

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
LYNCHBURG DIVISION**

CLERK'S OFFICE U.S. DIST. COURT  
AT LYNCHBURG, VA  
FILED

OCT 07 2010

JULIA C. DUDLEY, CLERK  
BY: *[Signature]*  
DEPUTY CLERK

**ANTHONY HOWARD  
517 DUMAS STREET  
LYNCHBURG, VIRGINIA 24502  
Plaintiff**

Civil Action No. *6:10cv00051*

v.

**LIBERTY UNIVERSITY  
1971 UNIVERSITY BOULEVARD  
LYNCHBURG, VIRGINIA 24502  
(Serve Registered Agent  
Sharon J. Hartless  
1971 University Boulevard  
Lynchburg, Virginia 24502)**

And

**OFFICER CRAIG SASSER  
1971 UNIVERSITY BOULEVARD  
LYNCHBURG, VIRGINIA 24502**

And

**OFFICER TINSLEY  
1971 UNIVERSITY BOULEVARD  
LYNCHBURG, VIRGINIA 24502  
Defendants**

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**COMPLAINT**

**(JURISDICTION)**

1. This Court has jurisdiction over the matter herein complained of pursuant to 28 U.S. Code § 1343 and 42 U.S. Code § 1983.
2. Plaintiff Anthony Howard is a citizen of Virginia residing at 517 Dumas Street, Lynchburg, VA 24502.

3. Defendant Liberty University is a corporate citizen of Virginia located at 1971 University Boulevard, Lynchburg, VA 24502.

4. Defendant Sasser is a citizen of Virginia whom at all times relevant to this Complaint was employed by the Liberty University Police Department.

5. Defendant Tinsley is a citizen of Virginia whom at all times relevant to this Complaint was employed by the Liberty University Police Department.

6. At all times relevant to this Complaint, Defendants Sasser and Tinsley were acting within the scope of their employment and under color of law.

#### **FACTS**

7. The allegations contained in paragraphs 1 through 6 of the Complaint are incorporated by reference as though fully set forth herein.

8. On June 28, 2009, Plaintiff and his wife and three sons attended the Thunder on the Mountain show at Liberty University.

9. Plaintiff's sons, Isaiah and Emmanuel, asked if they could leave the stadium and walk around.

10. Plaintiff told them they could but to check back with him so that he would know they were okay.

11. After the passage of some time, not having seen their sons, Plaintiff became concerned and he and his wife left the stadium to look for them.

12. After searching for them outside the stadium, Plaintiff found Emmanuel but not Isaiah

13. After about twenty minutes, Plaintiff spotted Isaiah in the crowd.

14. Plaintiff being both concerned and angry grabbed Isaiah by his shirt to prevent him from walking away and told him to “get your butt over here.”
15. Defendant Sasser approached Plaintiff and his son and asked Isaiah if he was okay and whether he had any injuries. Isaiah said he was and was okay and was not injured.
16. Defendant Sasser asked Plaintiff if he and his family were leaving. Plaintiff’s wife said they were but that they had to wait for their oldest son.
17. While waiting for their oldest son for about five minutes, Defendant Sasser came back with two other officers, one of whom was Defendant Tinsley.
18. Defendant Sasser again approached Isaiah and again asked Isaiah if he was okay and began to question him..
19. Plaintiff then said to officer Sasser, “[W]hy are you harassing my family?”
20. Defendant Tinsley then told Plaintiff to “shut up.”
21. Plaintiff then replied, “[E]xcuse me sir, you’re going to talk to me with some respect.”
22. Defendant Tinsley then told Plaintiff he was under arrest and Defendant Sasser grabbed Plaintiff from behind and placed him in a choke hold and in the process pinned Plaintiff’s right arm against his body.
23. Plaintiff was unable to breath and his face turned purple.
24. Plaintiff was then thrown to the ground by Defendants Tinsley and Sasser.
25. While he was on the ground, officer Tinsley put his knee on Plaintiff’s neck while officer Sasser put his knee on Plaintiff’s back.

26. Plaintiff was pinned face down to the ground with his right arm underneath his body.

27. Officer Sasser violently jerked Plaintiff's right arm behind his back and handcuffed him

28. The Defendant officers lifted Plaintiff to his feet by his arms and lifted him to his feet.

29. Plaintiff protested that he had been illegally choked by officer Sasser.

30. Plaintiff was then pepper sprayed by officer Tinsley causing him to be temporarily blinded, to have difficulty breathing to have a spasmodic and violent coughing fit, and to feel extreme pain.

31. Plaintiff, as a result of being pepper sprayed fell face forward to the ground.

32. As Plaintiff lay face down on the ground in pain from the pepper spray and in pain from his right shoulder, the Defendant officers walked away and left him there.

33. The actions of the Defendant officers caused Plaintiff to suffer a torn tendon in his right shoulder causing him constant pain and causing an injury which may be permanent and which may require surgery.

34. Plaintiff was taken a police precinct and held in custody for approximately two hours, and was charged with Obstructing Justice and Resisting Arrest.

35. Plaintiff was prosecuted and found to be not guilty on both charges.

**COUNT I**  
(§42 U.S.C. 1983-4<sup>th</sup> Amendment)

**UNREASONABLE SEIZURE-EXCESSIVE FORCE**

36. The allegations contained in paragraphs 7 through 35 of the Complaint are incorporated by reference as though fully set forth herein.

37. The actions of officer Sasser in choking Plaintiff in the course of arresting him, while Plaintiff was not resisting, and doing so with such force that Plaintiff could not breathe, causing his face to turn purple, constituted an excessive use of force; showed a reckless and intentional disregard for Plaintiff's safety; and was done with malice, and violated Plaintiff's 4<sup>th</sup> Amendment rights.

38. The actions of officer Sasser in throwing Plaintiff to the ground while he was not resisting, and doing so with such force that it caused Plaintiff to suffer pain and caused injury to his shoulder, constituted an excessive use of force; showed a reckless and intentional disregard for Plaintiff's safety; and was done with malice, and violated Plaintiff's 4<sup>th</sup> Amendment rights.

39. The actions of officer Tinsley in jamming his knee into Plaintiff's neck while he was prone on the ground, constituted an excessive use of force; showed a reckless and intentional disregard for Plaintiff's safety; and was done with malice, and violated Plaintiff's 4<sup>th</sup> Amendment rights.

40. The actions of officer Sasser in violently jerking Plaintiff's right arm behind his back caused injury to Plaintiff's shoulder constituted an excessive use of force; showed a reckless and intentional disregard for Plaintiff's safety; and was done with malice, and violated Plaintiff's 4<sup>th</sup> Amendment rights.

41. The actions of officer Tinsley in pepper spraying Plaintiff while Plaintiff was handcuffed and not resisting constituted an excessive use of force; showed a reckless and intentional disregard for Plaintiff's safety; and was done with malice, and violated Plaintiff's 4<sup>th</sup> Amendment rights.

42. The actions of officer Tinsley in pepper spraying the Plaintiff while he was handcuffed behind his back and unable to protect himself caused Plaintiff extreme pain, blinded him, and caused him to fall flat on his face on the ground causing injury to Plaintiff's shoulder.

43. The actions of the Defendant officers in leaving Plaintiff flat on his face on the ground while he was helpless and injured showed a reckless and intentional disregard for Plaintiff's safety; and was done with malice, and violated Plaintiff's 4<sup>th</sup> Amendment rights.

44. As a direct and proximate result of the reckless, intentional, and malicious acts of officers Sasser and Tinsley, acting within the scope of their employment and under color of law, caused Plaintiff to experience immediate and continuing pain and suffering both emotional and physical, including a serious tear of the tendon in his right shoulder which may require surgery. Plaintiff has incurred and will continue to incur medical expenses.

45. The aforesaid actions of Defendants Sasser and Tinsley violated the standard of care for police officers and constituted an unreasonable seizure under the 4<sup>th</sup> Amendment.

WHEREFORE, Defendants are jointly and severally liable to Plaintiff in the amount of \$800,000.00 in compensatory damages and \$400,000.00 in punitive damages.

**COUNT II**  
**(42 U.S.C. 1983-4<sup>th</sup> and 5<sup>th</sup> Amendments)**

**DEPRIVATION OF LIBERTY**

46. The allegations contained in paragraphs 36 through 45 of the Complaint are incorporated by reference as though fully set forth herein.

47. Defendants Sasser and Tinsley, while acting within the scope of their employment and under color of law, arrested Plaintiff and thereby deprived him of his liberty without probable cause and in violation of the standard of care.

48. Defendants Sasser and Tinsley's actions in arresting Plaintiff were unreasonable, grossly negligent, and were done with malicious intent, resulting in Plaintiff's loss of his freedom causing him mental anguish.

WHEREFORE, Defendants are jointly and severally liable to Plaintiff in the amount of \$800,000.00 in compensatory damages and \$400,000.00 in punitive damages.

### **COUNT III**

#### **ASSAULT AND BATTERY-EXCESSIVE FORCE**

49. The allegations contained in paragraphs 46 through 48 of the Complaint are incorporated herein by reference.

50. The actions of Defendant Sasser in choking Plaintiff, who was not resisting, to the point where he was unable to breath and his face turned purple was an assault and battery upon Plaintiff and constituted an excessive and unreasonable use of force causing Plaintiff pain and suffering and was done with malice and was a violation of the standard of care for maintaining an arrest.

51. The actions of Defendant Sasser in twisting Plaintiff's arm violently behind his back while he was not resisting was an assault and battery upon Plaintiff constituting an excessive and unreasonable use of force causing Plaintiff pain suffering and injury to his shoulder, was done with malice, and was a violation of the standard of care for maintaining an arrest.

52. The actions of Defendant Sasser in throwing Plaintiff violently to the ground while he was not resisting was an assault and battery upon Plaintiff and constituted an excessive and unreasonable use of force causing Plaintiff pain and suffering and injury to his shoulder.

53. The actions of Defendant Tinsley in jamming his knee into Plaintiff's neck while Plaintiff was injured and helpless on the ground, was an assault and battery upon Plaintiff and constituted an excessive and unreasonable use of force causing Plaintiff pain and suffering and injury to his shoulder, and was a violation of the standard of care.

54. The actions of Defendant Tinsley in pepper spraying Defendant while his hands were handcuffed behind his back, and while Plaintiff was injured, helpless, and unable to resist, was an assault and battery upon Plaintiff and constituted an excessive and unreasonable use of force done with malicious intent causing Plaintiff pain and suffering and was violation of the standard of care in maintaining an arrest and proximately caused Plaintiff to fall to the ground face first injuring his shoulder.

55. As a result of being pepper sprayed, Plaintiff was temporarily blinded, was caused to be bent over with body spasms, was caused to cough uncontrollably, and caused Plaintiff to experience pain and suffering.

56. The above-described actions of Defendants Sasser and Tinsley, all within the scope of their employment and done under color of law, showed reckless disregard for Plaintiff's safety, were grossly negligent, and were done with malicious intent.

WHEREFORE, Defendants are jointly and severally liable to Plaintiff in the amount of \$800,000.00 in compensatory damages and \$400,000.00 in punitive damages.

**COUNT IV**

**FALSE ARREST**

57. The allegations contained in paragraphs 49 through 56 of the Complaint are incorporated herein by reference.

58. Defendants Sasser and Tinsley, while acting within the scope of their employment, arrested Plaintiff and thereby deprived him of his liberty was unreasonable and without probable cause and was a violation of the standard of care.

59. Defendants Sasser and Tinsley's actions in arresting Plaintiff were unreasonable, grossly negligent, and were done with malicious intent, resulting in Plaintiff's loss of his freedom causing him mental anguish.

WHEREFORE, Defendants are jointly and severally liable to Plaintiff in the amount of \$800,000.00 in compensatory damages and \$400,000.00 in punitive damages.

**COUNT V**

**NEGLIGENT TRAINING**

60. The allegations contained in paragraphs 57 through 59 of the Complaint are incorporated herein by reference.

61. Defendant Liberty University had a duty to train and properly supervise its police officers with regard to when probable cause exists to arrest a citizen who has committed no crime in their presence and simply told the officers that all questions should be directed to him and not his son and asking the officers why they were harassing his family.

62. Defendant Liberty University had a duty to train and properly supervise its police officers with regard to when it is appropriate to use force in maintaining an arrest and

how much force is appropriate under the circumstances when the person being arrested is unarmed and not using force to resist the arrest.

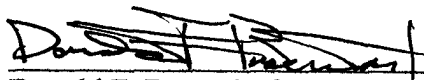
60. Defendant Liberty's failure to do so was a violation of the standard of care, PLACE plaintiff in a zone of danger and proximately caused Plaintiff to lose his freedom and to suffer significant injury to his shoulder. As a result, Plaintiff has incurred and will continue to incur medical expenses and experience pain into the foreseeable future.

WHEREFORE, Defendant liberty University is liable to Plaintiff in the amount of \$800,000.00 in compensatory damages.

**JURY DEMAND**

Plaintiff demands trial by jury on all claims raised herein.

Respectfully submitted,

  
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