

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

SEP 25 2020

JAMES W. McCORMACK, CLERK
By: _____
DEP CLERK

TINA JIMERSON,)
)
Plaintiff,)
)
v.)
)
DONNY FORD, former Sheriff of Dallas)
County, Arkansas; RONNIE POOLE,)
former Chief of the Fordyce Police)
Department; JERRY BRADSHAW,)
Deceased; GARLAND MCANALLY,)
former Arkansas State Police Investigator;)
GEORGE GODWIN, Arkansas State)
Police Investigator; MICHAEL JOE)
EARLEY, contract investigator for the)
Fordyce Police Department; WILLIAM)
SETTERMAN, former Calhoun County,)
Arkansas Sheriff's Deputy; JOHN)
KELLAM, Fordyce Police Department;)
C. W. FRANKS, Dallas County Sheriff's)
Office; JESSIE DEAN BRANDON,)
Dallas County Sheriff's Office; LARRY)
CASE, Fordyce Police Department;)
COUNTY OF DALLAS, ARKANSAS;)
CITY OF FORDYCE,)
)
Defendants.)

Case No. 4:20cv1145-KGB

JURY TRIAL DEMANDED

This case assigned to District Judge Baker
and to Magistrate Judge Norris

CIVIL RIGHTS COMPLAINT

Plaintiff TINA JIMERSON, by her undersigned attorneys, for her complaint against defendants DONNY FORD, former Sheriff of Dallas County, Arkansas; RONNIE POOLE, former Chief of the Fordyce Police Department; JERRY BRADSHAW, Deceased; GARLAND MCANALLY, former Arkansas State Police Investigator; GEORGE GODWIN, Arkansas State Police; MICHAEL JOE EARLEY, contract investigator for the Fordyce Police Department; WILLIAM SETTERMAN, former Calhoun County, Arkansas Sheriff's Deputy; JOHN

KELLAM, Fordyce Police Department; C. W. FRANKS, Dallas County Sheriff's Office; JESSIE DEAN BRANDON, Dallas County Sheriff's Office; LARRY CASE, Fordyce Police Department; COUNTY OF DALLAS, ARKANSAS; and CITY OF FORDYCE, alleges the following:

INTRODUCTION

1. In 1991, Plaintiff Tina Jimerson was wrongfully convicted of first-degree murder as a supposed accomplice in the murder of Myrtle Holmes, an elderly white woman, in the City of Fordyce on the night of September 21–22, 1988. In truth, Plaintiff is completely innocent of any involvement in the crime. Plaintiff, a Black woman, was 26 years old at the time of her arrest. She spent the next 27 years behind bars before her conviction was vacated through federal habeas corpus proceedings. In September 2020, the Circuit Court of Dallas County, Arkansas entered an order dismissing all charges against Plaintiff.

2. Plaintiff's wrongful conviction was no accident. It was the result of a corrupt, bad faith, reckless investigation. Despite having developed evidence against the actual perpetrator (Reginald Early, who is Black), the Defendant Investigators were intent, even without evidence, on ensnaring additional, innocent Black people for the crimes against Holmes. In the words of one of the Defendant Investigators, "some N***er is gonna have to do time for this crime."

3. Individually and in conspiracy, the Defendant Investigators fabricated the entire criminal case against Plaintiff and two other innocent Black defendants, John Brown and Charlie Vaughn. Through deceit, trickery and intimidation, they coerced Charlie Vaughn, an innocent man of limited intellectual ability, to falsely plead guilty and used that wrongfully obtained guilty plea as the centerpiece of a bogus case against Plaintiff and John Brown.

4. To further these efforts, the Defendant Investigators concealed evidence of their fabrication of Mr. Vaughn's confession and guilty plea and, acting in bad faith, destroyed an

audio tape recording that completely undermined the credibility of Mr. Vaughn's plea and accompanying confession. They used their power and authority over other witnesses to generate false evidence, all the while concealing their misconduct. The case against Plaintiff was built entirely on lies and fabrication. No legitimate evidence ever existed tying her to the crime.

5. Plaintiff now files this civil rights action to bring the Defendants' misconduct to light, and to ensure that they are held accountable for these unspeakable acts, which were undertaken pursuant to the practices and policies of Dallas County, Arkansas, and the City of Fordyce, Arkansas. Although Plaintiff has won back her freedom, she will never regain the nearly 30 lost years during which she was incarcerated for a crime she did not commit. This lawsuit seeks redress for these grievous injuries.

JURISDICTION AND VENUE

6. This action is brought pursuant to 42 U.S.C. § 1983 to redress the deprivation under color of law of Plaintiff's rights as secured by the United States Constitution.

7. This Court has jurisdiction over those claims that present a federal question pursuant to 28 U.S.C. § 1331 and may assume supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367. Venue is proper under 28 U.S.C. § 1391(b). The events giving rise to the claims asserted herein occurred in this judicial district, some of the parties reside in this district, and Defendants City of Fordyce and County of Dallas, Arkansas are located here.

PARTIES

8. Plaintiff Tina Jimerson is a Black woman who, until the events underlying this case, had resided in Fordyce, Arkansas for her entire life. She was arrested and falsely charged with participating in the murder and rape of Myrtle Holmes in 1991 and spent the next 27 years in jail and then in prison, locked away from family and friends.

9. At the time of the events giving rise to this complaint, Defendant Donny Ford was the Sheriff of Dallas County, Arkansas. He led the team of investigators from the Dallas County Sheriff's Office who participated in the investigation of the rape and murder of Myrtle Holmes.

10. At the time of the events giving rise to this complaint, Defendant Ronnie Poole was the Chief of the City of Fordyce Police Department. He led the team of Fordyce Police officers who participated in the investigation of the rape and murder of Myrtle Holmes.

11. At the time of the events giving rise to this complaint, Jerry Bradshaw was an investigator with the Arkansas State Police. He led the team of Arkansas State Police investigators who participated in the investigation of the rape and murder of Myrtle Holmes. Mr. Bradshaw is now deceased.

12. At the time of the events giving rise to this complaint, Garland McAnally was an investigator with the Arkansas State Police who participated in the investigation of the rape and murder of Myrtle Holmes.

13. At the time of the events giving rise to this complaint, George Godwin was an investigator with the Arkansas State Police who participated in the investigation of the rape and murder of Myrtle Holmes.

14. At the time of the events giving rise to this complaint, Michael Joe Earley was an experienced former law enforcement professional and private investigator who, by agreement with Defendant Bradshaw of the Arkansas State Police, became part of the Myrtle Holmes investigative team in exchange for \$5,000, to be paid when the crime was solved. In that connection, upon information and belief, Mr. Earley also became a contract investigator for the Fordyce Police Department to work on the investigation. Although he was not formally a member of any law enforcement agency, he provided assistance and expertise in the

investigation, engaging in investigative activities traditionally performed by state-sanctioned law enforcement. The other Defendant Investigators relied upon him, his network of informants and contacts, and the evidence he gathered during his own investigation to develop the information that they would use to falsely charge Charlie Vaughn, John Brown and Plaintiff.

15. At the time of the events giving rise to this complaint, William Setterman was a Sheriff's Deputy and investigator with the Calhoun County Sheriff's Office. Even though Mr. Setterman was not formally affiliated with any of the agencies principally responsible for investigating the rape and murder of Myrtle Holmes (Dallas County, the Arkansas State Police, and the City of Fordyce), he participated directly in the fabrication of evidence against Plaintiff.

16. At the time of the events giving rise to this complaint, John Kellam was an officer with the Fordyce Police Department who participated in the investigation of the rape and murder of Myrtle Holmes.

17. At the time of the events giving rise to this complaint, C. W. Franks was an investigator with the Dallas County Sheriff's Office who participated in the investigation of the rape and murder of Myrtle Holmes.

18. At the time of the events giving rise to this complaint, Jessie Dean Brandon was an investigator with the Dallas County Sheriff's Office who participated in the investigation of the rape and murder of Myrtle Holmes.

19. At the time of the events giving rise to this complaint, Larry Case was an investigator with the Fordyce Police Department who participated in the investigation of the rape and murder of Myrtle Holmes.

20. Each of defendants listed in paragraphs 9 through 19 above is sued in his individual capacity, except for Defendant Donny Ford, who is sued in his individual capacity and

in his official capacity as Sheriff of Dallas County, Arkansas, and Defendant Ronnie Poole, who is sued in his individual capacity and in his official capacity as Chief of the Fordyce Police Department. Each of them, including Defendant Earley, acted under color of state law in the course of the Myrtle Holmes investigation. Collectively, these defendants are referred to as the "Defendant Investigators."

21. Defendant County of Dallas, Arkansas is a county within the State of Arkansas. The County is responsible for the operations of the Office of the Dallas County Sheriff.

22. Defendant City of Fordyce is a municipal corporation under the laws of the State of Arkansas. The City of Fordyce is responsible for the operations of the Fordyce Police Department.

FACTS

The Crime

23. During the night of September 21–22, 1988, an intruder raped and murdered 78-year-old Myrtle Holmes in her Fordyce home, where she lived alone. The crime occurred after 10 p.m., the time Ms. Holmes was known to have concluded a telephone conversation with a family member. The next morning at about 7 a.m., Ms. Holmes's brother, Grady Brown, contacted the Fordyce Police Department to report that his sister appeared to be missing.

24. Investigators responded to the scene and found evidence of a horrific crime. In the living room, there was blood on the couch, on the carpet, on a crumpled rug and on a chair. The room was in disarray, indicating a struggle. A knife blade was recovered from the floor. A telephone cord was found at the entrance to the living room. There were bloodstains on the walls in the walkway leading to the bedroom, where investigators found more bloodstains on the linoleum floor and a massive bloodstain on the bed. A pot and a pot handle were recovered in the bedroom. Ms. Holmes's false teeth were shattered on the bed. The bedroom dresser had

been ransacked. The telephone had been pulled from the wall and the cord cut. In the kitchen, investigators found a long, slender butcher knife with the tip broken off and a second, large butcher knife lying across an open silverware drawer.

25. On the floor there were smudges of blood in a trail leading from the bedroom, through the kitchen and the pantry, and out a utility door onto the carport, ending at the rear of Ms. Holmes's car. Ms. Holmes's body was found inside the trunk of the car. Male DNA was recovered from Ms. Holmes's vaginal cavity, showing that she had been raped. Her throat had been slit and she had multiple stab wounds.

Reginald Early Alone Raped and Murdered Myrtle Holmes

26. As a result of the Defendant Investigators' fraudulent and corrupt investigation, the full truth of what happened to Ms. Holmes did not become known until December 2015—27 years later. At that time, Reginald Early provided a detailed, graphic confession describing how he alone raped and murdered Ms. Holmes.

27. In his confession, Early explained that he had been drinking throughout the afternoon and evening of September 21. Shortly after 10 p.m., when the liquor stores closed, he walked to the intersection where Ms. Holmes's property was located. He was reminded of an occasion on which, he believed, she had reported him to the police. He therefore decided to rob her.

28. Early entered the home alone through the unlocked carport door.

29. Early described ransacking the bedroom dresser in search of money (he found \$240 there). He described repeatedly attacking Ms. Holmes, raping her, and then killing her with one or more knives. He described dragging her body through the home and onto the carport, placing the body in the trunk of Ms. Holmes's car, and fleeing—alone and on foot. Early's

confession states: "I am solely responsible for the events that led to the convictions of Mr. Brown, Ms. Jimerson and Mr. Vaughn. I committed these crimes alone."

30. Early's confession has multiple indicia of credibility. Its lurid details conform to the crime scene the Defendant Investigators found the day after the crime. The confession includes non-public, confirmable details that could only be known by the true perpetrator of the crime.

31. Early has stated that he would have pled guilty to the murder and accepted his punishment except for the fact that three people whom he knew to be innocent had been charged along with him. Assuming that his innocent co-defendants would not be convicted, Early decided to take his chances at trial in the hope that he would be found not guilty along with them.

The Defendant Investigators Conduct a Corrupt Investigation

32. The Holmes rape/murder investigation was conducted jointly by all of the Defendant Investigators. As is common in homicide investigations, and particularly those involving multiple agencies, each of the Defendant Investigators participated individually and jointly with the others in the investigation of Ms. Holmes's rape and murder. The Defendant Investigators attended meetings and exchanged information, documents, and evidence with one another throughout the Holmes rape-murder investigation, such that each had knowledge of the information obtained by the others, the documents written or drafted by the others, and the evidence collected or analyzed by the others.

33. The murder of Myrtle Holmes, an elderly, frail woman, in her own home, was deeply unsettling to residents of the small community where she lived. In the days, weeks and months following the crime, the Defendant Investigators were unable to determine who had raped and killed her. As time passed, residents of Fordyce became increasingly alarmed that the murderer remained at large, putting pressure on the Defendant Investigators to close the case.

34. In the first months of the investigation, Darrell Jenkins reported to the Defendant Investigators that, a day or two following the murder, Reginald Early had confessed to committing the crime. In conversation with Jenkins, Early described entering Holmes's house in the middle of the night through an unlocked door, stealing money from a dresser, killing Ms. Holmes by hitting her on the head with pots and pans, and placing her body in the trunk of her car. Early's statements to Jenkins did not include any co-participants in the crime.

35. The Defendant Investigators also learned that, during an argument, Early made a statement to Jackie Hubbard, with whom Early shared a child, that he would "do to you [Hubbard]" what he had done to "that lady over on the south side," a reference to Ms. Holmes, who lived on the south side of Fordyce.

36. Despite the indications that Early was the perpetrator and the lack of any evidence that he acted in concert with others, the Defendant Investigators proceeded to implicate multiple other Black members of the community of Fordyce, Arkansas along with him.

37. Defendant Earley caused one of his informants, one Taura Bryant, to fabricate information that Plaintiff, Charlie Vaughn, John Brown, and Early committed the crime together. Under Defendant Earley's direction and guidance, Taura Bryant provided a false statement in which she (a) described seeing Plaintiff, Vaughn, Brown and Early at a party on the night of the murders and witnessing all four depart together; (b) described seeing Brown with blood on his clothes, and (c) described hearing Plaintiff and Vaughn make inculpatory statements. Taura Bryant's statement was fabricated and demonstrably false, as Defendant Earley and the other Defendant Investigators knew or should have known. Even if, contrary to fact, Bryant's statement was not fed to her, the most basic efforts to corroborate the statement would have revealed that it was false.

38. Despite the fact that there was no reliable basis to suspect their involvement, the Defendant Investigators caused the male DNA recovered from Ms. Holmes's body to be compared to DNA samples drawn from Vaughn and Brown. Vaughn and Brown were excluded as contributors to that DNA.

39. Early's DNA was also compared to the DNA from the rape kit. Unlike the others, Early could not be excluded as the source of the male DNA found in Ms. Holmes.

40. Nonetheless, on April 30, 1990, Vaughn, Brown were arrested along with Early and charged with the rape and murder of Myrtle Holmes. As to Vaughn and Brown there was, at that time: (a) no physical evidence tying either to the crime; (b) in fact, there was physical evidence—the DNA from the rape victim—exculpating them; (c) no inculpatory statement by either man (Vaughn in particular had denied involvement or refused to answer questions about the crime on multiple occasions); and (d) no direct evidence of any kind connecting either to the scene of the crime or the events in question. The only evidence was Taura Bryant's fabricated statement connecting them to Early and the crime.

41. On the other hand, Defendant Investigators had DNA, a confession, and witness statements tying Early to the crime.

42. During interviews in 1989, the Defendant Investigators threatened Plaintiff with criminal charges and attempted to persuade Plaintiff to provide evidence against the three men, even offering her money in exchange for her testimony and the assurance that she would not be charged. Plaintiff refused. She has maintained her innocence since day one, and has always been crystal clear that she is innocent of any involvement in the rape and murder of Myrtle Holmes and has no personal knowledge of how the crime was committed.

43. The Defendant Investigators never disclosed to Dallas County prosecutors these threats, offers and other misconduct.

44. In March 1990, the Defendant Investigators interviewed Shannon Manning, a relative of Early. Manning had very little information about Early, but provided the Defendant Investigators with what little he knew. The Defendant Investigators became angry and accused of him of failing to cooperate. They then prepared a false report indicating that he told officers that Early and Brown had gotten into a fight over who was responsible for killing Ms. Holmes, even though they knew this information was false, uncorroborated and of their own invention.

45. Defendants did not disclose to Plaintiff's defense attorneys or the Dallas County prosecutors their misconduct concerning Shannon Manning.

**The Defendant Investigators Trick and Coerce Charlie Vaughn
Into Pleading Guilty and Then Destroy Evidence of their Coercion**

46. The Defendant Investigators well knew that the case against Vaughn and Brown was not supported by probable cause. They also knew Charlie Vaughn to be the weak link among the three men charged in the Holmes case. Vaughn was illiterate. Throughout school he had attended special education classes, dropping out in the ninth grade. Vaughn was confused and frightened. He knew that he was charged with capital murder and he was terrified that he might be put to death. Vaughn's defense attorney filed on his behalf a plea of not guilty by reason of mental disease or defect, and requested a mental examination.

47. On March 24, 1991, Defendants Ford and Poole, acting in concert with other Defendant Investigators, recruited one Ronnie Prescott to attempt to elicit a false confession from Vaughn. Prescott had drug charges pending against him and was promised that, if he helped the Defendant Investigators "solve" the Holmes crime, his pending criminal charges

would be taken care of. The Defendant Investigators provided Prescott with details about the rape and murder of Ms. Holmes.

48. The Defendant Investigators did not actually want to solve the crime, instead they wanted Prescott to assist them in pressuring Vaughn to falsely claim that he had been involved in the offense, and that Brown and Plaintiff had some involvement as well, even though this was untrue.

49. Defendant Ford provided Prescott with a recording device and placed him in the same cell as Vaughn. Defendant Ford staged a loud disagreement with Prescott in Vaughn's presence, so that Vaughn would trust Prescott. Over many hours, Prescott engaged Vaughn in conversation regarding the charges pending against Vaughn and Vaughn's fear of the death penalty. In time, Vaughn purportedly made false inculpatory statements to Prescott.

50. Prescott provided the tape recording of some or all of his conversations with Vaughn to Defendants Ford and Poole. Prescott also signed a statement regarding his interactions with Vaughn and Vaughn's purported confession. With the exception of the signature on the last page, the statement is not in Prescott's handwriting.

51. A written confession was prepared for Vaughn to sign.

52. Vaughn pled guilty and agreed to testify against Brown and Early in exchange for the State's promise not to seek the death penalty against him.

53. The very next day, Vaughn was rushed to court for a change of plea hearing. During that hearing, Vaughn stated that Plaintiff drove Brown, Early, and him to the Holmes residence; the three men entered the residence; they searched for money; Brown hit Ms. Holmes over the head; all three raped her; Brown killed her. The confession was wholly lacking detail,

was inconsistent in important respects with the physical evidence, and Vaughn was unable to get through it without prompting and correction from the court.

54. Defendants Ford and Poole, acting in concert with other Defendant Investigators, deliberately and in bad faith, destroyed the tape recording of Prescott's conversations with Vaughn. On information and belief, they did so because: (a) the recording revealed that Prescott fed Vaughn facts about the Holmes rape and murder; (b) inculpatory statements that Vaughn made on the recording were patently incredible and revealed that Vaughn lacked knowledge of the crime; and (c) Vaughn's purported inculpatory statements were coerced via threats of the death penalty and assurances that, with a confession, Vaughn would be spared the ultimate penalty.

55. At no time prior to the trial of Plaintiff, Brown and Early did the Defendant Investigators reveal Prescott's identity or any information about the role Prescott played in eliciting the change of plea. Prescott's statement in particular was not disclosed, nor the fact that the fact that there was a recording of his interactions with Vaughn.

Plaintiff Is Charged

56. On March 27, 1991, two days after Charlie Vaughn pled guilty, Plaintiff was charged as an accessory to the murder and rape on the false theory that she had driven Vaughn, Brown and Early to the Holmes residence on the night of the crime.

57. The Defendant Investigators fabricated additional evidence against Plaintiff.

58. For example, months following the Holmes murder, but before she was arrested, Plaintiff had spoken with Defendant Setterman about having herself been the victim of a sexual assault in neighboring Calhoun County. Setterman turned the conversation to the Holmes rape and murder, telling Plaintiff she was lucky not to have been killed like Myrtle Holmes. He then

prepared a report that falsely described Plaintiff as nervous and evasive on the subject of the Holmes murder and that falsely purported to document an alibi Plaintiff gave for the night of the murder. Defendant Settermann transmitted his false report to the other Defendant Investigators with the hope that it would be “of help” to them.

59. On the same day that Plaintiff was charged, and nearly three years after the crime, Defendant Investigators approached Kenny Parsons. At that time, Kenny was serving as a trusty at the Dallas County Jail, where he was dependent upon Defendant Ford for the ongoing privileges that came with that position. Kenny Parsons suffered from drug addiction and serious mental illness and was highly vulnerable to suggestion and manipulation.

60. The Defendant Investigators provided Kenny Parsons with information he was to use in a false statement: on the night of the murder, Brown, Vaughn, and Early had come to the home that Kenny shared with his brother Lee Parsons and where Brown sometimes stayed. They were in a car that was being driven by Plaintiff. Brown was wearing bloody clothes, and he changed out of them. Kenny washed the clothes and later wore them himself.

61. The statement is false. When the Defendant Investigators approached Kenny Parsons shortly after the crime seeking any relevant information he might have, Kenny told them that he had no such information. The Defendant Investigators did not document this earlier interview, thereby concealing evidence that Kenny’s statement was recent fabrication, manufactured to build up the case against Plaintiff. Kenny Parsons has recanted his statement in its entirety, telling an investigator that he was so afflicted by drug addiction at the time that he has no memory of Ms. Holmes’s murder.

62. Shortly after they had obtained Kenny’s false statement, the Defendant Investigators approached Kenny’s brother, Lee Parsons, and provided Lee, in his words, with

information as to what Lee had “apparently seen.” Like his brother, Lee went along with a false statement that the Defendant Investigators had manufactured for him.

63. Lee Parsons was also vulnerable to manipulation and suggestion. He too has recanted his false statement. He too struggled with drug addiction and, like his brother, asserts that he has no memory of testifying at the trials.

64. The Defendant Investigators also approached Ellis Tidwell, a longtime friend of Defendants Ford, Poole and Earley. Tidwell was then incarcerated at the Dallas County Jail. Defendant Ford had arranged for him to be returned there from the Arkansas Department of Corrections, so that he could serve his sentence on a drug conviction close to home in a jail that was run by his friend. Ford had also arranged for Tidwell to be a jail trusty and given him the assignment to maintain the County vehicle fleet.

65. Tidwell agreed to provide a false statement that, the night before the murders, Vaughn, who was then working for Tidwell as an assistant in Tidwell’s auto repair business, approached Tidwell looking for an advance on his pay. According to the false statement, Vaughn was accompanied by another man whom he introduced to Tidwell as John Brown. Tidwell’s statement added the observation that Vaughn and Brown appeared “wild eyed” at that time.

66. The statement was entirely fabricated. It was demonstrably false in its description of how Tidwell was introduced to Brown. In fact, as Tidwell later revealed, he did not learn Brown’s name from Vaughn on the night of their supposed interactions, but instead was provided Brown’s name by Defendant Earley in the course of a photographic lineup procedure. The Defendant Investigators concealed the existence of that photo lineup at all times prior to the trial.

Plaintiff Is Tried and Convicted

67. Plaintiff was tried twice, along with Brown and Earley. The first trial, in April 1992, ended with a hung jury. The State elected to retry Plaintiff and the other two defendants. The second trial took place over three days in August 1992.

68. At the second trial, the State called Charlie Vaughn, who truthfully testified that his guilty plea and confession were false and compelled and testified that he did not commit the rape and murder of Myrtle Holmes and had no personal knowledge of the crime. Vaughn also testified that the Investigator Defendants pressured him to confess by raising the prospect that he would be put to death if he did not cooperate.

69. No physical evidence pointed to Plaintiff and the only evidence against her had been fabricated by the Defendant Investigators, as they well knew.

70. Prior to the second trial, the Defendant Investigators did not disclose any information regarding the involvement of Ronnie Prescott in obtaining a false confession and plea from Charlie Vaughn; they did not disclose the tape recording of the conversations between Prescott and Vaughn and did not reveal that they had destroyed the recording; they did not disclose Ronnie Prescott's signed statement; they did not disclose any information regarding interviews that any of the Defendant Investigators had conducted with Kenny Parsons, Lee Parsons or Ellis Tidwell prior to March 1991; and they did not disclose any evidence as to how they had fabricated the statements and the testimony of Bryant, Kenny Parsons, Lee Parsons and Tidwell.

71. Plaintiff was convicted at the conclusion of the second trial and, thereafter, was sentenced to life in prison.

Plaintiff Is Exonerated

72. In 2015, Plaintiff filed a petition for federal *habeas*, seeking the vacation of her conviction because it was obtained by violations of the *Brady* rule (requiring disclosure of exculpatory evidence) and a violation of the *Youngblood* principle (which prohibits the knowing, bad faith destruction of material evidence). This court granted relief, which was affirmed (as to the *Youngblood* violation), following the State's appeal.

73. In September 2020, the Circuit Court of Dallas County, Arkansas entered an order dismissing all charges against Plaintiff.

Policies and Practices of the Fordyce Police Department and the Dallas County Sheriff's Office Were the Moving Force Behind the Defendant Investigators' Violations of Plaintiff's Constitutional Rights

74. At all times material to this complaint, the Fordyce Police Department and the Dallas County Sheriff's Office failed to train and to supervise law enforcement officers responsible for the investigation of serious crimes in the basic skills and obligations of investigation. In particular, the Fordyce Police Department and the Dallas County Sheriff's Office did not provide training and supervision to ensure that investigators: (1) properly memorialized witness and suspect interviews in complete reports; (2) refrained from coaching and information feeding during witness and suspect interviews; (3) refrained from intimidation and manipulation of witnesses and suspects; (4) accurately described interactions between investigators and the subjects of interviews and interrogations; (5) disclosed all exculpatory evidence, including evidence of incentives provided to witnesses; (6) refrained from fabrication of statements and evidence; and (7) refrained from the destruction of material evidence.

75. As Chief of the Fordyce Police Department, Defendant Poole was, at all times material to this complaint, the final policymaker for the City of Fordyce with respect to all

matters relating to law enforcement and the investigation of crimes occurring within the City of Fordyce.

76. Defendant Poole had notice of the deficiencies in training and supervision described above and was personally aware that these policy failures could and did lead to inadequate and incomplete investigations and risked miscarriages of justice. Defendant Poole nonetheless failed to correct the policy failures.

77. Defendant Poole conducted the Holmes murder investigation in a manner that deliberately violated the rights of Plaintiff, Brown, and Vaughn. Defendant Poole's decisions and actions, including his supervisory decisions, reflected and constituted the official policy of the City of Fordyce.

78. As Sheriff of Dallas County, Defendant Ford was, at all times material to this complaint, the final policymaker for the County of Dallas, Arkansas with respect to all matters relating to law enforcement and the investigation of crimes occurring within Dallas County.

79. Defendant Ford had notice of the deficiencies in training and supervision described above and was personally aware that these policy failures could and did lead to inadequate and incomplete investigations and risked miscarriages of justice. Defendant Ford nonetheless failed to correct the policy failures.

80. Defendant Ford conducted the Holmes murder investigation in a manner that deliberately violated the rights of Plaintiff, Brown, and Vaughn. Defendant Ford's decisions and actions, including his supervisory decisions, reflected and constituted the official policy of the County of Dallas.

81. The policy deficiencies described above meant that there were no guardrails on the investigative actions of the Defendant Investigators, who believed that they could engage in

the misconduct alleged in this complaint with impunity. The misconduct was not merely unpunished, it was actively sanctioned and encouraged by the policymakers of the City of Fordyce and the County of Dallas.

82. The policy deficiencies were the moving force behind the violations of Plaintiff's constitutional rights alleged herein.

Plaintiff's Damages

83. Plaintiff was incarcerated for close to three decades for crimes of which she was and is completely innocent. She was 26 years old at the time of her false arrest in 1991. She emerged from prison in 2018 at the age of 53, having spent more than half her life behind bars for a crime she did not commit. She must now attempt to make a life for herself outside of prison without the benefit of those decades of life experience. She must learn how to navigate a dramatically changed world. Those things that free persons take for granted pose profound difficulties for Plaintiff. She has been unable to recover the driver's license that she earned at the age of 14, but was unable to use throughout her years in prison. There is an unfillable, gaping hole in the center of her life.

84. Plaintiff's emotional pain and suffering stemming from the loss of these years is, has been and will continue to be substantial. Her incarceration was brutal. She was ridiculed and looked down on as "a lifer" by other incarcerated women, whom she watched serve their sentences and leave—while she remained. Her hearing was damaged by incessant clanging of doors and noise. During her incarceration, Plaintiff was stripped of the basic pleasures of human experience, from the simplest to the most important, which all free people enjoy as a matter of right. She missed the opportunity to live independently, to share holidays, births, funerals, and other life events with loved ones, to have intimate relationships, to fall in love, to marry, to have children, and to pursue an occupation, and the fundamental freedom to live her life as an

autonomous human being.

85. As a result, Plaintiff has suffered tremendous damage, including but not limited to physical harm, mental suffering, and loss of a normal life, all proximately caused by Defendants' misconduct.

Count I – 42 U.S.C. § 1983
Violation of Fourteenth Amendment Due Process
(All Defendants)

86. Each paragraph of this Complaint is incorporated as if restated fully herein.

87. As described more fully above, all of the Defendant Investigators, acting individually, jointly, and/or in conspiracy, deprived Plaintiff of her constitutional right to due process and to a fair trial.

88. In the manner described more fully above, the Defendant Investigators (1) fabricated false inculpatory police reports and statements from Charlie Vaughn and from the remaining witnesses who testified against Plaintiff; (2) concealed all evidence of their fabrication by failing to document their activities and preparing false reports; (3) destroyed evidence that was material and exculpatory; and (4) otherwise engaged in a reckless and bad faith investigation. Absent this misconduct, the criminal prosecution of Plaintiff could not and would not have been pursued. The actions of the Defendant Investigators, individually and cumulatively, were so egregious as to shock the conscience.

89. The Defendant Investigators' misconduct directly resulted in the unjust criminal conviction and wrongful incarceration of Plaintiff, thereby denying her the constitutional right to a fair trial, in violation of the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

90. As a result of this violation of her constitutional right to a fair trial, Plaintiff suffered injuries, including but not limited to the loss of her liberty, physical harm, severe

emotional distress and anguish.

91. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally, with malice and willful indifference to Plaintiff's clearly established constitutional rights.

92. The City of Fordyce and the County of Dallas, Arkansas are also liable for these violations because their policies were the moving force behind the violations of Plaintiff's constitutional rights, as more fully set forth in paragraphs 74 to 82, *supra*.

Count II—42 U.S.C. § 1983
Deprivation of Liberty without Probable Cause (Fourth Amendment)
(All Defendants)

93. Each paragraph of this Complaint is incorporated as if restated fully herein.

94. As described more fully above, all of the Defendant Investigators, acting individually, jointly, and/or in conspiracy, deprived Plaintiff of her Fourth Amendment right not to be seized and detained in the absence of probable cause.

95. In the manner described more fully above, the Defendant Investigators arrested Plaintiff without probable cause for the murder and rape of Myrtle Holmes and caused her to be detained prior to the initiation of legal process and thereafter, until her release in September 2018, in violation of her Fourth Amendment rights. At no time prior to Plaintiff's release from custody was there probable cause to support her ongoing detention. There was no evidence against Plaintiff to justify her ongoing detention and incarceration that was not manufactured and fabricated by the Defendant Investigators.

96. As a result of this violation of her Fourth Amendment rights, Plaintiff suffered injuries, including but not limited to the loss of her liberty, physical harm, severe emotional distress and anguish.

97. The misconduct described in this Count was objectively unreasonable and was

undertaken intentionally, with malice and willful indifference to Plaintiff's clearly established constitutional rights.

98. The City of Fordyce and the County of Dallas, Arkansas are also liable for these violations because their policies were the moving force behind the violations of Plaintiff's constitutional rights, as more fully set forth in paragraphs 74 to 82, *supra*.

Count III—42 U.S.C. § 1983
Conspiracy to Deny Plaintiff Her Constitutional Rights
(The Defendant Investigators)

99. Each paragraph of this Complaint is incorporated as if restated fully herein.

100. After the death of Myrtle Holmes, the Defendant Investigators, acting within the scope of their employment and under color of law, agreed among themselves and with other individuals to intentionally deprive Plaintiff of her constitutional rights, including her rights to due process and to a fair trial and her Fourth Amendment rights, all as described in the various paragraphs of this Complaint.

101. Before and after Plaintiff's conviction, the Defendant Investigators further conspired to conduct a reckless and bad faith investigation; to destroy material evidence, knowingly and in bad faith; and to intentionally deprive Plaintiff of exculpatory information to which she was lawfully entitled and which would have led to her not being charged, to her acquittal, or to her more timely exoneration.

102. Before and after Plaintiff's conviction, the Defendant Investigators further conspired to ensure that Plaintiff would be seized and would be detained and incarcerated without probable cause and solely on the basis of evidence they had fabricated.

103. In furtherance of this conspiracy, each of the Defendant Investigators intentionally engaged in and facilitated overt acts, including but not limited to those set forth

above—fabricating evidence, withholding exculpatory evidence, and destroying material evidence in bad faith—and was an otherwise willful participant in joint activity.

104. As a direct and proximate result of the illicit prior agreements and actions in furtherance of the conspiracies referenced above, Plaintiff's rights were violated, and she suffered injuries, including but not limited to loss of liberty, physical harm, and emotional distress.

**Count IV—State Law Malicious Prosecution
(The Defendant Investigators)**

105. Each paragraph of this Complaint is incorporated as if restated fully herein.

106. The Defendant Investigators, despite knowing that probable cause did not exist to charge Plaintiff for the murder and rape of Myrtle Holmes, acted individually, jointly, and/or in concert and in conspiracy, to cause Plaintiff to be arrested and prosecuted for that crime. The Defendant Investigators made statements to trial prosecutors with the intent of exerting influence and to institute and continue the unjust judicial proceedings. The Defendant Investigators played a substantial role in the commencement and continuation of the prosecution of Plaintiff.

107. Specifically, the Defendant Investigators were aware that, as described more fully above, no true or reliable evidence implicated Plaintiff in the death of Myrtle Holmes. There was literally no non-fabricated evidence that connected Plaintiff in any way to the death of Myrtle Holmes. In the absence of any such evidence, the Defendant Investigators caused a confidential informant to be placed, with a recording device, in the same cell as Charlie Vaughn and allowed that informant to threaten and trick Vaughn into making a false confession and to supply Vaughn with the information he would use in the confession. The Defendant Investigators concealed their use of an informant to coerce Vaughn's confession and, deliberately and in bad faith, destroyed the recording of Vaughn's conversations with the

informant. Recognizing the tenuous nature of Vaughn's confession, the Defendant Investigators proceeded to fabricate additional false evidence against Plaintiff from Kenny and Lee Parsons, Ellis Tidwell, Taura Bryant and others. They concealed all of their fraudulent activity by intentionally withholding from and misrepresenting to trial prosecutors facts that further vitiated probable cause against Plaintiff, as set forth above. The Defendant Investigators performed the above-described acts deliberately, with malice, and with reckless disregard for Plaintiff's rights.

108. On September 4, 2020, the Circuit Court of Dallas County dismissed all charges against Plaintiff.

109. As a direct and proximate result of this misconduct, Plaintiff sustained, and continues to sustain, injuries as set forth above, including pain and suffering.

**Count V—State Law Civil Conspiracy
(The Defendant Investigators)**

110. Each paragraph of this Complaint is incorporated as if restated fully herein.

111. As described more fully in the preceding paragraphs, the Defendant Investigators, acting in concert with other known and unknown co-conspirators, conspired by concerted action to accomplish a purpose that was unlawful or oppressive and to do so by unlawful means.

112. In furtherance of the conspiracy, each of the Defendant Investigators committed unlawful overt acts and was an otherwise willful participant in joint activity including but not limited to the malicious prosecution of Plaintiff.

113. The misconduct described in this Count was undertaken intentionally, with specific intent to cause harm.

114. As a direct and proximate result of the Defendant Investigators' conspiracies, Plaintiff suffered damages, including severe emotional distress and anguish, as is more fully alleged above.

**Count VI—Respondeat Superior
(City of Fordyce)**

115. Each paragraph of this Complaint is incorporated as if restated fully herein.

116. Defendants Poole, Kellam, Case and, on information and belief, Earley were employees of Defendant City of Fordyce.

117. Each of the Defendant Investigators listed in the preceding paragraph was acting in the normal course of his employment during the course of events described herein.

118. The City of Fordyce is liable for the violations of state law committed by Defendants Poole, Kellam, Case and Earley.

**Count VII—Respondeat Superior
(County of Dallas, Arkansas)**

119. Each paragraph of this Complaint is incorporated as if restated fully herein.

120. Defendants Ford, Franks and Brandon were employees of Defendant County of Dallas, Arkansas.

121. Each of the Defendant Investigators listed in the preceding paragraph was acting in the normal course of his employment during the course of events described herein.

122. The County of Dallas, Arkansas is liable for the violations of state law committed by Defendants Ford, Franks and Brandon.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, TINA JIMERSON, respectfully requests that this Court enter judgment in her favor and against DONNY FORD, former Sheriff of Dallas County, Arkansas; RONNIE POOLE, former Chief of the Fordyce Police Department; JERRY BRADSHAW, Deceased; GARLAND MCANALLY, former Arkansas State Police Investigator; GEORGE GODWIN, Arkansas State Police; MICHAEL JOE EARLEY, contract investigator for the

Fordyce Police Department; WILLIAM SETTERMAN, former Calhoun County, Arkansas Sheriff's Deputy; JOHN KELLAM, Fordyce Police Department; C. W. FRANKS, Dallas County Sheriff's Office; JESSIE DEAN BRANDON, Dallas County Sheriff's Office; LARRY CASE, Fordyce Police Department; COUNTY OF DALLAS, ARKANSAS; and CITY OF FORDYCE, awarding compensatory damages, attorneys' fees, and costs against each Defendant, and punitive damages against each of the individual Defendants, as well as any other relief this Court deems appropriate.

JURY DEMAND

Plaintiff, TINA JIMERSON, hereby demands a trial by jury pursuant to Federal Rule of Civil Procedure 38(b) on all issues so triable.

Respectfully submitted,

TINA JIMERSON

By: 

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