

**LEGISTAR NO.**

**120065**

IN THE UNITED STATES DISTRICT COURT,  
NORTHERN DISTRICT OF FLORIDA  
(Gainesville Division)

CHASE NELSON

Plaintiff,

CASE NO.: 01:12-cv-113

vs.

THE CITY OF GAINESVILLE, FLORIDA,  
a municipal corporation, and  
Officer DAVID REVEILLE,  
in his individual capacity,

Defendants. \_\_\_\_\_ /

**COMPLAINT FOR DAMAGES  
AND DEMAND FOR JURY TRIAL**

The Plaintiff, CHASE NELSON, ("Plaintiff") by and through his undersigned attorneys, sues the Defendants, CITY OF GAINESVILLE, FLORIDA, and Gainesville Police Officer DAVID REVEILLE and states:

**CAUSE OF ACTION**

1. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, the Fourth Amendment to the United States Constitution, § 768.28 of the Florida Statutes and for violation of the State of Florida Constitution, Article I, §§ 2, 9 and 12 and for recovery of attorney's fees and costs.

JURISDICTION AND VENUE

2. This Court has jurisdiction of this action under 42 U.S.C. §1983 and its pendent jurisdiction for State law claims.

3. This is an action for damages in excess of \$75,000, exclusive of interests, costs and attorney's fees.

4. All actions took place within the Northern District of Florida and venue is proper within the Northern District of Florida.

PARTIES

5. CHASE NELSON was a resident of Alachua County, the State of Florida, and the United States of America at all times material to this complaint.

6. At all times referenced herein, Officer REVEILLE was employed by the Police Department in the CITY OF GAINESVILLE as a police officer.

7. At all times material, the CITY OF GAINESVILLE was a municipal corporation under the laws of the State of Florida and the United States of America.

At the time of this incident complained herein, Norman Botsford was the Police Chief for the City of Gainesville and he is succeeded in interest by Tony Jones as Chief of Police.

As such he was responsible for making policy for the police department and ensuring the officers under his command, including Officer REVEILLE, received appropriate training, supervision, and conducted themselves properly.

8. The Plaintiff sues DAVID REVEILLE in his individual capacity.

9. At all times referred to herein, the Defendants were acting under the color

of the law, statute, ordinance, regulations, policies, customs, and usages of the United States of America, State of Florida, and the City of Gainesville, Florida.

GENERAL ALLEGATIONS

10. On or about September 20, 2008, Plaintiff, CHASE NELSON, was in the city of Gainesville, and was lawfully standing in the parking lot of 721 NW 6<sup>th</sup> Street.

11. The Plaintiff was talking with other people in a crowd of over 100 people.

12. When an unidentified man yelled to Plaintiff, Plaintiff approached the van to talk to the person.

13. Plaintiff was with two other people, Orion McNulty and Ian McNulty, who walked with him.

14. Officer REVEILLE pushed past Ian McNulty, grabbed Plaintiff from behind by the collar and waist and threw Plaintiff to the ground.

15. Officer REVEILLE made no announcement as to who he was or why he was attacking Plaintiff.

16. After throwing Plaintiff to the ground, Officer REVEILLE handcuffed and arrested Plaintiff.

17. When Plaintiff asked why he was handcuffed, Officer REVEILLE told him to shut up.

18. When Orion McNulty tried to approach to ask the same, Officer REVEILLE told Orion to stay away or he would "fuck him up too."

19. Plaintiff was arrested for Battery on a LEO, a felony, based on

REVEILLE'S false allegation that Plaintiff attacked Officer REVEILLE twice.

20. No police officer took any witness statements.

21. Prior to violently grabbing the Plaintiff and throwing him to the ground, Officer REVEILLE gave no verbal warning or announcement to the Plaintiff and issued no lawful commands.

22. Prior to Officer REVEILLE violently grabbing the Plaintiff and throwing him to the ground, the Plaintiff was never advised that he was under arrest.

23. When Officer REVEILLE violently grabbed the Plaintiff and threw him to the ground, the Plaintiff had not committed any crime and there was no probable cause to believe he had committed any crime.

24. On November 17, 2008 Assistant State Attorney Omar Hechavarria entered a No Information dismissing all charges against Plaintiff because the case "LACKS PROSECUTIVE MERIT." A true and correct copy of the No Information dismissing the charges is attached hereto as Exhibit "A."

25. The force used by Officer REVEILLE was clearly excessive.

26. At the time the Plaintiff was attacked, he had not committed any crime and was not suspected of committing any crime.

27. The use of force against the Plaintiff was wholly unnecessary to any legitimate law enforcement purpose under the circumstances presented to Officer REVEILLE.

#### COUNT I

**VIOLATION OF CIVIL RIGHTS AS TO OFFICER REVEILLE**

28. The Plaintiff incorporates paragraphs 1 through 27 above as if fully set forth herein.

29. As a direct and proximate result of the above-referenced false arrest and unlawful physical attack on the Plaintiff by Officer REVEILLE, committed under the color of law and under his authority as a police officer for the City of Gainesville, the Plaintiff suffered grievous bodily harm and was deprived of his right to be secure in his person against unreasonable seizure of his person and the use of excessive force, in violation of his rights protected by the Fourth Amendment to the United States Constitution.

30. As a direct and proximate result of the conduct of Officer REVEILLE, as set forth above, the Plaintiff suffered severe and permanent injuries, including permanent injuries to his body, psychological damages, pain and suffering, medical expenses, lost wages, and loss of ability to earn, and will suffer additional damages in the future.

31. The acts of Officer REVEILLE as set forth herein were intentional, unlawful, wanton, malicious, and oppressive.

WHEREFORE, the Plaintiff, CHASE NELSON, respectfully request judgment for compensatory damages, punitive damages, costs of suit, including the Plaintiff's reasonable attorneys' fees a jury trial and other such relief as the Court deems proper.

**COUNT II**

VIOLATION OF CIVIL RIGHTS AS TO THE CITY OF GAINESVILLE

32. By reference, the Plaintiff incorporates each and every paragraph 1 to 27 as if fully set forth herein.

33. The City of Gainesville is vested by state law with the authority to make policy for the City, including policies for the police force in the use of force in making arrests and has delegated that authorization to the police Chief.

34. The City of Gainesville Police Department has a history of widespread abuse, unreasonable seizures and excessive force and the City of Gainesville has been deliberately indifferent to this conduct.

35. The City Commission members, former Chief Norman Botsford and the current Chief Tony Jones were aware of this pattern of unreasonable seizures, abuse, and excessive force by police officers employed by the City of Gainesville, having received numerous reports of similar misconduct by this same officer, and knew or should have known that the City's policies regarding the training and discipline of officers accused of excessive force and false arrests was so inadequate that it was obvious that a failure to correct them would result in further incidents of excessive force by this officer. Despite this knowledge the City failed to take any corrective action.

36. The City of Gainesville failed to conduct any competent investigation to the incident complained of herein, even after notification by the State Attorney's Office that this case lacked prosecutive merit.

37. At all times relevant to this Complaint, Officer REVEILLE, former Police

Chief Norman Botsford, and current Police Chief Tony Jones were acting under the direction of the City of Gainesville and were acting pursuant to the official policy, practice, and custom of the City of Gainesville and the Gainesville Police Department.

38. Acting on the color of law and pursuant to the custom and practice, Defendant City of Gainesville and former Chief Norman Botsford and current Chief Tony Jones intentionally, knowingly or recklessly failed to instruct, supervise, control, and discipline on a continuing basis officers in the police department from using unreasonable and excessive force during the making and arrest and thusly caused or contributed to the violation of Plaintiff's rights as protected by the Fourth Amendment to the United States Constitution.

39. Acting under the color of state law and pursuant to custom and practice, Defendant City of Gainesville and former Chief Norman Botsford and current Chief Tony Jones, intentionally, knowingly, or recklessly failed to instruct, supervise, control, and discipline police officers on a continuing basis regarding probable cause necessary for the arrest of citizens and thusly caused or contributed to violations of his rights as protected by the Fourth Amendment to United States Constitution.

40. Defendant City of Gainesville and former Chief Norman Botsford and current Chief Tony Jones, if they diligently exercised their duties to instruct, supervise, control, and discipline on a continuing basis, had knowledge of deficiencies or should have had knowledge of the deficiencies within the department that caused and contributed to the acts complained herein.



41. Defendant City of Gainesville and former Chief Norman Botsford had actual knowledge of confirmed repeat wrongdoing by REVEILLE on duty, documented by the Gainesville Police Department internal affairs, including failure to report use of force, inefficiency in job performance, improper arrest, violation of statutory authority, intentional destruction of evidence, and unlawful conduct on duty.

42. Defendant City of Gainesville and former Chief Norman Botsford and current Chief Tony Jones had the power to prevent the commission of wrongs committed herein, including excessive use of force and false arrest and could have done so by reasonable diligence, but intentionally, knowingly, and recklessly failed to do so.

43. Defendant City of Gainesville and former Chief Norman Botsford and current Chief Tony Jones, directly or indirectly, under color of law, approved or ratified the unlawful, deliberate, malicious, reckless, and wanton conduct of Officer REVEILLE.

44. As a direct and proximate cause of the acts and omissions stated herein, the Plaintiff suffered grievous bodily injury, severe and permanent injuries, including permanent injury to his body, psychological damage, pain and suffering, medical expense, lost wages, loss of ability to earn, and will suffer additional damages in the future.

WHEREFORE, the Plaintiff, CHASE NELSON, respectfully request judgment for compensatory damages, costs of suit, including the Plaintiff's reasonable attorneys' fees, a jury trial and other such relief as the Court deems proper.

### COUNT III

BATTERY AS TO CITY OF GAINESVILLE

45. The Plaintiff incorporates paragraphs 1 through 27 above as if fully set forth herein.

46. This claim is brought pursuant to § 768.28, Florida Statutes.

47. All conditions precedent to this action, including pre-suit notification to the Defendants, have occurred or have been performed.

48. At the time of the event giving rise to this action, Officer REVEILLE, and Chief Norman Botsford were employees of the Defendant, City of Gainesville, and were acting in the course and scope of their employment in as much as they were acting to arrest a citizen.

49. During the apprehension of the Plaintiff, Officer REVEILLE, without lawful authority committed a battery upon Plaintiff by grabbing Plaintiff, throwing him to the ground, and handcuffing him in an excessive manner that was not reasonable under the circumstances presented.

50. The actions of this REVEILLE were not in the lawful performance of his duty.

51. REVEILLE had no probable cause to believe that the Plaintiff had committed, was committing, or about to commit any criminal offense.

52. REVEILLE was in no real or immediate danger of being subjected to any physical force by the Plaintiff, who was not aware of law enforcement presence until he was handcuffed on the ground.

53. As a direct and proximate result of the conduct of REVEILLE, as set forth above, the Plaintiff suffered severe and permanent injuries, including permanent injuries to his body, psychological damages, pain and suffering, medical expenses, lost wages, and loss of ability to earn, and will suffer additional damages in the future.

WHEREFORE, the Plaintiff, CHASE NELSON, respectfully request judgment for compensatory damages, costs of suit, including the Plaintiff's reasonable attorneys' fees, a jury trial and other such relief as the Court deems proper.

#### COUNT IV

##### FALSE ARREST AS TO CITY OF GAINESVILLE

54. For this action, the Plaintiff sues the CITY OF GAINESVILLE, and states by this reference the Plaintiff incorporates paragraphs 1 through 27 above as if fully set forth herein.

55. This claim is brought pursuant to § 768.28, Florida Statutes.

56. All conditions precedent to this action, including pre-suit notification to the Defendants, have occurred or have been performed.

57. At the time giving rise to events herein, Officer REVEILLE was employees of Defendant City of Gainesville, and were acting in the course and scope of their employment.

58. Officer REVEILLE arrested the Plaintiff without any probable cause to believe that he had committed, was committing, or about to commit any criminal offense. The Plaintiff was physically apprehended and imprisoned as a result of this false arrest.

59. As a direct and proximate result of the conduct of REVELLE and Defendant City of Gainesville, as set forth above, the Plaintiff suffered severe and permanent injuries, including permanent injuries to his body, psychological damages, pain and suffering, medical expenses, lost wages, and loss of ability to earn, and will suffer additional damages in the future.

WHEREFORE, the Plaintiff, CHASE NELSON, respectfully requests judgment for compensatory damages, costs of suit, including the Plaintiff's reasonable attorneys' fees, a jury trial and other such relief as the Court deems proper.

**DEMAND FOR JURY TRIAL**

The Plaintiff demands a jury trial on all issues so triable pursuant to Rule 38 Fed. R. Civ. P. and Rule 1.430 Fla. R. Civ. P.

Respectfully submitted,

RUSH & GLASSMAN

s/ROBERT A. RUSH

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