

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

JORDAN P. ALUIZIO)	CASE NO.
6909 Bushnell Campbell)	JUDGE
Kinsman, Ohio 44428)	
)	
Plaintiff)	
)	
v.)	COMPLAINT
)	
CORY VAN KANEGAN)	(Plaintiff Demands a Trial by Jury)
In His Individual Capacity)	
8450 Ridge Road)	
Kinsman, Ohio 44428)	
)	
Defendant)	

1. The jurisdiction of this Court over the subject matter of this action is conferred pursuant to 42 U.S.C. §1983, 28 U.S.C. §1331, 28 U.S.C. §1343 and 28 U.S.C. §1367. Venue is properly laid in this District pursuant to 28 U.S.C §1391 in that defendant is located and/or transacts business in this District and the causes of action asserted herein arose in this District.

PARTIES

2. Plaintiff Jordan Aluizio (“Aluizio”) is an individual whose address is 6909 Bushnell Campbell, Kinsman, Ohio 44428.
3. Defendant Cory Van Kanegan (“Van Kanegan”) who is being sued in his individual capacity, is an individual who is, and at all times material to this action has been, the duly authorized, duly serving Chief of the Kinsman, Ohio Fire Department and has a business address of 8450 Ridge Road, Kinsman, Ohio 44428. At all times material to this action Van Kanegan was acting under color of state law.

FACTS

4. Aluizio realleges paragraphs 1-3 of this Complaint.
5. On or about July 7, 2023, Aluizio, who had recently been released from a hospital stay, and was dehydrated, went to a convenience store in Kinsman, Ohio to purchase something to drink the day after being released from the hospital. While at that convenience store, Aluizio dozed off while standing up.
6. A person inside that convenience store, upon seeing Aluizio asleep called 911. In response to that 911 call, EMTs and Van Kanegan appeared in the parking lot of that convenience store.
7. By the time Van Kanegan and the EMTs arrived at that convenience store, Aluizio was conscious and standing outside of that convenience store. Van Kanegan insisted that Aluizio was high. Aluizio had not said or done anything to support Van Kanegan’s insistence that Aluizio was high. Aluizio told Van Kanegan repeatedly that Aluizio was not high.

8. Van Kanegan continued to insist that Aluizio was high, and became loud, belligerent, insulting, and profane toward Aluizio. Aluizio began to walk away from Van Kanegan. Van Kanegan ordered Aluizio not to leave the area and demanded that Aluizio sit down on a curb. Van Kanegan's insistence that Aluizio not leave the area constituted a significant limitation on Aluizio's freedom of movement. Van Kanegan had arrested Aluizio.
9. Van Kanegan advised Aluizio that Van Kanegan intended to administer Narcan on Aluizio. Administering Narcan is an invasive procedure that involves placing an apparatus in the nose of the person who is receiving the Narcan. Narcan is used to revive persons who are unresponsive, and appear to be under the influence of drugs.
10. Aluizio loudly protested Van Kanegan's statement that Narcan would be used on Aluizio. Aluizio was not under the influence of drugs, and certainly was not unresponsive. Van Kanegan ignored Aluizio's protests and physically threw Aluizio to the pavement, placed his knee on Aluizio's chest, and forced the Narcan apparatus into Aluizio's nose, and administered Narcan to Aluizio. Before forcibly administering the Narcan, Van Kanegan gratuitously slapped Aluizio and said words to the effect "shut up you little bitch."
11. After Van Kanegan completed forcing the Narcan into Aluizio, Van Kanegan permitted Aluizio to get up off the ground. Aluizio was then placed in a police vehicle and, thereafter, was removed from the scene.

COUNT ONE

(Violation of Constitutional Rights)

12. Aluizio realleges paragraphs 1-11 of this Complaint.
13. The outrageous conduct of Van Kanegan in violating Aluizio's bodily integrity, and in using excessive force on Aluizio violated Aluizio's rights to substantive and procedural due process of law secured to him by the Fourth Amendment which is made applicable to conduct by persons acting under color of state law by the Fourteenth Amendment to the United States Constitution.
14. As a direct and proximate result of Van Kanegan's violation of Aluizio's constitutional right to substantive and procedural due process of law, Aluizio sustained physical and psychological pain and suffering. Aluizio is entitled to recover from Van Kanegan all available economic and compensatory damages provided by Federal law.
15. In denying Aluizio substantive and procedural due process of law as alleged herein Van Kanegan acted willfully, wantonly, maliciously, and in reckless disregard for Aluizio's rights.

COUNT TWO

(Assault and Battery)

16. Plaintiff realleges paragraphs 1-15 of this Complaint.
17. The actions of Van Kanegan as described herein constitute an assault and battery upon Aluizio. As a direct and proximate result of the assault and battery upon him by Van Kanegan, Aluizio sustained physical and psychological pain and suffering.

Aluizio is entitled to recover from Van Kanegan all available economic and compensatory damages provided by law.

18. In committing assault and battery upon Aluizio as alleged herein Van Kanegan acted willfully, wantonly, maliciously, and in reckless disregard for Aluizio's rights.

COUNT THREE

(Intentional Infliction of Emotional Harm)

19. Plaintiff realleges paragraphs 1- 18 of this Complaint.
20. In engaging in the conduct described in this Complaint, Van Kanegan acted extremely and outrageously, and with the clear intent of causing Aluizio to suffer severe emotional harm. As a direct and proximate result of the extreme and outrageous action of Van Kanegan as described in this Complaint, Aluizio did sustain severe emotional pain and suffering. Aluizio is entitled to recover from Van Kanegan all available economic and compensatory damages provided by law.
21. In intentionally inflicting emotional harm upon Aluizio as alleged herein Van Kanegan acted willfully, wantonly, maliciously, and in reckless disregard for Aluizio's rights.

WHEREFORE, Aluizio requests that this Honorable Court:

As to Count One

- a. Find that Van Kanegan violated Aluizio's constitutional rights to be free from excessive force; and to be free from violations of his bodily integrity secured to him by the Fourth Amendment, and the Fourteenth Amendment;
- b. Grant Aluizio judgment against Van Kanegan for economic damages in an amount to be determined at trial but, in no event, less than Two Hundred Fifty Thousand Dollars (\$250,000.00);
- c. Grant Aluizio judgment against Van Kanegan for compensatory damages in an amount to be determined at trial but, in no event, less than Five Hundred Thousand Dollars (\$500,000.00);
- d. Grant Aluizio judgment against Van Kanegan for punitive damages in an amount to be determined at trial but, in no event, less than Seven Hundred Thousand Dollars (\$750,000.00);

As to Count Two

- e. Find that Van Kanegan committed assault and battery upon Aluizio;
- f. Grant Aluizio judgment against Van Kanegan for economic damages in an amount to be determined at trial but, in no event, less than Two Hundred Fifty Thousand Dollars (\$250,000.00);

- g. Grant Aluizio judgment against Van Kanegan for compensatory damages in an amount to be determined at trial but, in no event, less than Five Hundred Thousand Dollars (\$500,000.00);
- h. Grant Aluizio judgment against Van Kanegan for punitive damages in an amount to be determined at trial but, in no event, less than Seven Hundred Thousand Dollars (\$750,000.00);

As to Count Three

- i. Find that Van Kanegan intentionally inflicted emotional harm upon Aluizio;
- j. Grant Aluizio judgment against Van Kanegan for economic damages in an amount to be determined at trial but, in no event, less than Two Hundred Fifty Thousand Dollars (\$250,000.00);
- k. Grant Aluizio judgment against Van Kanegan for compensatory damages in an amount to be determined at trial but, in no event, less than Five Hundred Thousand Dollars (\$500,000.00);
- l. Grant Aluizio judgment against Van Kanegan for punitive damages in an amount to be determined at trial but, in no event, less than Seven Hundred Thousand Dollars (\$750,000.00);

As to All Counts

- m. Grant Aluizio judgment against Van Kanegan for interest on all sums found to be due from him;
- n. Grant Aluizio judgment against Van Kanegan for the costs of this action including the reasonable attorney fees incurred by Aluizio in the prosecution of this action;

Respectfully submitted,

s/David L. Engler

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Attorneys for Plaintiff

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
(b) County of Residence of First Listed Plaintiff
(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS
County of Residence of First Listed Defendant
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
PTF DEF
Citizen of This State 1 1
Citizen of Another State 2 2
Citizen or Subject of a Foreign Country 3 3
Incorporated or Principal Place of Business In This State 4 4
Incorporated and Principal Place of Business In Another State 5 5
Foreign Nation 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)
CONTRACT: 110 Insurance, 120 Marine, 130 Miller Act, 140 Negotiable Instrument, 150 Recovery of Overpayment & Enforcement of Judgment, 151 Medicare Act, 152 Recovery of Defaulted Student Loans (Excludes Veterans), 153 Recovery of Overpayment of Veteran's Benefits, 160 Stockholders' Suits, 190 Other Contract, 195 Contract Product Liability, 196 Franchise
TORTS: PERSONAL INJURY: 310 Airplane, 315 Airplane Product Liability, 320 Assault, Libel & Slander, 330 Federal Employers' Liability, 340 Marine, 345 Marine Product Liability, 350 Motor Vehicle, 355 Motor Vehicle Product Liability, 360 Other Personal Injury, 362 Personal Injury - Medical Malpractice; PRISONER PETITIONS: Habeas Corpus: 463 Alien Detainee, 510 Motions to Vacate Sentence, 530 General, 535 Death Penalty; Other: 540 Mandamus & Other, 550 Civil Rights, 555 Prison Condition, 560 Civil Detainee - Conditions of Confinement
FORFEITURE/PENALTY: 625 Drug Related Seizure of Property 21 USC 881, 690 Other
LABOR: 710 Fair Labor Standards Act, 720 Labor/Management Relations, 740 Railway Labor Act, 751 Family and Medical Leave Act, 790 Other Labor Litigation, 791 Employee Retirement Income Security Act
IMMIGRATION: 462 Naturalization Application, 465 Other Immigration Actions
BANKRUPTCY: 422 Appeal 28 USC 158, 423 Withdrawal 28 USC 157
INTELLECTUAL PROPERTY RIGHTS: 820 Copyrights, 830 Patent, 835 Patent - Abbreviated New Drug Application, 840 Trademark, 880 Defend Trade Secrets Act of 2016
SOCIAL SECURITY: 861 HIA (1395ff), 862 Black Lung (923), 863 DIWC/DIWW (405(g)), 864 SSID Title XVI, 865 RSI (405(g))
FEDERAL TAX SUITS: 870 Taxes (U.S. Plaintiff or Defendant), 871 IRS—Third Party 26 USC 7609
OTHER STATUTES: 375 False Claims Act, 376 Qui Tam (31 USC 3729(a)), 400 State Reapportionment, 410 Antitrust, 430 Banks and Banking, 450 Commerce, 460 Deportation, 470 Racketeer Influenced and Corrupt Organizations, 480 Consumer Credit (15 USC 1681 or 1692), 485 Telephone Consumer Protection Act, 490 Cable/Sat TV, 850 Securities/Commodities/Exchange, 890 Other Statutory Actions, 891 Agricultural Acts, 893 Environmental Matters, 895 Freedom of Information Act, 896 Arbitration, 899 Administrative Procedure Act/Review or Appeal of Agency Decision, 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Brief description of cause:

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

I. Civil Categories: (Please check one category only).

- 1. General Civil
- 2. Administrative Review/Social Security
- 3. Habeas Corpus Death Penalty

*If under Title 28, §2255, name the SENTENCING JUDGE: _____

CASE NUMBER: _____

II. **RELATED OR REFILED CASES** See LR 3.1 which provides in pertinent part: "If an action is filed or removed to this Court and assigned to a District Judge after which it is discontinued, dismissed or remanded to a State court, and subsequently refiled, it shall be assigned to the same Judge who received the initial case assignment without regard for the place of holding court in which the case was refiled. Counsel or a party without counsel shall be responsible for bringing such cases to the attention of the Court by responding to the questions included on the Civil Cover Sheet."

This action: is **RELATED** to another **PENDING** civil case is a **REFILED** case was **PREVIOUSLY REMANDED**

If applicable, please indicate on page 1 in section VIII, the name of the Judge and case number.

III. In accordance with Local Civil Rule 3.8, actions involving counties in the Eastern Division shall be filed at any of the divisional offices therein. Actions involving counties in the Western Division shall be filed at the Toledo office. For the purpose of determining the proper division, and for statistical reasons, the following information is requested.

ANSWER ONE PARAGRAPH ONLY. ANSWER PARAGRAPHS 1 THRU 3 IN ORDER. UPON FINDING WHICH PARAGRAPH APPLIES TO YOUR CASE, ANSWER IT AND STOP.

(1) **Resident defendant.** If the defendant resides in a county within this district, please set forth the name of such county

COUNTY:

Corporation For the purpose of answering the above, a corporation is deemed to be a resident of that county in which it has its principal place of business in that district.

(2) **Non-Resident defendant.** If no defendant is a resident of a county in this district, please set forth the county wherein the cause of action arose or the event complained of occurred.

COUNTY:

(3) **Other Cases.** If no defendant is a resident of this district, or if the defendant is a corporation not having a principle place of business within the district, and the cause of action arose or the event complained of occurred outside this district, please set forth the county of the plaintiff's residence.

COUNTY:

IV. The Counties in the Northern District of Ohio are divided into divisions as shown below. After the county is determined in Section III, please check the appropriate division.

EASTERN DIVISION

AKRON

(Counties: Carroll, Holmes, Portage, Stark, Summit, Tuscarawas and Wayne)

CLEVELAND

(Counties: Ashland, Ashtabula, Crawford, Cuyahoga, Geauga, Lake, Lorain, Medina and Richland)

YOUNGSTOWN

(Counties: Columbiana, Mahoning and Trumbull)

WESTERN DIVISION

TOLEDO

(Counties: Allen, Auglaize, Defiance, Erie, Fulton, Hancock, Hardin, Henry, Huron, Lucas, Marion, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca VanWert, Williams, Wood and Wyandot)

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: