

1343(a)(3) and (4). Venue is proper in the Western District of Texas under 28 U.S.C. § 1391(b).

PARTIES

3. Plaintiff is an individual citizen of the State of Texas residing in El Paso, El Paso County, Texas.

4. Defendant Arvin West is sued in his individual capacity and in his official capacity as the Sheriff of Hudspeth County, Texas. He may be served with process at the offices of the Sheriff of Hudspeth County, 525 N. Wilson Ave., Sierra Blanca, Texas 79851.

5. Defendant Hudspeth County, Texas, is a political subdivision of the State of Texas duly organized under the organic laws of the State. It may be served with process by serving the County Judge, the Honorable Becky Dean-Walker, at the Hudspeth County Courthouse, P.O. Box 68, Sierra Blanca, Texas 79851.

STATEMENT OF FACTS

6. Plaintiff is an officer with the El Paso Police Department, in the City of El Paso, Texas, in El Paso County. He is cross-deputized by the District Attorney of the 34th Judicial District to act as a narcotics task force officer in Hudspeth County, which adjoins El Paso County, and which is within the 34th Judicial District. Several of his fellow El Paso Police Department officers are similarly cross-deputized in Hudspeth County.

7. On or about December 4, 2008, Plaintiff and other narcotics task force officers were notified that a vehicle carrying a load of narcotics would be traveling from Fort Hancock, Texas, in Hudspeth County, into El Paso County. The task force designed a plan to identify and stop the load vehicle, which included staking out the highways passing through Fort Hancock.

8. The operation began before 8:00 a.m. At the time it began, the offices of the

Hudspeth County Sheriff in Fort Hancock were not yet open for business.

9. Shortly after 8:00 a.m., one of the task force officers identified a vehicle that matched the description of the load car they were seeking. Plaintiff, who was driving a marked El Paso Police Department vehicle, and was in full uniform, initiated a traffic stop of the suspected load vehicle. During the course of the traffic stop, a Hudspeth County Deputy Sheriff arrived on the scene and offered assistance. Plaintiff spoke to the Deputy Sheriff and explained that he and the properly deputized task force were on an assignment related to the report of a load car. Plaintiff explained to the Deputy Sheriff that at the time the operation set up in the morning, the office of the Sheriff was not yet open, and therefore it had not been possible to notify the Sheriff of the operation. The Deputy Sheriff offered any further assistance that might be required.

10. At the end of the traffic stop, Plaintiff determined that the stopped vehicle was not the suspected load vehicle. Therefore, Plaintiff decided to return to his position in the stake out.

11. At about that time, Plaintiff's operational supervisor contacted him via police radio, and ordered Plaintiff to return to El Paso, because the Hudspeth County Sheriff was attempting to arrest all of the El Paso Police Department officers who were participating in the narcotics task force operation that morning. The supervisor had been approached by a U.S. Border Patrol supervisor, who stated that the Sheriff had asked him to locate all of the members of the narcotics task force. After Plaintiff's supervisor informed the Border Patrol supervisor of the operation at hand, a Deputy Sheriff named Sgt. Wilson approached them, and stated that he had orders from his Sheriff to round up all the members of the narcotics task force and transport them to Sierra Blanca, the Hudspeth County seat, to see the Sheriff. Plaintiff's supervisor told

Sgt. Wilson that he refused to order his team to submit to the Sheriff's command. Sgt. Wilson responded that he was under orders to arrest the members of the narcotics task force. Sgt. Wilson then spoke to Lt. Yanez of the El Paso Police Department, and told him there were no criminal charges pending against anyone, but that he was under orders to detain and transport the members of the task force. Acting on the orders of his supervisor, Plaintiff began driving back to El Paso.

12. While attempting to enter Interstate 10 West at the Fort Hancock interchange to return to El Paso, Plaintiff was detained by a roadblock made up of Hudspeth County sheriff's deputies. Plaintiff was ordered by the Hudspeth County sheriff's deputies to return with them to the Hudspeth County Sheriff substation in Fort Hancock. At that moment, Plaintiff was placed under restraint of his liberty, without probable cause.

13. At all relevant times, the actions taken by the Hudspeth County sheriff's deputies were directed by Defendant Arvin West, the Sheriff of Hudspeth County. Defendant Arvin West acted at all times herein with deliberate indifference to the legal rights of Plaintiff not to be subjected to illegal arrest and detention, and a malicious disregard for Plaintiff's Constitutional rights. Defendant Arvin West intentionally and deliberately deprived Plaintiff of the protection of law guaranteed to him by the United States Constitution.

14. Once the narcotics task force was assembled at the Sheriff's substation, Sheriff West arrived and stated that he had not been given notice of the presence of the task force within his jurisdiction. He stated that he would have to receive notice of any further task force activity within his jurisdiction. He concluded his presentation by announcing with a laugh: "Whatever you were working on is fucked up now, and you're free to leave."

15. The illegal arrest of Plaintiff has proximately caused Plaintiff to suffer legal damages, including unlawful detention, mental anguish and emotional distress.

CAUSE OF ACTION

A. **Deprivation of Civil Rights (42 U.S.C. § 1983)**

16. Defendant Arvin West is and was, at all times relevant herein, the Sheriff of Hudspeth County, Texas, and the chief law enforcement policy making official for the County. He is sued in both his individual and official capacities. At all relevant times herein, Defendant Arvin West violated legal standards that are well-established, clearly-defined, and widely-known throughout the community.

17. At all times relevant herein, Defendant Arvin West acted under color of state law in the course and scope of his duties and functions as an agent, employee, and officer of Hudspeth County, Texas, in engaging in the conduct described herein. At all times relevant herein, Defendant Arvin West acted for and on behalf of Defendant Hudspeth County, Texas, with the power and authority vested in him as an officer, agent and employee of the County and incidental to the pursuit of his duties as an officer, employee and agent of the County.

18. At all times relevant herein, Defendant Arvin West violated clearly established Constitutional standards under the Fourth Amendment and the Fourteenth Amendment of which a reasonable person would have known.

19. Each of the Defendants has acted with deliberate indifference to the Fourth Amendment rights of the Plaintiff. As a direct and proximate result of the aforesaid acts and omissions of each of the Defendants, the Fourth Amendment rights of Plaintiff have been violated. By acting under color of state law to deprive the Plaintiff of his rights under the Fourth

Amendment, the Defendants are in violation of 42 U.S.C. § 1983, which prohibits the deprivation under color of state law of rights secured under the United States Constitution.

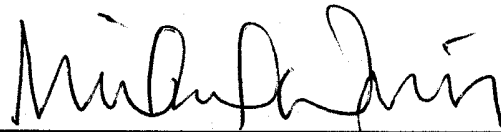
PRAYER FOR RELIEF

WHEREFORE, premises considered, Plaintiff prays this Court set this matter down for trial by jury, and upon final trial, award Plaintiff the following relief against Defendants:

- A. Damages in an amount to be determined, including compensatory damages that are fair, just and reasonable as determined by the jury, and punitive damages;
- B. Pre-judgment and post-judgment interest at the legal rate;
- C. A reasonable attorney's fee; and
- D. Such other and further relief to which Plaintiff may be justly entitled.

Respectfully submitted,

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By: **MICHAEL R. WYATT**
Tex. Bar No. 22092980

Court Name: TEXAS WESTERN
Division: 3
Receipt Number: 300002681
Cashier ID: mgallego
Transaction Date: 07/15/2009
Payer Name: SHAPLEIGH AND WYATT, PC

CIVIL FILING FEE
For: MICHAEL SHORT
Amount: \$350.00

CHECK
Check/Money Order Num: 1302
Amt Tendered: \$350.00

Total Due: \$350.00
Total Tendered: \$350.00
Change Amt: \$0.00

CIVIL FILING

DTXW309CV000264-001-DB

MICHAEL SHORT VS ARVIN WEST et.al.