

**FILE**

**IN THE CIRCUIT COURT OF PUTNAM COUNTY, TENNESSEE  
AT COOKEVILLE**

**DONNA BURTON,  
PLAINTIFF,**

**NO. 0350180  
JURY DEMANDED**

vs.

Filed 5-7 03  
Time 10:30 AM  
Marcia Borys, Clerk  
By [Signature] D.C.

**ROBERT TERRY, individually and in his  
official capacity as Chief of Police of the City of  
Cookeville Police Department; JONATHAN  
WILLIAMS and BRENT ANDERSON,  
individually and in their official capacities as  
Police Officers of the City of Cookeville  
Police Department; and the CITY OF COOKEVILLE,  
TENNESSEE.**

**DEFENDANTS.**

**COMPLAINT**

**Introduction**

1. This is an action for money damages, compensatory and punitive as authorized by law, specifically 42 U.S.C. §§ 1983 and §§ 1988 and the Fourth and Fourteenth Amendments of the United States Constitution, to redress the deprivation, under color of state law, of rights, privileges and immunities secured by the Constitution and the laws of the United States.

Further, the Defendants have violated the Common and Statute Law of the State of Tennessee including Article 1, Sections 13 & 16 of the Constitution of the State of Tennessee, as well as they have committed the torts of assault, battery, arrest without probable cause, false arrest, false imprisonment, malicious prosecution, excessive force, intentional infliction of emotional distress, and outrageous conduct.

### Jurisdiction

2. The jurisdiction of this Court as to the civil rights provisions cited herein is invoked pursuant to the provisions of 28 U.S.C. §§ 1331 and §§ 1343. Jurisdiction is founded upon 28 U.S.C. §§ 1331 and 1341(3) & (4) and the aforementioned statutory and constitutional provisions. Plaintiff would further rely upon the statutory, constitutional, and common law of the State of Tennessee as to the torts cited herein.

### Parties

3. Plaintiff, Donna Burton ("Plaintiff"), a female Caucasian is at all times mentioned in this Complaint, a resident of Cookeville, Putnam County, Tennessee. All the acts complained of in this Complaint which are material to this action occurred within Putnam County, Tennessee.

4. Defendant Robert Terry ("Terry"), was at all times referred to in this Complaint the Chief of Police for the City of Cookeville, Tennessee, and he is responsible for the hiring, firing, establishing policy, and training of his officers. He is being sued in his individual and official capacities

5. Defendants Jonathan Williams ("Williams") and Brent Anderson ("Anderson") are male Caucasians, who at the time of the events alleged in this Complaint, were working for the City of Cookeville, Tennessee, as a Police Officers.

6. Defendant, City of Cookeville, Tennessee is a governmental entity organized under the laws of the State of Tennessee and known as a City and acts through its elected City Council and Mayor. The City of Cookeville is the public employer of the said officers of the City of Cookeville and responsible for establishing rules and policies for the City of Cookeville.

7. That the City of Cookeville, Tennessee, has a Municipal Charter, Municipal Code, and also a Personnel Rules and Regulations, all of which apply to the Mayor, Councilmen, Police Department and Police Officers.

#### Facts

8. That on or about the night of May 10, 2002, the Plaintiff Donna Burton, and her husband, Marshall Burton (collectively hereinafter referred to as the Burtons) were sitting in their parked vehicle in front of a video store and in the parking lot of the Hobby Lobby on Jefferson Avenue located in the City of Cookeville. The Burtons' teenage daughter, Marsha Burton ("Marsha"), was out with some friends and since Marsha was not supposed to be driving on Jefferson Avenue, the Burtons waited in their vehicle to determine whether their daughter in fact would be on Jefferson Avenue.

9. The Burtons would aver that a short time later, they saw their daughter drive up in her vehicle with three other teenage girls in her car. Before the Burtons could confront their daughter, they observed two men, who appeared to be around eighteen or nineteen years old, drive up and park close to Marsha. The Burtons then observed a young girl, approximately fifteen years old, who appeared to be very intoxicated, being shoved out of the vehicle by the two men, and being pushed into Marsha's vehicle.

10. The Burtons would aver that they drove their vehicle over to the two men and stated to them to get the young girl out of their daughter's vehicle. The two men then pulled the young girl out of Marsha's vehicle and dropped her on the ground. It was that time that a City of Cookeville Police Officer, Defendant Jonathan Williams, drove into the parking lot and Mr. Burton motioned for the Police Officer to come and assist this young girl who laid on the pavement. Defendant Williams then drove to where the young

girl was laying and another young girl went over to Defendant Williams' vehicle and leaned her head in the driver's side window; blocking his view of the other people that were dragging this young girl out of the Officers' sight.

11. Mr. Burton then told Defendant Williams that Williams needed to see what was wrong with the young girl. The Burtons would aver that after they made this statement, Defendant Williams appeared to be offended that the Burtons had "told him how to do his job."

12. The Burtons would aver that when Mr. Burton turned to go back to his vehicle, Defendant Williams asked Mr. Burton if he had been drinking alcohol. Mr. Burton stated that he had drank one half of a sixteen ounce beer. Defendant Williams brought out an ink pen, waved it in front of Mr. Burton's eyes, and said, "You're drunk, you're doing to jail."

13. At that time, Defendant Williams did not know that Mr. Burton had drove to that location or that the Plaintiff, his wife, was sitting in the passenger seat of the vehicle. Defendant Williams handcuffed Mr. Burton and Mr. Burton motioned for Plaintiff to go and get him out of jail.

14. Plaintiff would aver that after Defendant Williams noticed Plaintiff in the vehicle, he pushed Mr. Burton in the police car, went over to Plaintiff and asked her if she had been drinking. Plaintiff stated that she had not, but had gone to the doctor the day before. Defendant Williams opened the car door and Plaintiff was holding Mr. Burton's beer in her hands to keep it from spilling in the car. Plaintiff had not drank any of the beer, but Defendant Williams jerked her out of the car, causing injury to her right shoulder, waved an ink pen in front of her eyes and said, "You're drunk, too."

15. Defendant Williams then searched Plaintiff from head to toe and dumped her purse out on the hood of the car. Defendant Williams then

called for an escort to take Plaintiff to jail and searched the Burton's car, where he found nothing.

16. The Plaintiff would aver that at this time, Defendant Anderson drove to where the Burtons and Defendant Williams were, and when Defendant Anderson got out of his car, he asked Defendant Williams, "Did you find any dope on them?" Defendant Williams stated that he had not, and as Defendant Anderson walked toward the Burton's car, he said, "Well, I guarantee that I'll find dope in the car."

17. The Plaintiff would aver that before Defendant Anderson reached the Burtons' car, Mr. Burton witnessed Defendant Anderson reaching into his shirt pocket and told Defendant Williams, "Hey, I see him putting something in my car." Defendant Williams tightened Mr. Burton's handcuffs and told him to "shut up or I'll shut you up. You can't see or hear nothing out of that car." Mr. Burton then said to Defendant Williams that he could in fact see and hear everything that the Defendants were doing and saying. Again, Defendant Williams jerks Mr. Burton out of the back seat of the patrol car, searched the back seat, tightened Mr. Burton's handcuffs, and once again shoved him into the car and told Mr. Burton to "shut up or I'll shut you up."

18. Mr. Burton then asked Defendant Williams what he and Defendant Anderson were going to do next. Defendant Williams stated to Mr. Burton that they were going to take them both to jail for public intoxication. Mr. Burton asked Defendant Williams if he would let Plaintiff go because of their daughter, Marsha, being there. In response to Mr. Burton, Defendant Williams asked Mr. Burton if he was going to "claim this pot." Mr. Burton said 'no', and Defendant Williams said that he was going to charge both Plaintiff and Mr. Burton with simple possession.

19. Once Plaintiff and Mr. Burton were at the Putnam County Justice Center, no further alcohol related tests were performed, the Plaintiff and Mr. Burton did not see any one else at the Police Station to determine if in fact they were intoxicated, and Mr. Burton "begged" the Defendants Williams and Anderson for a blood test, but they refused. The Plaintiff and Mr. Burton made bond and were released after four hours.

20. Plaintiff alleges that the Defendants, individually and jointly, are liable to Plaintiff for her physical injuries they caused to her right shoulder, and the offenses of assault, battery, arrest without probable cause, false arrest, false imprisonment, malicious prosecution, excessive force, intentional infliction of emotional distress, and outrageous conduct.

21. Aforesaid conduct of the above-styled Defendants is of such magnitude that it is shocking to the conscience of the community, as well as the courts.

22. That Defendant, Chief Robert Terry, had a duty to train officers properly in order to prevent Defendants Williams and Anderson, from the outrageous conduct and illegal and negligent actions and as a result of his failure to act, he is liable for the injuries resulting to Plaintiff.

23. The Plaintiff, as a result of the actions of the Defendants, has suffered physical damage, emotional distress, even unto the present, loss of potential work and income, and has incurred medical, hospital and legal expenses.

#### **Claims for Relief**

24. The Defendants Police Officers Jonathan Williams and Brent Anderson, have violated the laws of the State of Tennessee in that they have committed assault and battery upon the Plaintiffs. They have further violated

the Civil Rights of the Plaintiff through the use of excess force, a violation of the Fourth Amendment. The Defendants, Police Officers Jonathan Williams and Brent Anderson, were further acting under the color of law in their official capacities and were servants, agents and employees of the Defendant, City of Cookeville, Tennessee.

25. The Plaintiff allege that the Defendants, jointly and individually, acted willfully, knowingly, and purposely with the specific intent to deprive Plaintiff of her right to freedom from coercion, and intimidation, which rights are secured to the Plaintiff by the provisions of the Due Process Clauses of the Fourth, and Fourteenth Amendments of the Constitution of the United States and by 42 U.S.C. §§ 1983. Defendants' conduct herein described has resulted in the Plaintiff being deprived of the privileges and immunities guaranteed to a citizen of the United States by the Constitution and the laws of the United States. Further the Defendants have violated the laws of the State of Tennessee, specifically Article 1, Sections 13 & 16.

26. The Defendants, City of Cookeville, Tennessee and Chief Robert Terry, have failed to train and/or supervise officers, and in the alternative, if any training was done, it was done in such a grossly negligent manner, that as a result of the said lack of training and supervision in such a grossly negligent manner, it resulted in misconduct on their part. The City of Cookeville's Police Department and City of Cookeville, Tennessee have no policy concerning the inappropriate use of policy, procedures and due process, such that they have a policy of allowing excessive force.

27. That the Defendant, Chief Robert Terry, knew, or should have known, that the Defendants, Officers Williams and Anderson, have been reckless and outrageous, so as to be foreseeable that an event of this nature and magnitude might result.

28. The Acts of the Defendants that resulted in the injuries to the Plaintiff are part of a pattern of conduct, acting under color of law, have denied various persons the rights, privileges and immunities guaranteed to them by the Constitution of the United States and the laws of the United States. This pattern of conduct, while carried out under color of law, has no justification or excuse in law, but instead is improper and illegal and is unrelated to any activity in which law enforcement officers may properly and legally engage in the course of their duties to enforce laws, protect persons and property, or insure civil order.

29. Each of the Defendants, individually and in concert with each other, acting under pretense and color of law and in their official capacity, and each Defendant, individually and in concert with the other, acted willfully, knowingly and with specific intent to deprive Plaintiff of her right to freedom, resulting in a denial of due process of law secured to the Plaintiff by the Constitution of the United States, Constitution of the State of Tennessee, and by 42 U.S.C. §§1983.

#### Prayer for Relief

#### **WHEREFORE, PLAINTIFF REQUESTS THE COURT:**

1. That she be awarded a judgment against the Defendants and each of them, jointly and severally, in the amount of \$100,000.00 as compensatory damages and \$250,000.00 in punitive damages.
2. That she shall recover the costs of this cause.
3. That she be awarded reasonable expenses and attorneys fees pursuant to the provisions of 42 U.S.C. §§ 1988.



4 That the Defendants be restrained by injunction from any conduct of this nature in the future.

5. That a jury be impaneled to try this cause.

6. That Plaintiff receive such other relief as to this Court seems just, proper and equitable.

Donna Burton  
DONNA BURTON

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RICHARD M. BROOKS #4308  
215 Smotherman Ave.  
P. O. Box 255  
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ATTORNEY FOR PLAINTIFF

STATE OF TENNESSEE  
COUNTY OF SMITH

I, DONNA BURTON, make oath in due form of law that the statements and allegations contained in the foregoing Complaint are true to the best of my knowledge, information and belief.

Donna Burton  
DONNA BURTON

SUBSCRIBED AND SWORN TO before me this 15th day of May, 2003.

Billie Lowe  
NOTARY PUBLIC

MY COMMISSION EXPIRES: 5/15/2004

