

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

WAKEELAH A. COCROFT, )  
Plaintiff )  
vs. ) Docket No.  
JEREMY SMITH, )  
Defendant )

COMPLAINT AND JURY DEMAND

INTRODUCTION

1. This is a civil action in which the plaintiff, Wakeelah Cocroft, seeks money damages from a Worcester police officer, defendant Jeremy Smith, for violation of her federally protected civil rights and for claims arising under Massachusetts law. The complaint alleges that defendant Smith detained the plaintiff, beat her and placed her under arrest, all without probable cause or any lawful justification, causing her to suffer physical injury. Further, the plaintiff alleges that defendant Smith's actions were taken in retaliation against her for voicing her objection to the manner in which he had addressed the plaintiff and her sister, and asserting her rights. The plaintiff seeks damages for the violations of her civil rights under the First and Fourth Amendments and for the injuries inflicted by the defendant.

**JURISDICTION**

2. This action is brought pursuant to the Civil Rights Act of 1871, 42 U.S.C. § 1983, and the First, Fourth, and Fourteenth Amendments to the United States Constitution. Jurisdiction is conferred by 28 U.S.C. § 1331. Supplemental jurisdiction over the plaintiffs' state law claims is authorized by 28 U.S.C. § 1367.

**PARTIES**

3. Plaintiff Wakeelah Cocroft is a citizen of the United States and a resident of Chicago, Illinois.
4. Defendant Jeremy Smith, at all times relevant to this complaint, was a police officer employed by the City of Worcester, and all of his actions alleged in this complaint were done under the color of law.

**FACTS COMMON TO ALL COUNTS**

5. On December 29, 2008, at about 7:00 a.m., the plaintiff, Wakeelah Cocroft, was riding as a passenger in an automobile operated by her sister, Clytheia Mwangi, on Park Avenue, in the city of Worcester, Massachusetts.

6. Ms. Mwangi drove her car, a 2006 Saturn Ion, into the Mobil gas station located at the intersection of Park Avenue and Institute Road, to purchase gasoline. The Saturn was followed into the gas station by a marked police cruiser operated defendant Jeremy Smith.
7. Defendant Smith stopped the police cruiser directly behind Ms. Mwangi's car near the gas pumps, activated his blue lights and immediately left the vehicle.
8. Defendant Smith, who was in uniform and armed, approached the driver's side of Ms. Mwangi's car and began screaming at her. He said that she had been speeding and demanded that she produce her license and registration.
9. Plaintiff Wakeelah Cocroft was seated in the front passenger seat of her sister's car and witnessed defendant's behavior. Defendant Smith appeared to be in a highly agitated state and addressed Ms. Mwangi in an offensive, accusatory, and condescending manner.
10. When the plaintiff objected to the manner in which defendant Smith was speaking to her sister, Smith cut her off, saying that if he wanted to hear from her, he would ask.

11. Officer Smith took Ms. Mwangi's license and registration and returned to his cruiser.
12. While defendant Smith was in his cruiser, the plaintiff exited the Saturn and walked to the gas station store area to purchase gas. She then returned to the Saturn and began engaging the fuel pump.
13. As plaintiff was preparing to put gas in the Saturn, defendant Smith exited his cruiser and began yelling at the plaintiff to get back in the car. At no time prior to this had defendant ordered plaintiff to remain in the car, nor were there any circumstances which would have justified such an order.
14. Plaintiff complied with the order. She replaced the nozzle of the pump, but she renewed her objection to the way in which defendant Smith was speaking, telling him that he had no right to speak to her in that manner. Defendant replied that if she said one more word he would arrest her. Defendant was taken aback by defendant's threat, and moved toward the passenger side door. She told him she was aware of her rights and repeated that he had no right to speak to her in that way.
15. As plaintiff was about to get into the car, she was seized from behind by defendant Smith, pulled away from the car and

then thrown, face-first, onto the pavement, causing her face to scrape against the cement. While she was on the ground, Officer Smith painfully yanked her arms behind her back, pushing his knee into her back. The defendant remained on top of the plaintiff for several minutes. The plaintiff was having difficulty breathing and told the defendant she couldn't breathe.

16. The amount of force employed by the defendant against the plaintiff was unreasonable and grossly disproportionate to any conceivable law enforcement interest.
17. Defendant Smith's conduct was so shocking that Ms. Mwangi called "911" on her cell phone. Defendant Smith ordered Ms. Mwangi to end the call and place her phone on the roof of the car so that she could not seek assistance.
18. When a second Worcester police officer arrived at the scene, Officer Thomas Dowd, defendant Smith told him that he arrested the plaintiff when she started "yapping about her rights."
19. The plaintiff was transported in a patrol wagon to the Worcester Police Department station and was booked on charges of Disorderly Conduct and Resisting Arrest.

20. The plaintiff immediately reported her injuries and was transported by the Worcester Police to a local hospital for treatment. She remained in the custody of the Worcester Police at all times during her treatment at the hospital.
21. The plaintiff had visible facial abrasions and bruising and her earring had been ripped from her ear when the side of her face was pressed against the concrete. She reported to the emergency medical personnel that she had extreme shoulder and back pain from the incident.
22. The plaintiff maintained her innocence on the criminal charges and her case was tried to a jury in the Worcester District Court. She was acquitted of the disorderly charge and was convicted of the resisting arrest charge. She appealed that conviction and the case is pending in the Appeals Court of Massachusetts (2010-P-1875).
23. The defendant's actions were taken willfully, maliciously and with reckless disregard for plaintiff's constitutional rights.
24. As a direct and proximate result of the defendants' actions, the Plaintiff suffered serious mental anguish, psychological and emotional distress, serious physical injuries, and

physical pain and suffering and was forced to incur financial loss.

25. The actions of the defendant officer was done under the color of law and deprived the Plaintiff of her civil rights under the Fourth and Fourteenth amendments to the United States constitution to be free from the unreasonable seizure of her person, and to be free from the excessive use of force.

**COUNT I: 42 U.S.C. , Section 1983 CLAIM AGAINST JEREMY SMITH (FOURTH AMENDMENT TO THE U.S. CONSTITUTION)**

26. The plaintiff Wakeelah Cocroft repeats and reasserts the allegations contained in paragraphs 1. through 25.and incorporates them by reference as if fully and completely set forth herein.

27. Defendant Smith's actions constituted a violation of the Plaintiff's rights guaranteed by the United States Constitution including, but not limited to, the Fourth and Fourteenth Amendments by:

(a) effecting an unlawful seizure of the plaintiff by ordering her back into the vehicle even though she was not involved in the traffic stop;

(b) using excessive and unreasonable force against the

plaintiff by forcibly pulling her away from the car, throwing her to the pavement and placing his knee in her back and forcing her arms up and behind her back to handcuff her, and keeping her on the ground, with his knee painfully pushing on her back for a lengthy period of time; and (c) arresting her without probable cause.

28. As a direct and proximate result of the defendant's actions, the plaintiff suffered the damages described above.

**COUNT II: 42 U.S.C. , Section 1983 CLAIM AGAINST JEREMY SMITH (FIRST AMENDMENT TO THE U.S. CONSTITUTION)**

29. The plaintiff Wakeelah Cocroft repeats and reasserts the allegations contained in paragraphs 1. through 28.and incorporates them by reference as if fully and completely set forth herein.

30. Defendant Smith's actions in assaulting the plaintiff and placing her under arrest were done in retaliation for her speaking back to the defendant, for objecting to the manner in which defendant spoke to her and to her sister and for her assertion that she "knew her rights."



31. As a direct and proximate result of the defendant's actions, the plaintiff suffered the damages described above.

**COUNT III : State Claim - Assault and Battery**

32. The plaintiff repeats and reasserts the allegations contained in paragraphs 1. through 31. of this Complaint and incorporates them by reference as if fully set forth herein.

33. Defendant Smith, without right or privilege assaulted and beat the plaintiff before and during her arrest, while she was handcuffed, while she was in a position of restraint and confinement, in an extreme and outrageous manner, thereby causing her great damage.

34. As a direct and proximate result of the Defendant' actions, the Plaintiff suffered the injuries described herein.

**COUNT IV : State Claim - False Arrest**

35. The plaintiff repeats and reasserts the allegations contained in paragraphs 1. through 34. of this Complaint and incorporates them by reference as if fully set forth herein.

36. Defendant Smith arrested the plaintiff without probable

cause.

37. Defendant Smith's arrest of the plaintiff was unwarranted, malicious, and was in retaliation for, and to punish the plaintiff for exercising her right to freedom of speech and caused the Plaintiff to experience unnecessary emotional distress and financial expense.

**COUNT V: State Claim : Violation of Massachusetts Civil Rights Act Against Defendant Smith**

38. The plaintiff repeats and reasserts the allegations contained in paragraphs 1. through 37. of this Complaint and incorporates them by reference as if fully set forth herein.

39. By engaging in the conduct alleged above, the defendant deprived the plaintiff, by means of threats, intimidation and coercion, of rights secured by the First, Fourth and Fourteenth amendments to the U.S. Constitution and Articles One, Ten, Twelve, Fourteen, and Sixteen of the Massachusetts Declaration of Rights, all in violation of M.G.L. c. 12, §§ 11H-I.

40. As a direct and proximate result of the Defendant's violation of M.G.L. c. 12, §§11H-I, the Plaintiff suffered the injuries described above.

WHEREFORE, the plaintiff Wakeelah Cocroft respectfully requests that this Honorable Court enter judgment against the defendant on each count of this complaint and :

1. Award compensatory damages to the plaintiff in an amount determined by the court, including interest on any damages since the original date of the injury; and
2. Award the plaintiff the costs of this action, including reasonable attorneys' fees; and
3. Grant any further relief as the court deems just.

**JURY TRIAL DEMAND**

The Plaintiff demands a jury trial on all counts.

Respectfully submitted,  
Plaintiff, WAKEELAH COCROFT  
By her attorneys,

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Dated: December 28, 2010