

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
AT NASHVILLE**

**ROGER F. CHILTON and  
JUSTIN T. CHILTON,**

**Plaintiffs,**

**vs.**

**CASE NO. \_\_\_\_\_**

**THE CITY OF MURFREESBORO,  
TENNESSEE, a Tennessee Municipality; The  
CITY OF MURFREESBORO POLICE  
DEPARTMENT; CARL WATTS, individually  
and as agent for The City of Murfreesboro,  
Tennessee and the City of Murfreesboro  
Police Department; MATTHEW GARRETT,  
individually and as agent for The City of  
Murfreesboro, Tennessee and the City of  
Murfreesboro Police Department; BRADLEY  
PREMO, individually and as agent for  
The City of Murfreesboro, Tennessee  
and the City of Murfreesboro Police  
Department; DESIR' THORPE, Dispatcher,  
individually and as agent for the City of  
Murfreesboro, Tennessee and the City of  
Murfreesboro, Police Department.**

**Defendants.**

obtained and posted by  
[www.911Dispatch.com](http://www.911Dispatch.com)

**COMPLAINT**

Come now the Plaintiffs, Roger F. Chilton and Justin T. Chilton and sues the Defendants as follows;

**I.**

**INTRODUCTION**

1. Justin T. Chilton is a citizen and resident of Rutherford County, Tennessee.
2. Roger F. Chilton is a citizen and resident of Rutherford County, Tennessee;

3. Defendant Matthew Garrett, individually and as agent for Defendant City of Murfreesboro, Tennessee and Defendant City of Murfreesboro, Tennessee Police Department, is, upon information and belief, a citizen and resident of Rutherford County, Tennessee and was on February 22, 2009, an agent for Defendant City of Murfreesboro, Tennessee and/or Defendant City of Murfreesboro, Tennessee Police Department.

4. Defendant Carl Watts, individually and as agent for Defendant City of Murfreesboro, Tennessee and Defendant City of Murfreesboro, Tennessee Police Department, is, upon information and belief, a citizen and resident of Rutherford County, Tennessee and was on February 22, 2009, an agent for Defendant City of Murfreesboro, Tennessee and the City of Murfreesboro, Tennessee Police Department.

5. Defendant Bradley Premo, individually and as agent for Defendant City of Murfreesboro, Tennessee and Defendant City of Murfreesboro, Tennessee Police Department, is, upon information and belief, a citizen and resident of Rutherford County, Tennessee and was on February 22, 2009, an agent for Defendant City of Murfreesboro, Tennessee and/or Defendant City of Murfreesboro, Tennessee Police Department.

6. Defendant Desir' Thorpe, individually and as agent for Defendant City of Murfreesboro, Tennessee and Defendant City of Murfreesboro, Tennessee Police Department, is, upon information and belief, a citizen and resident of Rutherford County, Tennessee and was the dispatcher working for Defendant City of Murfreesboro, Tennessee Police Department and/or Defendant City of Murfreesboro, Tennessee on February 22, 2009 who dispatched the above named Defendant officers to the home of Mr. Justin T. Chilton located at 2707 South Rutherford Blvd., Apt. 304, Murfreesboro, Tennessee;

7. Defendant City of Murfreesboro, Tennessee is a municipality organized pursuant to the laws of the State of Tennessee and is located in Rutherford County, Tennessee;

8. Defendant City of Murfreesboro, Tennessee Police Department otherwise known as the Murfreesboro Police Department (“MPD”) and hereinafter referred to as “Defendant MPD”, carries out the police functions for the City of Murfreesboro, Tennessee;

9. At all times pertinent to this Complaint, the activities which gave rise to this lawsuit took place on February 22, 2009 and took place in Rutherford County, Tennessee within the corporate limits of the Defendant City of Murfreesboro, Tennessee;

10. On or about February 22, 2009 at or about 3:30 a.m., Defendant Desir’ Thorpe, acting as dispatcher for Defendant City of Murfreesboro and Defendant MPD took a call from Rutherford County Sheriff’s dispatch regarding a hang-up call originating from 2707 North Rutherford Blvd., Apt. 304 requesting MPD do a welfare check;

11. Defendant Desir’ Thorpe was given the above address for this request for assistance. The Defendant, dispatcher, sent a welfare check request to the Defendant officers;

12. Defendant Thorpe dispatched those officers, though, instead of the address given by the Sheriff’s office requesting the welfare check, to an incorrect address. Defendant Thorpe sent Defendant officers to 2707 South Rutherford Blvd., Apt. 304, Murfreesboro, Tennessee known as Campus Crossings South. This was Plaintiff Justin T. Chilton’s apartment.

13. Defendant Thorpe negligently provided the incorrect address to the responding officers;

14. Defendant officers appeared at Plaintiff, Justin T. Chilton’s apartment. At that time, Plaintiff Roger F. Chilton, was also at the apartment of Justin T. Chilton;

15. Defendant officers approached and banged on the door, but failed to identify themselves as officers of the City of Murfreesboro, Tennessee Police Department;

16. Defendant officers were knocking on Plaintiff Justin Chilton's door at or about 3:30 a.m. on February 22, 2009.

17. Plaintiff Justin T. Chilton, hearing the knock on the door, went to the door and heard a commotion. Plaintiff asked Defendant officers who they were, but they did not identify themselves as officers of the MPD.

18. Plaintiff Justin T. Chilton asked them again to identify themselves and make known their intentions, but Defendant officers again failed to identify themselves or make known their intentions;

19. Plaintiff Justin T. Chilton then heard Defendant officers saying things which left him with the understanding that Defendant officers (although he did not know, at that time, they were MPD Officers) were about to come through his door without his consent or permission.

20. Plaintiffs and no one else inside the premises ever gave Defendant officers consent to enter the premises of 2707 South Rutherford Blvd., Apt. 304, Murfreesboro, Tennessee.

21. At some point during this process, the Defendant officers became aware that they actually went to the wrong apartment complex;

22. Defendant officers continued to hold (imprison) Plaintiffs Justin T. Chilton and Roger F. Chilton, without their consent or permission. Defendant officers then arrested Plaintiffs, falsely charging Plaintiffs with crimes Plaintiffs did not commit.

23. Defendant officers' falsely held and imprisoned the Plaintiffs.

24. The actions of these officers described above after they became aware of the mistake, constitute a conspiracy by and among themselves and possibly others in an effort to cover up, among other things, the fact they were sent to the wrong apartment complex.

25. Plaintiffs Roger F. Chilton and Justin T. Chilton were then charged by these Defendant officers with crimes they did not commit.

## **II.**

### **CAUSES OF ACTION**

#### **A.**

#### **ASSAULT**

26. Plaintiffs incorporate by reference the allegations contained in Paragraphs 1 through 25.

27. The actions described above by Defendants and by Defendant City of Murfreesboro, Tennessee and Defendant City of Murfreesboro, Tennessee Police Department, by and through its agents, constitute an unlawful assault on the Plaintiffs. Defendant officers intentionally and with the present ability and appearance to do them harm, made an intentional attempt to harm Plaintiffs.

28. Defendants' actions were unjustified, and occurred without cause or provocation.

29. The force used by these Defendant officers was more force than was reasonably necessary to make the arrest.

30. As a result and proximate result of this unlawful assault on Plaintiffs by Defendants, Plaintiffs have suffered damages. These include, but are not limited to, severe emotional distress suffered by the Plaintiffs, damages for the personal injuries received as a result of the assault, damages for extreme and outrageous conduct by the Defendants, damages

for any and all medical expenses and/or mental pain and suffering, and all other damages allowed by Tennessee law, including, but not limited to, attorneys fees, and bail bond fees. The actions by these Defendants were willful and malicious, and therefore the Plaintiffs are entitled to punitive damages from these Defendants in an amount commensurate with the proof.

**B.**

**BATTERY AND UNLAWFUL USE OF FORCE**

31. Plaintiffs incorporate by reference the allegations contained in Paragraphs 1 through 30;

32. Defendant officers' actions, as alleged above, constitute a battery on the Plaintiffs by Defendants, including Defendants, City of Murfreesboro, Tennessee and the City of Murfreesboro Police Department as a result of the actions of their agents the Defendant officers. The Defendants are liable to the Plaintiffs for the actions of their agents as alleged above.

33. Defendants intentionally, unlawfully and harmfully physically contacted the Plaintiffs' person.

34. The amount of force used by Defendant officers to arrest Plaintiffs was unreasonable and unnecessary.

35. As a result, and proximate result, of this unlawful battery and unlawful use of force on Plaintiffs by Defendants, Plaintiffs have suffered damages. These damages include, but are not limited to, severe emotional distress suffered by the Plaintiffs, damages for the personal injuries received as a result of the assault, damages for extreme and outrageous conduct by the Defendants, damages for any and all medical expenses and/or mental pain and suffering, and all other damages allowed by Tennessee law, including, but not limited to, attorneys fees, and bail

bond fees. The actions by these Defendants were willful and malicious, and therefore the Plaintiffs are entitled to punitive damages from these Defendants in an amount commensurate with the proof.

**C.**

**NEGLIGENCE**

36. Plaintiffs incorporate by reference the allegations contained in Paragraph 1 through 35.

37. Defendants owe a duty to Plaintiffs, among others, to carry out their duties in a way that will not cause harm to Plaintiffs and to carry out their duties properly. Defendants violated and breached their duties.

38. These Defendants breached their duties in a way which include, but are not limited to the following; 1) Defendant Thorpe's failure to properly transmit to the responding officers the correct address where the welfare check was requested; 2) Defendant officers Garrett's, Premo's and Watts' failure to take reasonable actions in light of the nature of call (welfare check) to which they were responding to; 3) The failure of Defendants to use only a reasonable amount of force; and 4) Defendant officers failure to take reasonable steps after learning of the mistake with the address by Defendant dispatcher.

39. As a result and proximate result of this negligence of Defendants, Plaintiffs have suffered damages. These damages include, but are not limited to, severe emotional distress suffered by Plaintiffs, damages for the personal injuries received as a result of the assault, damages for extreme and outrageous conduct by Defendants, damages for any and all medical expenses and/or mental pain and suffering, and all other damages allowed by Tennessee law, including, but not limited to, attorneys fees, and bail bond fees.

**D.**

**INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

40. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 39.

41. Based upon the allegations referenced above, the actions of Defendant officers constituted extreme and outrageous conduct which was contemplated with the specific intent to cause a severe emotional distress or damage. Defendant officers' actions were outrageous and outside of common decency, and were designed to inflict significant and severe emotional distress on Plaintiffs.

42. As a result and proximate result of this intentional infliction of emotional distress on Plaintiffs by Defendants, Plaintiffs have suffered damages. These damages include, but are not limited to, severe emotional distress, damages for the personal injuries received as a result of the assault, damages for extreme and outrageous conduct by the Defendants, damages for any and all medical expenses and/or mental pain and suffering, and all other damages allowed by Tennessee law, including, but not limited to, attorneys fees, and bail bond fees. The actions by these Defendants were willful and malicious, and therefore the Plaintiffs are entitled to punitive damages from these Defendants in an amount commensurate with the proof.

**E.**

**NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

43. Plaintiffs incorporate by reference the allegations contained in Paragraphs 1 through 42.

44. Plaintiffs state that the behavior of Defendants, as described above, including, but not limited to Defendant officers' assault and battery of Plaintiffs, unlawful use of force, the



communication of the wrong address and the false charges, among other reasons, constitute a negligent infliction of emotional distress on Plaintiffs.

45. Defendants were aware of but, consciously disregarded a substantial and unjustifiable risk that these events could occur, but for their negligence. Defendants' failure to take necessary actions to prevent these things from occurring constitute a gross deviation from the standard of care which an ordinary law enforcement officer would have exercised under the circumstances. Plaintiffs state that the behavior of Defendant officers, as described above, constitutes conduct sufficient to establish that Defendants violated the duties and obligations they have to Plaintiffs.

46. Plaintiffs state that Defendants officers' behavior, as described above, constitutes a gross deviation from the standard of care that is required under the circumstances. Defendant officers' owed a duty to Plaintiffs to, among other things, carry out their functions and jobs properly. Defendants violated these duties.

47. As a result and proximate result of this negligent infliction of emotional distress, Plaintiffs have suffered damages. These damages include, but are not limited to, severe emotional distress, damages for the personal injuries received as a result of the assault, damages for extreme and outrageous conduct by the Defendants, damages for any and all medical expenses and/or mental pain and suffering, and all other damages allowed by Tennessee law, including, but not limited to, attorneys fees, and bail bond fees.

**F.**

**FALSE IMPRISONMENT**

48. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 47.

49. Defendants' actions, as defined above, constitute the false imprisonment of Plaintiffs by Defendants.

50. Defendant officers intentionally and unlawfully restrained, confined and compelled Plaintiffs to stay in one place and go somewhere against their personal will, without cause or without a warrant.

51. Defendant officers took this action without reasonable basis or belief that their actions were necessary.

52. Defendant officers further failed to properly and reasonably examine the situation to determine by a careful examination that their actions were necessary.

53. As a result and proximate result of this false imprisonment by Defendants, the Plaintiffs have suffered damages. These damages include, but are not limited to, severe emotional distress, damages for the personal injuries received as a result of the assault, damages for extreme and outrageous conduct by the Defendants, damages for any and all medical expenses and/or mental pain and suffering, and all other damages allowed by Tennessee law, including, but not limited to, attorneys fees, and bail bond fees. The actions by these Defendants were willful and malicious, and therefore the Plaintiffs are entitled to punitive damages from these Defendants in an amount commensurate with the proof.

**G.**

**TORT OF OUTRAGEOUS CONDUCT**

54. Plaintiffs incorporate by reference all the allegations contained in Paragraphs 1 through 53.

55. The actions of Defendants, as described above, constitute extreme and outrageous conduct. The conduct goes beyond the bounds of decency and is considered atrocious and utterly intolerable in a civilized community. This behavior is such that it would cause the average member of a community to immediately react in outrage.

56. As a result and proximate result of this false imprisonment by Defendants, Plaintiffs have suffered damages. These damages include, but are not limited to, severe emotional distress, damages for the personal injuries received as a result of the assault, damages for extreme and outrageous conduct by Defendant officers, damages for any and all medical expenses and/or mental pain and suffering, and all other damages allowed by Tennessee law, including, but not limited to, attorneys fees, and bail bond fees. The actions by these Defendants were willful and malicious, and therefore the Plaintiffs are entitled to punitive damages from these Defendants in an amount commensurate with the proof.

**H.**

**CLAIM UNDER 42 U.S.C. SECTION 1983 FOR VIOLATIONS OF THE EQUAL PROTECTION CLAUSE OF THE 14<sup>TH</sup> AMENDMENT AGAINST DEFENDANTS**

57. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 56.

58. Plaintiffs state that the actions as described above constitute a violation of 42 U.S.C. § 1983 because Defendants have violated their federal and State of Tennessee

constitutional rights and the Defendants violated the Equal Protection Clause of the 14<sup>th</sup> Amendment. These violations include, but are not limited to, arresting Plaintiffs without probable cause, assaulting Plaintiffs and using unreasonable and unnecessary force against Plaintiffs.

59. As a result and proximate result of Defendants' violation of §1983, Plaintiffs have suffered damages. These damages include, but are not limited to, severe emotional distress, damages for the personal injuries received as a result of the assault, damages for extreme and outrageous conduct by Defendants, damages for any and all medical expenses and/or mental pain and suffering, and all other damages allowed by Tennessee law, including, but not limited to, attorneys fees, and bail bond fees. The actions by these Defendants were willful and malicious, and therefore the Plaintiffs are entitled to punitive damages from these Defendants in an amount commensurate with the proof.

WHEREFORE, ALL PREMISES CONSIDERED, the Plaintiffs request the damages requested above, plus the following:

1. That process issue and be served upon each Defendant, and that they be required to answer in a time and manner prescribed by law;
2. That Plaintiffs be awarded a judgment against the Defendants for damages for the Defendants' negligence;
3. That Plaintiffs be a awarded a judgment against Defendants for punitive damages in light of the actions by Defendants;
4. That Plaintiffs be awarded a judgment against Defendants for compensatory damages for severe emotional distress suffered as a result of said behavior;

5. That Plaintiffs be awarded a judgment against Defendants for any and all damages as a result of Defendants' negligent infliction of emotional distress, intentional infliction of emotional distress and outrageous conduct;

6. That Plaintiffs be awarded a judgment against Defendants for all other damages as allowed by Tennessee law;

7. That Plaintiffs be awarded a judgment against Defendants for all reasonable attorney fees incurred in order to prosecute said action;

8. That Plaintiffs be awarded a judgment for all reasonable attorney fees;

9. That Plaintiffs be awarded a judgment for all bail bond costs incurred by Plaintiffs;

10. That Defendants be required to pay all court costs in this matter;

11. Plaintiffs demand a trial by a jury of twelve.

12. That Plaintiffs be awarded a judgment against Defendants for any and all damages allowed § 1983 of the U.S.C.;

13. That Plaintiffs be awarded a judgment against the Defendants for punitive damages in the amount of \$1,000,000.00;

14. That Plaintiffs be awarded a judgment against all of the Defendants, jointly and severally, for all compensatory damages requested in this Complaint in the amount of \$500,000.00;

15. That Plaintiffs be awarded any other relief that the Court deems just and proper.

Respectfully submitted,

/s/Jay B. Jackson

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