

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS  
CIVIL DIVISION, \_\_\_\_\_ DIVISION

KENNETH RICHARDSON

PLAINTIFF

VS.

CASE NO.:

ALEXANDER SULLIVAN, individually and in his  
official capacities; CITY OF LITTLE ROCK,  
a Municipal Corporation and Public Body  
Corporate and Politic; KEITH HUMPHREY, in his  
official capacity as Chief of Police,  
Little Rock Police Department

DEFENDANTS

**COMPLAINT**

COMES NOW the Plaintiff, Kenneth Richardson, by and through  
undersigned counsel, and for his Complaint, states as follows:

**JURISDICTION AND VENUE**

1. This is an action arising under the United State Constitution  
and the Constitution of the State of Arkansas alleging violations  
of Constitutional Rights. Relief is pursuant to 42 U.S.C. § 1983,  
the Fourth, Fifth and Fourteenth Amendments to the United States  
Constitution, the Arkansas Constitution, the Arkansas Civil Rights  
Acts and common law tort and negligence.

2. This is also an action seeking declaratory relief pursuant  
to Ark. Code Ann. § 16-111-104, part of the Declaratory Judgment  
Act, and 28 U.S.C.S. § 2201 to declare the rights and other  
relations between the parties and for damages. The action also  
seeks prospective injunctive relief barring the Defendants from  
engaging in the same or similar behavior in the future.

### PARTIES

3. The Plaintiff, Kenneth Richardson, during all times mentioned was a citizen of the United States, and was a resident of the City of Little Rock, County of Pulaski, and State of Arkansas. The Plaintiff was at all relevant times a duly elected Board Member of Directors the Little Rock Board of Directors. As a member of the Board of Directors for the City of Little Rock, one of Plaintiff's primary responsibilities was setting policies that advanced the safety, growth and quality of life of the residents of the City of Little Rock.

4. The Defendant City of Little Rock (herein referred to as "City"), is a municipal corporation organized under the laws of the State of Arkansas, and was the employer of the Defendant Chief of Police Keith Humphrey (herein referred to as "Keith Humphrey" "Humphrey" or "Chief Humphrey") and the Defendant Police Officer Alexander Sullivan (herein referred to as "Alexander Sullivan" "Sullivan" or "Officer Sullivan").

5. Said City at all times herein mentioned provided the Defendant, Humphrey and Sullivan, with an official badge and identification, which designated and described its bearers as officers of the City's Police Department.

6. The Defendant Alexander Sullivan, at all relevant times was a duly appointed, qualified, and acting police officer of the City of Little Rock and was an agent of said City.

7. During all times mentioned herein, Keith Humphrey was acting as Chief of Police of the police force of the City of Little Rock, and as such, it was his duty to properly supervise the policeman under his control so as not to cause injuries to, or deprive the civil rights of persons the police department is obligated to protect. At all relevant times, and prior to October 2019, Humphrey had final policymaking authority in terms of creating, adopting and/or implementing police policies within the LRPD whether formal or informal.

8. The Defendant City of Little Rock is the municipal corporation under the name of which the individual Defendants performed all acts and omissions alleged herein. At all times and places alleged herein the individual Defendants and each of them, were acting as agents of the defendant, the City of Little Rock. At all relevant times, the City is and was empowered, funded and directed to pay any \$1983 civil rights judgment for compensatory damages, actual damages, punitive damages and attorney fees for which any City employee acting under color of state law is found liable. Accordingly, the City is an indemnification party for those liable in the acts of which Plaintiff complain.

9. At all relevant times, the City was a municipality that participated in the Municipal Legal Defense Program. The acts of which Plaintiff complain constitute a civil rights lawsuit against the City and the other City-employed defendants. Accordingly, the

Municipal Legal Defense Program is a primary or secondary indemnification party regarding the acts of City and the other City-employed defendants of which Plaintiff complain.

**FACTUAL ALLEGATIONS**

10. On October 9, 2019 at about 4:30 p.m., Director Kenneth Richardson (herein after referred to as "Director Richardson" or "Plaintiff") was stopped at Kroger Fuel Center, 6420 Colonel Glenn Road, Little Rock, Arkansas to get gas. While getting gas, Director Richardson observed a Little Rock Police Department Officer detaining an African-American male in the area between Kroger and an Apartment complex next to the Kroger Shopping Center. The area where the Officer had the individual detained was not in a street, but it was in a public area. The area was used as a means of ingress and egress from a nearby apartment complex to the Kroger Shopping Center and other public areas.

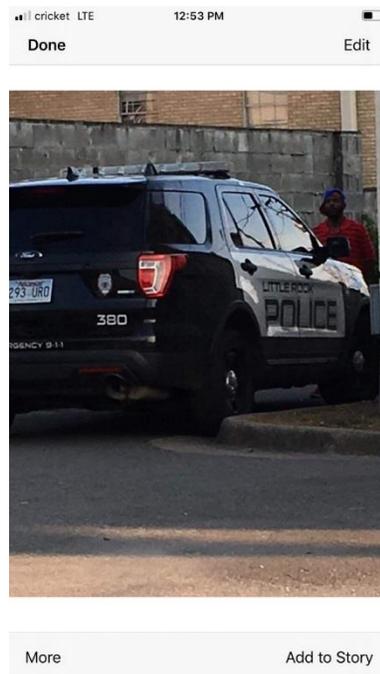
11. Director Richardson drove from the Kroger Fuel Center across the parking lot to an area closer to where the Officer had the individual detained. Director Richardson stopped to observe what was happening with the Officer and the individual. Director Richardson stayed in his car. While seated in his car, Director Richardson used his iPhone to take the following picture:



12. After taking this picture, Director Richardson zoomed his camera and took the following picture:



13. After taking this picture, Director Richardson drove to another position so that he could get the car number off of the Little Rock Police Unit. He stopped, turned off his car and stayed in the car and took the following picture:



14. After taking this picture, Officer Alexander Sullivan, the Little Rock Police Department Officer conducting the stop of the individual, stopped what he was doing, left the suspect handcuffed in front of his Patrol Unit and began to approach Director Richardson. Director Richardson then got out of the car. Director Richardson was approximately 30 to 35 feet away from the area where the officer was conducting the arrest and detention of the individual.

15. Officer Sullivan told Director Richardson that the suspect did not want his picture taken and asked him to leave. Director

Richardson informed Officer Sullivan that he did not have to leave. He was in a public place away from the Officer and suspect and posed no threat to either the officer or the suspect. The suspect that Officer Sullivan left unsecured was purportedly a suspect in an aggravated robbery. Officer Sullivan indicated that the individual he had stopped and handcuffed matched the description of the person that committed the aggravated robbery.

16. Officer Sullivan asked Director Richardson to take his hands out of his pocket. Director Richardson complied. Officer Sullivan then told Director Richardson, not to approach him. Director Richardson pointed out to Officer Sullivan that he was not approaching him; rather, Officer Sullivan had left a suspect, come over, and approached Director Richardson.

17. Officer Sullivan instructed Director Richardson that if he did not leave, he would be arrested for obstruction of governmental operations. Director Richardson refused to leave. Officer Sullivan then took Director Richardson into custody. He handcuffed Director Richardson and placed him in the back seat of his unit. Director Richardson remained in the back of the police unit for approximately thirty (30) minutes.

18. Officer Sullivan detained Director Richardson without probable cause. Director Richardson was charged with obstructing governmental operations. The case against him was *nolle prossed*.

19. In a democracy, public officials have no general privilege to avoid publicity and embarrassment by preventing public scrutiny of their actions. *Walker v. City of Pine Bluff*, 414 F.3d 989, 992 (8th Cir. 2005)

20. In *Chestnut v. Wallace*, 947 F.3d 1085, 1089 (8th Cir. 2020), the Eighth Circuit said the following regarding legendary Civil Rights Attorney John W. Walker: In *Walker*, attorney John Walker observed an encounter between police and some young men. We said that "Walker stood with his arms folded some forty to fifty feet from the conversation between the police and the young men" and did not speak to anyone. When officers asked him what he was doing, he responded that he was watching the town's "finest in action." After further conversation, Walker identified himself as an attorney and offered his driver's license to one of the officers, but the officer instead handcuffed Walker, put him in the back of a hot police car for twenty minutes, and drove him to the police station. Walker was charged with obstructing governmental operations.

21. In *Walker*, the Eighth Circuit explained the perimeters of the constitutional right when it found that: The issue is often more complex when police officers are engaged in public law enforcement activities, because some on-lookers may create safety hazards, while others may seek to frustrate valid law enforcement, as was the case in *Lawyer v. City of Council Bluffs*, 361 F.3d 1099, 1107

(8<sup>th</sup> Cir. 2004), and the cases we surveyed in that opinion. But public police activity invariably draws a crowd of interested but benign onlookers. . . . No reasonable police officer could believe that he had arguable probable cause to arrest such an on-looker in this situation, for obstruction of governmental operations or for any other purported crime.

22. In the Eighth Circuit, no reasonable officer could conclude that a citizen's passive observation of a police-citizen interaction from a distance was criminal. *Chestnut*, 947 F.3d at 1090.

23. In *Chestnut*, the Eighth Circuit further makes it clear that: "Other legal authorities fully support our holding that the right here was clearly established. Every circuit court to have considered the question has held that a person has the right to record police activity in public. See, e.g., *Fields v. City of Philadelphia*, 862 F.3d 353, 355-56 (3d Cir. 2017). Four circuits had so decided by the time of the events in question here. See *ACLU of Ill. v. Alvarez*, 679 F.3d 583, 595 (7th Cir. 2012); *Glik v. Cunniffe*, 655 F.3d 78, 82-83 (1st Cir. 2011); *Smith v. City of Cumming*, 212 F.3d 1332, 1333 (11th Cir. 2000); *Fordyce v. City of Seattle*, 55 F.3d 436, 439 (9th Cir. 1995). This robust consensus of cases of persuasive authority suggests that, if the constitution protects one who records police activity, then surely it protects one who merely observes it—a necessary prerequisite to recording.

Our circuit in particular has been quite forthright in upholding the right of citizens to engage with officers while they perform their duties. For example, in *Hoyland v. McMenemy*, we held that officers did not have qualified immunity to arrest a man who had watched officers arrest his wife and even shouted at them. 869 F.3d 644, 654-55 (8th Cir. 2017). We acknowledged that the man "was shouting criticisms at the officers" while they tried to effect an arrest, but we adverted to the principle from Walker that public officials have no privilege to avoid public scrutiny and criticism of their actions. *Id.* And we did so despite "[a]ny fear of danger the officers felt due to Hoyland's presence." *Id.* at 654. In *Thurairajah v. City of Fort Smith*, we affirmed the denial of qualified immunity against an officer who arrested a man who drove by the officer while the officer performed a traffic stop and shouted an obscenity. 925 F.3d 979, 983-84 (8th Cir. 2019). Surely if officers cannot seize someone who criticizes or curses at them while they perform official duties, they cannot seize someone for exercising the necessarily included right to observe the police in public from a distance and without interfering."

**COUNT I**  
**AGAINST SULLIVAN FOR VIOLATION OF THE FOURTH AMENDMENT**

24. The previous paragraphs are incorporated herein by reference and re-alleged as though fully alleged in County I.

25. The actions of the Defendant, Alexander Sullivan, were done under the color of law and in violation of provisions of the United States Constitution.

26. The actions of the Defendant, Alexander Sullivan, were entirely unjustified by any actions of the Plaintiff and constituted an unreasonable and unprivileged touching of the Plaintiff.

27. The actions alleged above deprived the Plaintiff of the following rights under Fourth and Fourteenth Amendments of the United States Constitution:

- a. Freedom from the use of excessive and unreasonable force;
- b. Freedom from a deprivation of liberty without due process of law; and
- c. Freedom from summary punishment.

28. Defendant, Alexander Sullivan, subjected Plaintiff to such deprivation by either malice or a reckless or callous indifference to the federally protected and state-protected rights of the Plaintiff.

29. Sullivan's action in searching Plaintiff in the absence of reasonable suspicion and probable cause violated the Fourth Amendment of the United States Constitution.

30. Sullivan's action in arresting Plaintiff in the absence of reasonable suspicion and probable cause violated the Fourth Amendment of the United States Constitution

31. The direct and proximate result of Defendant Sullivan's acts is that Plaintiff suffered injuries.

**COUNT II**  
**AGAINST SULLIVAN IN VIOLATION OF THE FIRST AMENDMENT**

32. The previous paragraphs are incorporated herein by reference and re-alleged as though fully alleged in County II.

33. The actions of the Defendant, Alexander Sullivan, were done under the color of law and in violation of provisions of the United States Constitution.

34. The actions of the Defendant, Alexander Sullivan, in detaining, searching and seizing Plaintiff who was standing in an area of the City accessible to the public and at a safe distance from the stop being effectuated by Sullivan were in violation of the First Amendment of the United States Constitution.

35. Defendant, Alexander Sullivan, subjected Plaintiff to such deprivation by either malice or a reckless or callous indifference to the federally protected and state-protected rights of the Plaintiff.

36. The direct and proximate result of Defendant Sullivan's acts is that Plaintiff suffered injuries.

**COUNT III**  
**AGAINST CHIEF HUMPHREY FOR PERMITTING AND MAINTAINING A**  
**WIDESPREAD CUSTOM OF PERMITTING EXCESSIVE FORCE (MONELL)**

37. The previous paragraphs are incorporated herein by reference.

38. Prior to the incident that is subject of this action, the City of Little Rock, through its Chief of Police, or system for hiring, employed the Defendant, Alexander Sullivan.

39. At all relevant times, including a period of years prior to October 19, 2019, Humphrey knowingly, and/or with reckless or callous indifference to the Constitutional rights of the citizens of Little Rock, permitted and/or maintained a widespread custom and practice of permitting acts of excessive force by LRPD officers by covering up allegations of police excessive force and/or performing meaningless internal investigations intended to exonerate officers against whom such allegations are charged and/or failing to request or timely request independent investigations to verify such allegations and/or verbalizing to LRPD officers and the public at large that violations of LRPD general orders are trivial and unimportant. This pattern of police misconduct was so pervasive as to constitute a "custom or usage" with the force of law.

40. The foregoing acts, omissions, and systemic deficiencies are policies and customs of Defendant and such caused the Defendant Humphrey to violate the Plaintiff' rights, all with the foreseeable result that officers were more likely to act in a manner which was neither necessary, reasonable nor legal. Said acts, omissions and systemic deficiencies are a result of a failure to, among other things, properly supervise and/or train.

41. Defendant Humphrey subjected the Plaintiff to an unreasonable seizure that resulted in the deprivation of his liberty without due process of law, in violation of his rights as secured by the Fifth Amendment to the United States Constitution.

42. As a direct and proximate result of the aforesaid acts, omissions, systemic deficiencies, policies and customs of the Defendant, Defendant Sullivan, improperly arrested the Plaintiff.

43. The conduct of the Defendant herein was of a malicious and willful nature, and of a nature so as to warrant the award of punitive and exemplary damages in favor of the Plaintiff against the Defendants.

**COUNT IV**  
**AGAINST THE CITY OF LITTLE ROCK FOR PERMITTING AND MAINTAINING A**  
**WIDESPREAD CUSTOM OF PERMITTING EXCESSIVE FORCE (MONELL)**

44. The previous paragraphs are incorporated herein by reference.

45. At all relevant times, including a period of years prior to October 9, 2019, the City of Little Rock knowingly, and/or with reckless or callous indifference to the Constitutional rights of the citizens of Little Rock, permitted and/or maintained a widespread custom and practice of permitting acts of excessive force by LRPD officers by covering up allegations of police excessive force and/or performing meaningless internal investigations intended to exonerate officers against whom such allegations are charged and/or failing to request or timely request independent investigations to verify such allegations and/or

verbalizing to LRPD officers and the public at large that violations of LRPD general orders are trivial and unimportant. This pattern of police misconduct was so pervasive as to constitute a "custom or usage" with the force of law.

28. The foregoing acts, omissions, and systemic deficiencies are policies and customs of Defendant and such caused the Defendant Humphrey to violate the Plaintiff' rights, all with the foreseeable result that officers were more likely to act in a manner which was neither necessary, reasonable nor legal. Said acts, omissions and systemic deficiencies are a result of a failure to properly supervise.

46. Defendant Humphrey subjected the Plaintiff to an unreasonable seizure, that resulted in the deprivation of his liberty without due process of law, in violation of his rights as secured by the Fifth Amendment to the United States Constitution.

47. As a direct and proximate result of the aforesaid acts, omissions, systemic deficiencies, policies and customs of the Defendant, Defendant Humphrey, improperly assaulted and battered the Plaintiff.

48. The conduct of the Defendant herein was of a malicious and willful nature, and of a nature so as to warrant the award of punitive and exemplary damages in favor of the Plaintiff against the Defendants.

**COUNT IV**  
**NEGLIGENCE/BATTERY**

49. The previous paragraphs are incorporated herein by reference.

50. At the time of the incident herein, Defendant Sullivan was acting as an off duty officer of the Little Rock Police Department.

51. Defendant, Sullivan, falsely arrested and imprisoned Director Richardson.

WHEREFORE, the Plaintiff requests that this Honorable Court enter judgments against the defendants and each of them and:

a. Award compensatory damages against the Defendants and each of them jointly and severally;

b. Award punitive damages against the Defendants;

c. Award costs of this action including attorney fees to the Plaintiff; and

d. Award injunctive relief and declaratory relief prohibiting the defendants from engaging in this action in the future, finding the actions of the defendants to be unconstitutional and instituting such other relief as is necessary; and

e. Award such other and further relief as this Court may deem appropriate.

A jury trial is hereby demanded.

Respectfully submitted,

/s/Willard Proctor, Jr.  
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