

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

TREVIN THALHEIMER,)	
)	
PLAINTIFF,)	CAUSE NO. 1:23-CV-80
)	
v.)	
)	
TOWN OF BROOKVILLE,)	
TERRY MITCHUM, RYAN GEISER,)	JURY TRIAL REQUESTED
CURTIS WARD, CATHY PELSOR,)	
CHARLES CAMPBELL, and BROOKE)	
LEFFINGWELL,)	
)	
DEFENDANTS.)	

COMPLAINT

I. Nature of Case

1. This lawsuit seeks money damages against the Town of Brookville, the Brookville Town Board, and two Brookville Police Department Officers relating to the arrest of Trevin Thalheimer on January 30, 2022.

II. Jurisdiction and Venue

2. This action is brought pursuant to 42 U.S.C. §§1983, 1985(3), and 1986 and is premised on a conspiracy to violate the first, fourth, and fourteenth amendments to the United States Constitution, neglect to prevent interference with Civil Rights violations, and for violations of the laws of the State of Indiana
3. This Court has original subject matter jurisdiction of the federal questions presented pursuant to 28 U.S.C. §§1331 and 1343.
4. This Court has supplemental jurisdiction of plaintiff's state law claims of false arrest, false imprisonment, invasion of privacy, defamation, civil perjury, intentional infliction of

emotional distress and civil conspiracy against the Town of Brookville, Terry Mitchum, and Ryan Geiser pursuant to 42 U.S.C. §1367.

5. Venue is proper in this Court and Division, pursuant to 28 U.S.C. §1391, because the events giving rise to this action occurred in, and the defendants are residents of Brookville, Indiana, which is located in the Indianapolis Division of the Southern District of Indiana.

III. Parties

6. Plaintiff Trevin Thalheimer was a resident and citizen of the Town of Brookville at the time of his arrest on January 30, 2022.
7. Defendant Terry Mitchum is an adult resident of Indiana and a law enforcement officer who was employed by the City of Brookville through the Brookville Police Department at the time of Plaintiff's arrest on January 30, 2022. This Defendant is sued in his individual capacity on Plaintiff's federal §§1983 and 1985(3) claims.
8. Defendant Ryan Geiser is an adult resident of Indiana and a law enforcement officer who was employed by the City of Brookville through the Brookville Police Department at the time of Plaintiff's arrest on January 30, 2022. This Defendant is sued in his individual capacity on Plaintiff's federal §§1983 and 1985(3) claims.
9. Defendant Town of Brookville is located in Franklin County, Indiana, and is a political subdivision of the State of Indiana. This municipal defendant is sued only for compensatory, not punitive, damages.
10. Defendants Curtis Ward, Cathy Pelsor, Charles Campbell, and Brooke Leffingwell were members of the Brookville Town Board during the time period relevant to Plaintiff's arrest on January 30, 2022. These Defendants are sued in their individual capacities on Plaintiff's federal §1986 claims.

IV. Facts

11. In January, 2022, Brookville Town Council member Eric Johnson announced his resignation from the Town Council. As a Democrat, Eric Johnson's seat would be filled by an individual appointed by Glenn Bailey, the Franklin County Democratic Party Chair, and five precinct committee members.
12. Trevin Thalheimer put forth his name for consideration to fill the vacancy.
13. At approximately 4:01 PM on January 26, 2022, Brookville Police Officer Ryan Geiser made a phone call to Aleese Whittamore to encourage her to apply for the vacant Town Council seat. Officer Geiser called Ms. Whittamore at the suggestion of Chief Terry Mitchum in order to find someone other than Trevin Thalheimer who may be able to fill the vacancy.
14. Officer Geiser's attempts to recruit Ms. Whittamore were unsuccessful, even after he relayed his opinion to her that Mr. Thalheimer "hates cops" or was otherwise anti-police. Officer Geiser further suggested to Ms. Whittamore that she may be able to help a friend secure employment with the Town of Brookville if she were to get a seat on the Town Council by claiming that the friend had been unable to secure employment with the Town of Brookville because of personal issues with another Council Member.
15. Prior to the events of 2022, an investigation into Trevin Thalheimer on a rape allegation began around Memorial Day weekend 2021.
16. The rape allegation was investigated by Brookville Police Department Officer Donald Forsee.

17. At some point between Memorial Day weekend of 2021 and January 26, 2022, the rape investigation was reviewed by the Franklin County Prosecuting Attorney where it was determined that the case would not be filed.
18. Neither Officers Mitchum nor Geiser participated in Officer Forsee's investigation and had no personal knowledge of the particular course of the investigation.
19. At 9:47 a.m. on January 28, 2022, it has been alleged by Officer Geiser that Officer Forsee had received DNA test results relating to the investigation of the rape allegation and that Officer Forsee asked Officer Geiser to effect a probable cause arrest of Mr. Thalheimer for him.
20. At 5:55 p.m. on January 28, 2022, Ryan Geiser alleges that he was flagged down by a resident, Kevin Hicks, who complained of a burglary at his home and pointed to a neighboring house whose occupants he suggested were supposed to be watching out for Hicks's home.
21. Officer Geiser never created any kind of report documenting this encounter and the house allegedly pointed to was Trevin Thalheimer's house.
22. Officer Geiser then alleged that he went to Trevin Thalheimer's residence to make contact regarding the burglary report wherein he smelled the odor of raw and burnt marijuana coming from the residence.
23. Officer Geiser later proceeded to apply for a search warrant for Thalheimer's residence.
24. Upon information and belief, the Plaintiff believes that Officer Geiser's alleged encounter with Kevin Hicks did not happen as claimed by Officer Geiser. Furthermore, Plaintiff contends that the burglary report as recounted by Officer Geiser was fabricated or embellished as a pretextual reason to approach Thalheimer's residence and that Officer

Geiser did not in fact get close enough to Thalheimer's residence to have been able to smell the odor of marijuana from where he was standing but was trying to find a reason to arrest Thalheimer to frustrate any political ambitions he may have had.

25. The search warrant for Plaintiff's home was executed on January 30, 2022. Officer Geiser was accompanied by Chief Mitchum and Officer Samuel Williams to execute the warrant. Thalheimer was arrested on misdemeanor charges related to possession of a small amount of marijuana, paraphernalia, and his mother's antibiotics.
26. Prior to arriving at Thalheimer's residence, Chief Mitchum ordered Officer Geiser to arrest Thalheimer on a rape charge based on Forsee's investigation.
27. The local Brookville newspaper, Whitewater Publications, had a policy known to Chief Mitchum wherein it would print local felony arrests but not misdemeanor arrests. Because a rape charge is a level 3 felony in Indiana, Trevin Thalheimer's arrest was printed in the newspaper, whereas the misdemeanor arrests would not have been.
28. Regardless of the book-in charges, the Franklin County Prosecutor's Office again declined to file any sexual assault charges relating to Trevin Thalheimer and the already reviewed investigatory file.
29. As a result of the embarrassment and notoriety with the rape charge appearing in the local newspaper, Trevin Thalheimer suffered severe emotional distress and withdrew his name from consideration for the vacant Town Council seat.
30. At all times relevant to this suit, Defendants Mitchum and Geiser were employed by the Town of Brookville and acted within the course and scope of their employment as officers of the Brookville Police Department.
31. At all times relevant, Defendants Mitchum and Geiser acted under color of state law.

32. Upon information and belief, the members of the Brookville Town Board had knowledge of the conspiracy between Terry Mitchum and Ryan Geiser to effect a politically motivated and baseless arrest on Trevin Thalheimer in an effort to thwart constitutionally protected political activity, had the power to prevent such commission, yet neglected or refused to do so.
33. Plaintiff properly served a tort claim notice on the Defendant Town of Brookville on or about August 26, 2022.

V. Claims

34. The actions of Defendants Mitchum and Geiser constituted an unlawful seizure, arrest, and imprisonment of Trevin Thalheimer for exercising his right to engage in the political process, in violation of the first, fourth, and fourteenth amendments to the United States Constitution, actionable pursuant to 42 U.S.C. §1983.
35. The actions of Defendants Mitchum and Geiser constituted a conspiracy to interfere with Trevin Thalheimer's civil rights, actionable pursuant to 42 U.S.C. §1985(3).
36. The actions of Defendants Mitchum and Geiser constituted false arrest, false imprisonment, invasion of privacy, defamation, civil perjury, intentional infliction of emotional distress and civil conspiracy in contravention of Indiana common law to which the Town of Brookville is answerable under the Indiana Tort Claims Act, Ind. Code 34-13-3 *et seq.*
37. The actions and/or inactions of Defendants Ward, Pelsor, Campbell, and Leffingwell constitute neglect to prevent interference with Civil Rights, actionable pursuant to 42 U.S.C. §1986.

38. Defendant Town of Brookville is legally responsible under Indiana state law for its own actions, and, under the doctrine of *respondeat superior*, for the actions of its employees, including the actions of Defendants Mitchum and Geiser.
39. Plaintiff reserves the right to proceed with any and all claims, which the facts averred in this Complaint support, pursuant to the notice pleading requirement of Federal Rule of Civil Procedure 8.

VI. Jury Trial Requested

40. Plaintiff Trevin Thalheimer requests a jury trial on his claims.

VII. Relief Requested

41. Plaintiff Trevin Thalheimer seeks all relief available under the law, including compensatory and punitive damages, attorney fees and costs, and all other appropriate relief.

Respectfully submitted,

Dated: January 13, 2023

s/ Matthew S. Bigler
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