiff, she smelled a strong odor of alcohol about him and he was behaving in a drunken manner so she told him to get away from her because he was drunk.

7. Defendant PONGRACZ grabbed the plaintiff brusquely and said, "Bitch, you're going to jail." Whereupon he arrested the plaintiff.

8. Defendant PONGRACZ had no probable cause to arrest the plaintiff.

9. Defendant PONGRACZ handcuffed plaintiff with her hands behind her and he made the handcuffs so tight that her wrists began to turn purple and to bleed.

10. Defendant PONGRACZ drew his pistol and threatened to blow plaintiff's brains out, thereby causing her great fear for her life and trepidation.

11. Defendant PONGRACZ then took plaintiff to the police car, brutally threw her in the back seat causing her to strike her head on the car. He then slammed the car door on plaintiff's bare foot.

12. While defendant PONGRACZ was brutalizing



plaintiff, his partner, defendant POLANSKI, according to the custom, practice or policy of the defendant CITY OF DETROIT, stood by and did nothing to stop the assaults and batteries upon the plaintiff.

13. Defendants PONGRACZ and POLANSKI transported plaintiff to the Detroit police precinct located at Fort and Green. During the ride, defendant PONGRACZ continued to verbally abuse the plaintiff by calling her foul and slanderous names and he threatened to kill her husband and her children.

14. When defendants PONGRACZ and POLANSKI arrived with the plaintiff at the precinct garage, defendant PONGRACZ dragged plaintiff out of the police car and she complained about her foot. Defendant PONGRACZ then brutally stomped on her bare, injured foot with his heel while defendant POLANSKI stood by and watched according to the custom, practice or policy of the defendant CITY OF DETROIT.

15. When defendants POLANSKI and PONGRACZ took the plaintiff into the precinct station, the plaintiff complained to other officers in the station about the assaults and batteries committed upon her by defendant PONGRACZ and about his drunken condition.

16. While at the Fort and Green police station, the plaintiff was searched and she was held there until she was transported by two unknown police officers to Receiving Hospital for medical attention to her injured foot.

17. At Detroit Receiving Hospital, the police officers chained plaintiff by her left foot and left arm to a

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bed. She was X-rayed and treated while chained to the bed.

18. After the doctor saw the plaintiff, she was taken to a small locked room in the hospital and imprisoned there for approximately six hours.

19. The doctor gave plaintiff crutches and she was transported by two Detroit police officers to the police station located on Beaubien at approximately 1:00 p.m.

20. Plaintiff was issued a ticket charging her with interfering with a city official in lawful performance of his duties. She was then released from custody with directions to appear in court on October 11, 1984.

21. Plaintiff appeared in court with an attorney on October 11, 1984. The arresting officers, defendants PONGRACZ and POLANSKI did not appear in court and the ticket was dismissed by the judge.

22. The amount in controversy exceeds Ten Thousand Dollars or is otherwise within the jurisdiction of this Court.

23. As a proximate result of the misconduct of defendants, jointly and severally, plaintiff suffered damages and injuries, including but not limited to the following:

a. a fracture of the second metatarsal bones of her right foot;

b. soft tissue injuries of the right foot including nerve and vein compression injuries;

c. extreme pain and continuing suffering in and about her right foot including prolonged inability to use her right foot in a normal fashion;

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d. recurrent exacerbations of the injuries to her right foot which became abnormally sensitive to stresses, standing, wearing high-heeled shoes, exercising, dancing, and other athletic pursuits in which she had normally and previously engaged;

e. need for hospital and medical services at substantial expense and great inconvenience;

f. severe emotional trauma, fear, embarrassment, humiliation and mortification from the punishment and terror inflicted upon her by the defendants, jointly and severally;

g. injury, swelling, bruising and bleeding of her wrists which injuries were directly caused by the defendant police officers placing handcuffs upon her wrists excessively tight and then refusing to loosen them to a reasonable degree;

h. injuries to her head, neck, back and entire body when she was violently thrown into the police car and when the police car door was slammed upon her foot;

i. loss of personal liberty and freedom;

j. plaintiff was gainfully employed and she has suffered a loss of earnings and earning capacity as a proximate result of the misconduct of defendants, jointly and severally;

WHEREFORE, Plaintiff claims damages upwards of \$10,000 as may be determined by the trier of the facts plus costs, interest and attorneys fees.

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COUNT I - VIOLATION OF CIVIL RIGHTS

24. Plaintiff incorporates herein all of the allegations of this Complaint as if expressly restated verbatim.

25. The Congress of the United States of America enacted a statute found in Title 42, §1983 and commonly called "Civil Action for Deprivation of Rights" which states as follows:

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, or any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equality, or other proper proceeding for redress."

26. That plaintiff is a citizen of the United States and is entitled to the protection of said statute from the individual defendants who were, on August 22, 1984, at approximately 3:45 a.m., acting under color of laws of the State of Michigan and ordinances and customs of the City of Detroit, and who, as aforesaid, acted to deprive plaintiff of the rights, privileges and immunities secured to her by the Constitution, Bill of Rights and the laws of the United States.

27. Defendants PONGRACZ and POLANSKI did arrest, assault, batter and beat plaintiff in the manner stated above, and did exercise unnecessary and unreasonable force upon her without probable cause so to do, in violation of plaintiff's

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rights to free speech, freedom of expression, to maintain her bodily integrity free from invasion, and to due process of law.

28. That the individual defendant officers were acting in accordance with the policies and procedures of the City of Detroit and its police department and the type of misconduct exhibited and alleged herein has been approved, condoned, and tolerated by the city, its police department, its highranking officers, all contrary to law.

29. The misconduct of the defendants, jointly and severally, and their violations of plaintiff's constitutional and civil rights entitles plaintiff to compensatory, exemplary and to punitive damages.

WHEREFORE, plaintiff demands compensatory, exemplary and punitive damages in an amount upwards of Ten Thousand (\$10,000.00) Dollars as she may be determined to be entitled by the trier of the facts, plus costs, interests and attorneys fees.

#### COUNT II ASSAULT AND BATTERY

30. Plaintiff incorporates herein all of the allegations of this Complaint as if expressly restated verbatim.

31. That the conduct of Defendants PONGRACZ and POLANSKI in arresting, assaulting, battering and falsely imprisoning plaintiff, as aforesaid, was intentional, vicious, and calculated to inflict punishment upon her, along with pain and suffering.

32. That Defendant PONGRACZ made an intentional and

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unlawful threat or offer to do bodily injury to the plaintiff.

33. That the threat or offer was made under circumstances which created in the plaintiff a well-founded fear of imminent peril.

34. That Defendant PONGRACZ and POLANSKI had the apparent present ability to carry out the threats.

35. That Defendant PONGRACZ intentionally and willfully touched the plaintiff against her will and he put into motion an object that touched the plaintiff against her will as more specifically set out in the Common Allegations

36. That the conduct of Defendants PONGRACZ and POLANSKI was an unnecessary, unreasonable, excessive use of force upon the person of plaintiff as a proximate cause of which plaintiff suffered the injuries and damages set forth in the Common Allegations

WHEREFORE, the plaintiff demands compensatory, exemplary and punitive damages in an amount upwards of Ten Thousand (\$10,000.00) Dollars as may be determined by the trier of the facts plus costs, interest and attorney fees.

**COUNT II - VIOLATION OF PLAINTIFF'S CIVIL AND CONSTITUTIONAL  
RIGHTS PURSUANT TO THE POLICY, CUSTOMS AND PROCEDURES OF THE  
CITY OF DETROIT**

37. Plaintiff incorporates herein all of the allegations of this complaint as if expressly restated verbatim.

38. Defendant PONGRACZ was overtly and obviously in

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a drunken condition at the time he arrested and perpetrated the misconduct pleaded herein upon plaintiff.

39. Defendant POLANSKI knew or should have known that his partner was in a drunken condition but he intentionally or with reckless disregard for the rights of the plaintiff failed to restrain, admonish or otherwise stop his drunken partner, Defendant PONGRACZ, from inflicting punishment upon plaintiff, falsely arresting her and physically abusing her, as pleaded herein, but rather, he condoned, covered up, concealed and otherwise wantonly and willfully deprived plaintiff of her civil rights in collusion and concert with his drunken partner.

40. Defendant POLANSKI had a duty to protect plaintiff while she was in the custody of himself and Defendant PONGRACZ but defendant POLANSKI, willfully and intentionally and in violation of his duties as a peace officer to protect the plaintiff, turned a "blind eye" to the misconduct and abuses inflicted upon the plaintiff by Defendant PONGRACZ, in keeping with the policies and procedures of the Detroit police department and of the City of Detroit.

41. When plaintiff had been taken to the police station as aforesaid, and she reported the misconduct of the individual defendants to other police officers including supervisory personnel who were acting then and there for the City of Detroit, and they too, closed their eyes to the abuses about which they were given information and they condoned, tolerated, and approved of such misconduct as pleaded herein.



42. Defendant CITY OF DETROIT owed to the plaintiff and others similarly situated the following duties:

a. To exercise due care and circumspection as would a reasonably prudent city and police department in the screening and selection of persons for hire and retention as police officers, and particularly not to hire nor to retain as police officers persons who:

1) are psychologically unfit and who lack mature judgement in the use of their authority and power;

2) have mean and vicious propensities toward others with whom they might come into contact in the course of their official duties; and

3) who are assaultive, short tempered, imbued with a belief that because they carry a gun and badge they can do no wrong, and who drink on the job to the point of intoxication; and

4) who are inclined to overlook the violations of civil rights, abuses by other members of the department toward citizens, and who fail to take affirmative action to protect the citizen being abused by a fellow police officer;

b. To particularly educate and train officers in their responsibilities in making arrests, exercising their discretion and in teaching them the restraints upon the use of excessive force in making arrests and punishing prisoners.

c. To affirmatively stress the value and sanctity of human life and dignity, and the need to safeguard the same while carrying out official police duties.



d. To maintain regular and periodic programs of thoroughly reviewing the performance of police officers and of discharging such officers who have mean, vicious, brutal and/or violent propensities likely to unreasonably or unnecessarily injure or endanger others by the use of excessive force.

e. Not to tolerate, ratify or condone the denial of due process or the use of excessive force by its police officers.

43. That the Defendant CITY OF DETROIT violated the aforesaid duties, in the manner set forth in this Complaint and, more particularly as follows:

a. By failing to exercise due care and circumspection as would a reasonably prudent city and police department in the screening and selection of persons for hire and retention as police officers, and particularly by hiring and consciously retaining as police officers persons who:

1) are psychologically unfit and who lack mature judgment in the use of their authority and power;

2) have mean and vicious propensities toward others with whom they might come into contact in the course of their official duties; and

3) who are assaultive, short tempered, imbued with a belief that because they carry a gun and badge they can do no wrong, and who drink on the job to the point of intoxication; and

4) who are inclined to overlook the violations of civil rights, abuses by other members of the department



toward citizens, and who fail to take affirmative action to protect the citizen being abused by a fellow police officer;

b. By failing particularly to educate and train officers in their responsibilities in making arrests, exercising their discretion and in teaching them the restraints upon the use of excessive force in making arrests and punishing prisoners.

c. By affirmatively failing to stress the value and sanctity of human life and dignity, and the need to safeguard the same while carrying out official police duties.

d. By failing to maintain regular and periodic programs of thoroughly reviewing the performance of police officers and of discharging such officers who have mean, vicious, brutal and/or violent propensities likely to unreasonably or unnecessarily injure or endanger others by the use of excessive force.

e. By maintaining a policy, custom, or practice of condoning, concealing, or permitting the use of excessive force and the denial of due process to individuals who have been arrested and are in police custody.

4. The misconduct, custom or official policy of Defendant CITY OF DETROIT was a proximate cause and substantially responsible for the injuries and damages suffered by the plaintiff as more particularly set out in the Common Allegations.

WHEREFORE, plaintiff claims such damages against the all of the defendants, jointly and severally, upwards of Ten

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Thousand (\$10,000.00) Dollars as may be determined by the trier of the facts plus costs, interest and attorneys fees.

COUNT IV - FALSE ARREST AND FALSE IMPRISONMENT

45. Plaintiff incorporates herein by reference all of the allegations of this Complaint as if expressly restated verbatim.

46. That Defendants PONGRACZ and POLANSKI unlawfully and without probable cause or a warrant took, seized or detained the plaintiff and subjected her to the actual control and will of the said defendants.

47. The acts of Defendants PONGRACZ and POLANSKI were performed with the intent to make an arrest and were so understood by the plaintiff.

48. That the defendants intentionally and unlawfully by actual physical force and/or an express or implied threat of force restrained, detained or confined the plaintiff thereby depriving her of her personal liberty and freedom of movement against her will.

49. That as a proximate cause of the misconduct of the defendants the plaintiff suffered the injuries and damages set forth in the Common Allegations.

WHEREFORE the plaintiff claims against the defendants such damages upwards of Ten Thousand (\$10,000.00) Dollars as may be determined by the trier of the facts plus costs, interest and attorneys fees.

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DEMAND FOR JURY TRIAL

Plaintiff FANNIE TULLY hereby demands a trial by jury  
in this cause.

MANASON & ERNSTEIN, P.C.

By: 

ROBERT S. ERNSTEIN (P-13221)  
Attorneys for Plaintiff

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