

**STATE OF NEW MEXICO
FIRST JUDICIAL DISTRICT COURT
SANTA FE COUNTY**

D'ANDRE RAVENEL,

Plaintiff,

v.

No. _____

**TONY FETTY, a New Mexico State Police
Officer in his individual and official capacity, and
THE NEW MEXICO DEPARTMENT OF
PUBLIC SAFETY,**

Defendants.

**COMPLAINT FOR CIVIL RIGHTS VIOLATIONS PURSUANT TO 42 U.S.C. § 1983
AND THE NEW MEXICO TORT CLAIMS ACT**

D'Andre Ravenel is a 23-year-old Black young man. Because of the color of his skin, Mr. Ravenel is often viewed with suspicion and perceived as a threat by law enforcement. This case joins a never-ending list of incidents in this country where Black men like Mr. Ravenel are subjected to abusive police tactics during interactions with law enforcement. Here, Mr. Ravenel was engaging in constitutionally protected conduct when he filmed police activity from a public sidewalk in his own neighborhood. Law enforcement approached him, requested his identification, and when he declined to provide it, as is his right, immediately arrested him without justification. The officer proceeded to criminally charge Mr. Ravenel, and he ultimately spent several days in jail – all for having the audacity to assert his First Amendment Rights. His case was quickly dismissed once in front of a judge. Fortunately, this incident did not lead to Mr. Ravenel's death at the hands of law enforcement as it has in countless other interactions between police and Black men. Nevertheless, the arrest, criminal charges and incarceration never should have happened, and likely would not have happened if his skin was of a different shade.

Mr. Ravenel brings this lawsuit to vindicate his constitutional and statutory rights and to push back against the gross abuse of power that pervades law enforcement agencies in New Mexico and throughout this country.

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff, D'Andre Ravenel, is a resident of Bernalillo County, New Mexico.
2. Defendant Tony Fetty is a New Mexico State Police officer. He is sued in his individual capacity pursuant to 42 U.S.C. § 1983 and in his official capacity pursuant to the New Mexico Tort Claims Act ("TCA") and the New Mexico Constitution.
3. Defendant Department of Public Safety ("DPS") is a governmental entity of New Mexico and operates as the New Mexico State Police ("NMSP").
4. At all times relevant to this Complaint, Defendant Fetty was a state police officer employed by DPS via the NMSP.
5. At all times relevant to this Complaint, Defendant Fetty acted within the scope of his employment and under color of state law.
6. At all times relevant to this Complaint, DPS had supervisory authority over Defendant Fetty.
7. The Court has jurisdiction over the subject matter and parties to this action pursuant to the Court's general jurisdiction and because this cause of action arises, in part, under the New Mexico Tort Claims Act.
8. Venue is proper in the First Judicial District as Defendant DPS is headquartered in Santa Fe, New Mexico.

FACTUAL BACKGROUND

9. On Friday, April 12, 2019 Plaintiff D'Andre Ravenel ("Mr. Ravenel" or "Plaintiff") was returning to his home in Albuquerque after running errands at nearby businesses.
10. Upon arriving to his neighborhood in his ride share, he realized that the street was blocked by a police vehicle so he requested that the driver drop him off on the corner so that he could walk the rest of the way home.
11. As he neared his home, Mr. Ravenel observed what appeared to be a law enforcement raid on a house near his own home.
12. He was curious about the raid occurring so close to his own home and proceeded to film the raid on his cell phone.
13. He stood a safe distance away from the law enforcement activity and did not inhibit any law enforcement officers from doing their job.
14. At this point Defendant Officer Tony Fetty ("Defendant Fetty"), who had been seated in a police vehicle near the home that was being raided, approached Mr. Ravenel.
15. As he approached, he immediately asked Mr. Ravenel for his identification.
16. Mr. Ravenel informed him that he did not have his identification on him, which upset Defendant Fetty.
17. Defendant Fetty proceeded to ask Mr. Ravenel if he carried any form of personal identification to which Mr. Ravenel said yes, but did not have identification on him because he had just walked over from his house.
18. Upon hearing this and with no provocation, threat or resistance on the part of Mr. Ravenel and within seconds of approaching him, Defendant Fetty arrested Mr. Ravenel and placed him in handcuffs.

19. When Mr. Ravenel asked why he was being arrested Defendant Fetty responded that he was interfering with an active investigation.
20. Mr. Ravenel requested clarification as to how he was “interfering with an active investigation” by recording with his phone from a public sidewalk a safe distance away from the activity.
21. He told Defendant Fetty in a non-resistant way that he was being wrongfully detained and harassed.
22. At this point, another law enforcement officer involved in the raid approached Defendant Fetty and Mr. Ravenel.
23. The officer identified himself as an FBI agent and proceeded to harass Mr. Ravenel.
24. For example, the agent threatened to send Mr. Ravenel to jail if he did not provide his name.
25. Mr. Ravenel continued to decline to provide his name.
26. At this point, Mr. Ravenel asked to speak with a lawyer and the FBI agent told him that he did not have that right because he “wasn’t under arrest” despite the fact that Mr. Ravenel was in handcuffs and not free to leave.
27. The agent then told him that he was being detained for “obstruction of justice” and again asked Mr. Ravenel for his name. Mr. Ravenel responded by again requesting an attorney.
28. The FBI agent again told Mr. Ravenel that he did not have a right to an attorney until after arraignment and boasted that he knew this because he was a law school graduate.
29. He then threatened to call Mr. Ravenel’s probation officer unless he identified himself.
30. Mr. Ravenel again declined and asked if he could call his mother so she could bring him his identification.

31. The FBI agent said no and that he was going to keep Mr. Ravenel's phone.
32. The FBI agent then proceeded to call the probation office to request that a probation officer come to the scene.
33. At no point did Defendant Fetty intervene to stop the FBI agent's harassment of Mr. Ravenel.
34. While the FBI agent was speaking with the probation office, Defendant Fetty continued to harass Mr. Ravenel by asking him why he was filming, to which Mr. Ravenel explained that he had a right to do so.
35. The FBI agent then got off the phone to inform Mr. Ravenel that a supervisor from probation and parole was coming to the scene.
36. The FBI agent then took Mr. Ravenel's cell phone, which had been recording the incident, and turned off the camera. He proceeded to search the phone without Mr. Ravenel's consent or probable cause for a warrantless search.
37. The agent found Mr. Ravenel's name in the phone and stated it to him.
38. Mr. Ravenel continued to ask for his attorney.
39. Neither Defendant Fetty nor the FBI agent allowed Mr. Ravenel to speak with an attorney.
40. Minutes later, Defendant Fetty put Mr. Ravenel in his patrol car and transported him to the New Mexico State Police station on Carlisle and Interstate 40.
41. Mr. Ravenel's phone was not returned to him and it is unclear if the phone stayed with the FBI agent or Defendant Fetty.
42. Defendant Fetty proceeded to interview Mr. Ravenel at the station and then took him downtown to the MDC transport center.

43. Mr. Ravenel was transferred to a van with other detainees and transported to the Bernalillo County Metropolitan Detention Center (“MDC”).
44. Defendant Fetty charged Mr. Ravenel with resisting an officer.
45. Staff at MDC booked Mr. Ravenel into the jail and put him into a pod for individuals who were at risk of suicide.
46. Mr. Ravenel suffers from anxiety and depression and is on psychiatric medications that he is required to take daily.
47. He informed MDC staff of his medications but they did not give him these medications.
48. His mother called MDC on several occasions begging them to give her son his medications.
49. His aunt, who is a nurse, called MDC begging them to give her nephew his medications.
50. Mr. Ravenel spent 3 nights at MDC and medical staff never gave him his medications.
51. Without them, he began to feel body tingles, tremors, and headaches.
52. On Sunday, April 14, 2019, at an arraignment that lasted less than five minutes, the judge immediately dismissed the charge of resisting arrest against Mr. Ravenel and closed his case.
53. Mr. Ravenel should have been immediately released from detention, but an MDC correctional officer told Mr. Ravenel that he had to be seen by a psychiatric nurse before they would release him and that because there was no psychiatric nurse available on a Sunday, he would have to stay another night until Monday.
54. He was not released from MDC until late at night on Monday, April 15, 2019.
55. Upon his release, Mr. Ravenel’s cell phone was not returned to him nor was it in his property at MDC.

56. Mr. Ravenel made several attempts to retrieve his phone from NMSP but was told that it was not in NMSP's possession.
57. Mr. Ravenel's probation officer (from a past charge) later contacted Mr. Ravenel to tell him that an FBI agent had contacted him and offered to give Mr. Ravenel his phone back if he would agree to delete the footage that he had captured from the day of his arrest.
58. Desperate to retrieve his phone, Mr. Ravenel agreed to delete the footage and his probation officer subsequently gave him his phone back 34 days after it was taken from him.

COUNT I
Unlawful Retaliation for Exercise of Constitutionally Protected Activity in Violation
of the First and Fourth Amendments to the United States Constitution
(Defendant Fetty)

59. Plaintiff incorporates by reference the preceding paragraphs as though they were stated fully herein.
60. When Plaintiff was recording police activity from a safe distance on his cell phone and subsequently told Defendant Fetty that he did not have to identify himself, that he had a right to film the police and that Defendant Fetty was wrongfully detaining him, he was exercising constitutionally protected rights including the right to freedom of speech protected by the First Amendment.
61. When Plaintiff told Defendant that he did not have to produce identification because he was not doing anything wrong, he was exercising his rights as protected by the Fourth Amendment.
62. Defendant Fetty's reaction to this protected conduct and protected speech included, but is not limited to, handcuffing Plaintiff, arresting him, seizing his property, charging him with criminal conduct for which there was no probable cause, and booking him into jail

where he was forced to spend several nights. This conduct caused Plaintiff injury that would chill a person of ordinary firmness from continuing to engage in constitutionally protected activity, including speech that he engaged in and refusal to identify himself.

63. There was a causal connection between Plaintiff's protected conduct and protected speech and Defendant Fetty's reaction. His reaction was taken in response to Plaintiff's exercise of his First Amendment right to free speech and Fourth Amendment right not to produce identification.
64. This amounts to retaliation.
65. Defendant Fetty's retaliation proximately caused Plaintiff injuries and damages.

COUNT II
Illegal Seizure and Arrest in Violation of the Fourth Amendment to the
United States Constitution
(Defendant Fetty)

66. Plaintiff incorporates by reference the preceding paragraphs as though they were stated fully herein.
67. At all times material hereto, Plaintiff had the constitutional right to be free from unlawful seizure, arrest and detention.
68. Defendant Fetty caused Plaintiff to be seized, arrested and detained without probable cause to believe he had committed a crime and without any other reasonable and legal ground for an arrest.
69. Plaintiff's seizure, arrest and incarceration was without a justifiable basis and was objectively unreasonable, intentional, willful, wanton, and in gross and reckless disregard of his rights under the Fourth Amendment to the United States Constitution.
70. The unlawful seizure, arrest and incarceration of Plaintiff proximately caused him damages.

71. Defendant Fetty failed to exercise his duty to ensure Plaintiff's right to be free from illegal seizure, arrest and detention was not violated and his actions were not objectively reasonable.
72. Defendant Fetty's actions were intentional, willful, wanton, and in gross and reckless disregard of Plaintiff's rights under the federal constitution.

COUNT III
State Law Tort Claims
(Defendants Fetty and DPS)

73. Plaintiff incorporates by reference the preceding paragraphs as though they were stated fully herein.
74. Defendant Fetty intentionally and negligently caused the false arrest, false imprisonment, malicious prosecution, malicious abuse of process and deprivation of federal and state constitutional rights of Plaintiff.
75. Defendant Fetty was acting within the scope of his duties as a law enforcement officer when he committed these torts against Plaintiff.
76. The tortious actions of Defendant Fetty proximately caused Plaintiff's damages and injuries.
77. Defendant DPS, as Defendant Fetty's employer, is vicariously liable for torts committed within the course and scope of his duties.
78. Defendant DPS failed to properly train and supervise Defendant Fetty, which proximately caused Plaintiff's damages.

RELIEF REQUESTED

WHEREFORE, Plaintiff respectfully requests that this Court grant the following relief:

- A. Actual damages;

- B. Compensatory damages;
- C. Punitive damages;
- D. Pre and post-judgment interest at the lawful rate;
- E. Declaratory and injunctive relief;
- F. Attorneys' fees and costs; and
- G. Any further relief that this Court deems just and proper.

Dated: July 30, 2020

Respectfully submitted by:

/s/ Maria Martinez Sanchez

María Martínez Sánchez

Leon Howard

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