

**IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF ALABAMA
JASPER DIVISION**

**DOIS WAYNE CORDELL, an)
individuuel,)**

Plaintiff,)

v.)

CV-_____

**MICHAEL HAMMOCK, an)
individual; CITY OF SUMITON, a)
Municipal Corporation; SUMITON)
POLICE DEPARTMENT, an)
agency of the City of Sumiton; and)
SUMITON FIRE DEPARTMENT,)
an agency of the City of Sumiton;)**

Defendants.)

COMPLAINT

COMES NOW the Plaintiff, **DOIS WAYNE CORDELL**, by and through his counsel of record, and files this Complaint against the Defendants and further states as follows:

PARTIES, JURISDICTION AND VENUE

1. The Plaintiff, **DOIS WAYNE CORDELL**, (“Cordell”) is over the age of nineteen (19) and is a resident and citizen of Walker County, Alabama.
2. The Defendant, **MICHAEL HAMMOCK**, (“Hammock”) is over the age of nineteen (19) and is a resident and citizen of Walker County, Alabama. At all times relevant to this complaint, Hammock was a Sumiton Fire Department firefighter and an employee or agent of the State of Alabama and the City of

Sumiton. At all times Hammock was acting under color of state law and in the course and scope of his employment as a City of Sumiton Firefighter. Hammock is sued in his individual and official capacity.

3. The Defendant, the **CITY OF SUMITON**, (“Sumiton”) is a municipal corporation located in Walker County, Alabama.
4. The Defendant, the **SUMITON POLICE DEPARTMENT**, (“Police”) is an agency of the City of Sumiton located in Walker County, Alabama.
5. The Defendant, the **SUMITON FIRE DEPARTMENT**, (“Fire”) is an agency of the City of Sumiton located in Walker County, Alabama.
6. Any reference to “the Defendants” is a reference to all named Defendants herein.
7. Venue is appropriate in this judicial district because all the facts and circumstances made the basis of this complaint occurred in the Northern District of Alabama.
8. This court has jurisdiction through federal question and supplemental jurisdiction – specifically violations of section 1983 and all state law claims which naturally flow.

STATEMENT OF FACTS

9. The Plaintiff is a well-respected landowner and landlord in Walker County, Alabama. Cordell has been conducting business in Walker County for over forty (40) years and was the owner of property located at 1400 Main Street, Sumiton, Alabama.

10. Throughout the course of his career, Cordell has purchased over one-hundred (100) properties in Walker County.
11. On May 20, 2021, at approximately 8:00 a.m., and while located at 1499 Main Street in Sumiton, Alabama, Cordell was involved in a dispute with Tammie Hammock (“Ms. Hammock”), regarding the placement of a shipping container and trash from her business (T&M Home Improvement Wholesale – CASH ONLY).
12. Ms. Hammock had a “moving day” for T&M Home Improvement Wholesale a few days prior and had left significant amounts of trash throughout the entrance of Cordell’s property.
13. During the conversation, Cordell became frustrated because the boundary line fence, which had been marking the property boundary for over forty (40) years, had been removed. The fence was erected at his direction, and he owned the land the fence was on.
14. In addition, he was frustrated because Ms. Hammock’s trash was cluttering and littering the entrance to his property.



15. Despite attempts to diffuse the situation and come to an understanding regarding the trash and fence, Ms. Hammock trespassed onto Cordell's property and proceeded to assault him verbally and physically.
16. A struggle commenced, ending with Cordell spilling coffee on Ms. Hammock.
17. At said date and time and location, Sumiton's Emergency Management System received a telephone call from Ms. Hammock regarding an altercation at her business with Cordell. Hammock, a Sumiton fire fighter, and husband of Ms. Hammock, while acting under the color and authority of his position as an employee of Sumiton, responded to the call.
18. At the time immediately preceding Hammock's arrival, Cordell was lawfully on his property sitting in his vehicle and Ms. Hammock was on her property. The altercation was over.
19. Hammock arrived in an official Sumiton vehicle. Upon arrival to a potential crime scene, the proper procedure for a fireman to follow is wait for the local police to secure the scene. Despite this procedural step, designed to keep all parties safe, Hammock choose to confront Cordell – a clear violation of procedure.
20. Hammock was mad up upon arrival to the scene. [Exhibit "A", Preliminary Hearing, at 43:8-9]. In fact, he taunted Cordell by saying "here's a man, assault me." [*Id.* at 43:11-12].
21. The confrontation with Hammock placed Cordell in fear for his life, as Hammock proceeded to use unauthorized force against Cordell, to wit,

Hammock physically and violently assaulted Cordell, by pushing him and hitting his chest multiple times. Hammock then pulled a gun and pointed it in a threatening manner at Cordell's body and head. To the extent that any force was authorized, Hammock used excessive and unnecessary force against Cordell.

22. At said date and time and location, Cordell was then falsely arrested and wrongfully imprisoned by police officers from Sumiton. Sumiton's Police Department failed to call another police jurisdiction to investigate a situation involving a colleague, friend, and co-employee. Cordell was taken to jail, placed in a prison uniform, held for several days, and deprived of his liberty.
23. Hammock was not disciplined for his assault of Cordell.
24. At no time was Cordell brought for an initial appearance or formally charged with a crime during his incarceration. Instead, Cordell suffered a medical emergency and was taken to the hospital. For an unexplained reason, Cordell was released by the police after his medical treatment at the hospital.
25. Sumiton chose, after the fact, to charge Cordell with assault.
26. While at the jail, the Police took his personal belonging, including a telephone and the keys to his truck, which was left in front of Cordell's business at 1499 Main Street. Without a warrant, the police went back to the scene of the arrest, where Cordell's truck was located, searched his vehicle, and removed a second telephone and a firearm, all in violation of his constitutional rights.

27. The Police unlawfully and illegally searched both telephones, without a warrant. To this date, the City has not returned Cordell's property.
28. The City of Sumiton has been negligent in the hiring, training and retention of its employees and agents. The City, through his agents, committed assault, battery, conversion, false imprisonment, and violated Cordell's constitutional rights and discriminated against Cordell based on his age and gender.

COUNT ONE – ASSAULT

**Against Hammock, the City of Sumiton, and the Sumiton Fire
Department**

29. The Plaintiff incorporates and re-alleges paragraphs eight (8) through twenty-eight (28) as if fully set forth herein.
30. Sumiton, and the Sumiton Fire Department are liable for Hammock's actions under the theory of respondent superior because Hammock was working under color of state law in the course and scope of his employment as a Sumiton Firefighter.
31. On May 20, 2021, the Defendants made offensive contact with Cordell's person. To wit, Hammock physically and violently assaulted Cordell, by pushing him and hitting his chest multiple times. Hammock then pulled a gun and pointed it to Cordell's body and head in a threatening manner. To the extent that any force was authorized, Hammock used excessive and unnecessary force against Cordell.

32. Defendants intended to assault Cordell. Upon arrival to the scene, Hammock taunted Cordell by saying “here’s a man, assault me.” [Exhibit “A”, Preliminary Hearing, at 43:11-12].
33. Defendants caused Cordell to fear for his life and bodily harm through brandishing a gun, and repeatedly pushing and hitting his chest multiple times. This fear manifested by Cordell having a medical emergency while being unlawfully imprisoned due to the stress of the situation.

WHEREFORE, Plaintiff seeks such compensatory and punitive damages as a jury may reward, his costs and reasonable attorneys’ fees and any such other, different, and further relief which this Court finds he is entitled.

COUNT TWO – BATTERY
**Against Hammock, the City of Sumiton, and the Sumiton Fire
Department**

34. The Plaintiff incorporates and re-alleges paragraphs eight (8) through twenty-eight (28) as if fully set forth herein.
35. Sumiton, and the Sumiton Fire Department are liable for Hammock’s actions under the theory of respondent superior because Hammock was working under color of state law in the course and scope of his employment as a Sumiton Firefighter.
36. On May 20, 2021, the Defendants made offensive contact with Cordell’s person. To wit, Hammock physically and violently assaulted Cordell, by pushing him and hitting his chest multiple times. Hammock then pulled a gun and pointed it to Cordell’s body and head in a threatening manner. To the extent that any

force was authorized, Hammock used excessive and unnecessary force against Cordell.

37. Defendants intended to commit a battery against Cordell. Upon arrival to the scene, Hammock taunted Cordell by saying “here’s a man, assault me.” [Exhibit “A”, Preliminary Hearing, at 43:11-12].
38. Defendants caused Cordell to fear for his life and bodily harm through brandishing a gun, and repeatedly pushing and hitting his chest multiple times. This fear manifested by Cordell having a medical emergency while being unlawfully imprisoned due to the stress of the situation.

WHEREFORE, Plaintiff seeks such compensatory and punitive damages as a jury may reward, his costs and reasonable attorneys’ fees and any such other, different, and further relief which this Court finds he is entitled.

COUNT THREE
(CONVERSION UNDER ALABAMA CODE SECTION 6-5-260)
Against Sumiton and Sumiton Police Department

39. The Plaintiff incorporates and re-alleges paragraphs eight (8) through twenty-eight (28) as if fully set forth herein.
40. Sumiton and the Sumiton Police Department unlawfully took possession of Cordell’s personal belonging, including two (2) telephones and the keys to his truck, which was left in front of Cordell’s business at 1499 Main Street after his arrest. Without a warrant, the police went back to the scene of the arrest, where Cordell’s truck was left, searched his vehicle, and removed a second telephone and a firearm, all in violation of his constitutional rights.

41. To date, the City of Sumiton and the Sumiton Police Department have not returned Cordell's personal belongings and they maintain them despite repeated attempts by Cordell to receive his wrongfully seized property.

WHEREFORE, Plaintiff seeks such compensatory and punitive damages as a jury may reward, his costs and reasonable attorneys' fees and any such other, different, and further relief which this Court finds he is entitled.

COUNT FOUR
(FALSE IMPRISONMENT UNDER SECTION 1983)
Against City of Sumiton and the Sumiton Police Department

42. The Plaintiff incorporates and re-alleges paragraphs eight (8) through twenty-eight (28) by reference.
43. Under the Fourth Amendment to the United States Constitution, Plaintiff has a right to be free from unreasonable searches and seizures, including search and seizure of his person and effects. Plaintiff also has a constitutional right to remain silent and to peaceably refuse consent to a search, regardless of whether an officer lawfully requests to search Plaintiff's person or belongings.
44. On May 20, 2021, Sumiton and Sumiton Police deprived Cordell of his Fourth Amendment right to be secure in his person and free from unreasonable seizures. To wit: by placing Plaintiff in handcuffs and unlawfully detaining and arresting him in front of his place of business. This detention lasted over seventy-two (72) hours.
45. This action took place with full knowledge that no arrest warrant had been issued for Cordell. Nor did the City of Sumiton and the Sumiton Police

Department have probable cause for the arrest. This detention was not conducted in good faith and with willful disregard to Plaintiff's constitutional rights.

46. The Defendants' lacked probable cause and arguable probable cause to detain and arrest the Plaintiff. During the preliminary hearing, Officer Nebblett of the Sumiton police department, admits to no warrant being issued nor an unbiased basis for probable cause [Exhibit "B", Preliminary hearing at 28:5-10]. Plaintiff did not attempt to conceal evidence in contravention of the search warrant
47. Officer Nebblett's statement that Plaintiff was being detained despite no arrest warrant further establishes that Defendants did not have any reasonable, articulable suspicion of illegal activity or arguable probable cause, but instead were trying come up with a reason to continue to hold Cordell to cover up for Hammock.
48. Sumiton and the Sumiton Police Department acted willfully, knowingly and purposefully and/or with deliberate indifference to deprive the Plaintiff of his constitutional rights when they unlawfully detained and arrested him.
49. This belief is based, in part, on the fact that their actions were ordered, authorized, and/or ratified by Sumiton and the Sumiton Police Department.

WHEREFORE, Plaintiff seeks such compensatory and punitive damages as a jury may reward, his costs and reasonable attorneys' fees pursuant to 42 U.S.C. §1988, and any such other, different, and further relief which this Court finds he is

entitled.

COUNT FIVE
(FALSE IMPRISONMENT UNDER ALABAMA CODE SECTION 6-5-170)
AGAINST SUMITON AND SUMITON POLICE DEPARTMENT

50. The Plaintiff incorporates and re-alleges paragraphs eight (8) through twenty-eight (28) by reference.
51. Sumiton and the Sumiton Police Department caused the unlawful detention of Plaintiff whereby he was deprived of his personal liberty. Specifically, City of Sumiton and the Sumiton Police Department directed the City of Sumiton Police Officer's to detain Plaintiff in the Sumiton Jail for approximately seventy-two (72) hours, with full knowledge that there was no warrant, probable cause, reasonable suspicion of unlawful activity, arguable probable cause, or any other lawful reason justifying the detention, as fully described herein.
52. The Defendants' initial detention of Plaintiff was not conducted for the purposes of investigating criminal activity, as there was no reasonable, articulable suspicion of any illegal activity, or arguable probable cause. The purpose of stopping the Plaintiff and his client was to respond to a potential altercation. With full knowledge that the situation was diffused, and no crime was committed, the Defendants instructed Sumiton Police Officer's to continue to detain Plaintiff. This continued detention deprived Plaintiff of his personal liberty and was not conducted in good faith, but with disregard to Plaintiff's constitutional rights.

53. These Defendants also directed that Plaintiff be detained at the Sumiton jail for approximately seventy-two (72) hours until his bond could be posted, as opposed to allowing him to be released on his own recognizance.

WHEREFORE, Plaintiff seeks such compensatory and punitive damages as a jury may reward, attorneys' fees, and any such other, different, and further relief which this Court finds he is entitled.

DATED: September 7, 2022

Respectfully submitted,

/s/ Rodrick T. Cooks
Winston Cooks, LLC
351 24th Street North
Box 122
Birmingham, AL. 35203
Website: www.winstoncooks.com
Contact: 205.502.0970
Cell: 205.482.5174
Fax. 205.278.5876
E. rcooks@winstoncooks.com

/s/ Brenden Smith
Brenden Smith (ASB-1984-H69S)
Attorney for Plaintiff
RUBIO LAW FIRM, P.C.
490 Wildwood No. Cir., Ste. 150
Birmingham, AL 35209
t. 205.443.7850
e. bsmith@rubiofirm.com

CERTIFICATE OF SERVICE

Plaintiff will serve the Defendants by process server at the following addresses:

Michael Hammock
1617 Hull Road
Sumiton, AL 35148

City of Sumiton
416 State Street
Sumiton, AL. 35248

City of Sumiton Fire Department
228 Bryan Road
Sumiton, AL. 35148

City of Sumiton Police Department
416 State Street
Sumiton, AL. 35148

/s/ Brenden Smith
Of Counsel