

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

RAPHAEL CHRISTOPHER,

Plaintiff,

v.

Civil Action No.

FREDERICK NESTLERODE and
MATTHEW KERR, in their
individual capacities,

(Electronically filed)

JURY TRIAL DEMANDED

Defendants.

COMPLAINT

Preliminary Statement

1. Plaintiff Raphael Christopher (“Christopher”) brings this action to recover damages for the deprivation of his constitutional rights caused by racial profiling engaged in by two York County Deputy Sheriffs, Frederick Nestlerode (“Nestlerode”) and Matthew Kerr (“Kerr”). Nestlerode and Kerr stopped

Christopher as Christopher was driving with his eight-year-old son in Christopher's personal car. Nestlerode and Kerr did not have reasonable suspicion or probable cause to justify the stop, but seized Christopher because he is African-American. Unbeknownst to Nestlerode and Kerr at the time they decided to stop Christopher, Christopher is a Trooper with the Pennsylvania State Police.

Statement of Jurisdiction

2. Plaintiff brings this action under 42 U.S.C. §1983, which provides a civil action against persons who under color of law deprive a citizen of federal constitutional rights. This Court has jurisdiction over both Counts in this matter pursuant to 28 U.S. C. §§1331 and 1343(3).

COUNT I: UNREASONABLE SEIZURE

The Parties

3. Plaintiff Christopher has been employed by the Pennsylvania State Police as a Trooper since January of 1994.

4. On August 5, 2003, Defendant Nestlerode was employed as a Deputy Sheriff by the York County Sheriff Department.

5. At all times material to the events that gave rise to this Complaint, Nestlerode was acting under color of law within the meaning of 42 U.S. C. §1983.

6. Nestlerode is sued in his individual capacity.

7. On August 5, 2003, Defendant Kerr was employed as a Deputy Sheriff by the York County Sheriff Department.

8. At all times material to the events that gave rise to this Complaint, Kerr was acting under color of law within the meaning of 42 U.S. C. §1983.

9. Kerr is sued in his individual capacity.

Nestlerode's and Kerr's Stop of Christopher

10. On August 5, 2003 at around 10:50 a.m., Christopher was driving his personal car on East Market Street in York.

11. Christopher was not wearing his Pennsylvania State Police uniform.

12. Christopher's then eight-year-old son was in the car with Christopher.

13. At the same time, Nestlerode and Kerr were in uniform and were driving on East Market Street in a marked York County Sheriff Department car that displayed a standard red and blue bar light.

14. Nestlerode and Kerr did not have a basic calibrated stopwatch, an ESP traffic control device, Accutrack, VASCAR or any other calibrated speed timing device in their car.

15. Nestlerode and Kerr did not have a calibrated speedometer in the car.

16. Nestlerode and Kerr activated all the emergency lights on their car and stopped Christopher's car.

17. Nestlerode and Kerr's stopping of Christopher's car was a seizure within the meaning of the Fourth and Fourteenth Amendments to the United States Constitution.

18. Nestlerode and Kerr did not have reasonable suspicion or probable cause to stop Christopher's car.

19. Nestlerode and Kerr issued a citation to Christopher for driving at a speed that was not reasonable or prudent for the conditions.

20. On November 7, 2003, District Justice Linda L. Williams found Christopher not guilty on the charge of driving at a speed that was not reasonable or prudent under the conditions.

21. Nestlerode and Kerr's stopping of Christopher's car without probable cause or reasonable suspicion caused damages to Christopher.

22. Nestlerode and Kerr acted in reckless disregard of Christopher's Fourth and Fourteenth Amendment rights.

COUNT II: DEPRIVATION OF EQUAL PROTECTION

23. Christopher incorporates by reference paragraphs 3-22.

24. As an African-American person, Christopher is a member of a protected class.

25. Nestlerode and Kerr purposefully stopped Christopher because

Christopher is African-American.

26. Nestlerode's and Kerr's stop of Christopher had a discriminatory effect on Christopher.

27. By purposefully stopping Christopher because of Christopher's race, Nestlerode and Kerr deprived Christopher of the equal protection of the law within the meaning of the Fourteenth Amendment to the United States Constitution.

28. By purposefully stopping Christopher because of Christopher's race, Nestlerode and Kerr caused damages to Christopher.

29. Nestlerode and Kerr acted in reckless disregard of Christopher's Fourteenth Amendment rights.

Demand for Judgment

30. Christopher requests the following relief:

A. Compensatory damages for humiliation, pain and suffering, emotional distress, mental anguish and/or related emotional damages that Christopher has incurred or will incur in the future as a result of the August 5, 2003 incident.

B. Compensatory damages for lost wages, legal bills, medical bills and/or other expenses that Christopher has incurred or will incur in the future as a result of the August 5, 2003 incident.

C. Compensatory damages for the value of the federal constitutional rights invaded to Christopher.

D. Punitive damages;

E. Reasonable attorneys' fees pursuant to 42 U.S.C. §1988; and

F. Such other and further relief that the Court may deem just.

Respectfully submitted,

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