

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**ANGEL DOBBS and
ASHLEY DOBBS,
Plaintiffs**

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VS.

CIVIL ACTION NO.

**DAVID FARRELL, KELLEY
HELLESON and STEVEN
McCRAW
Defendants.**

JURY REQUESTED

PLAINTIFFS' ORIGINAL COMPLAINT

COMES NOW Plaintiffs Angel Dobbs and Ashley Dobbs and file this their Original Complaint and in support respectfully show the Court as follows:

I. PARTIES

1. Plaintiff Angel Dobbs is an individual residing in Irving, Dallas County, Texas.

2. Plaintiff Ashley Dobbs is an individual residing in Irving, Dallas County, Texas.

3. Defendant David Ferrell is a State Trooper with the Texas Department of Public Safety. He may be served with service of process at 5805 North Lamar Blvd., Austin, Texas 78773-0001. Defendant Farrell is sued in his individual capacity.

4. Defendant Kelley Helleson is a State Trooper with the Texas Department of Public Safety. She may be served with service of process at 5805 North Lamar Blvd., Austin, Texas 78773-0001. Defendant Helleson is sued in her individual capacity.

5. Defendant Steven McCraw is the Director of the Department of Public Safety and is being sued in his individual capacity. Mr. McCraw can be served with process by serving 5805 North Lamar Blvd., Austin, Texas 78773-0001.

II. JURISDICTION

6. The Court has jurisdiction of this lawsuit under 28 U.S.C. §1331, as it arises under the Constitution, laws or treaties of the United States of America.

III. VENUE

7. Venue is proper in this Court under 28 U.S.C. §1391(b), as this is the judicial district in which a substantial portion of the events or omissions giving rise to the claims occurred.

IV. FACTS

8. Paragraphs 1-7 set forth above are incorporated herein by reference.

9. On or about the evening of July 13, 2012, Plaintiffs Angel Dobbs and Ashley Dobbs were traveling northbound on Highway 161 in Plaintiff Angel Dobbs' boyfriend's vehicle. Angel Dobbs is Ashley's Dobbs' aunt and

roommate. While traveling on the roadway, Defendant DPS Trooper David Farrell #12552 (hereinafter referred to as "Farrell") activated his overhead lights on the DPS-issued police cruiser. The entire incident is recorded on the dash-mounted video camera in Trooper Farrell's department-issued cruiser.

10. Defendant Farrell informed Plaintiffs he was stopping them for littering because both occupants allegedly discarded cigarette butts out of the vehicle's windows while on the highway. After collecting the Plaintiffs' identification cards, Trooper Farrell returned to his cruiser for approximately ten minutes while he checked the Plaintiffs for warrants.

11. While in his cruiser, Defendant Farrell contacted Defendant Trooper Helleson (hereinafter referred to as "Helleson") to conduct a search of Plaintiffs. Defendant Farrell called Helleson prior to developing any particularized suspicion or probable cause that Plaintiffs possessed contraband or were engaged in any criminal activity beyond the littering offense.

12. While waiting for Defendant Helleson to arrive on scene, Defendant Farrell returned to the Plaintiffs' vehicle and ordered Angel Dobbs out of the vehicle and into the field away from the vehicle. At this time Angel Dobbs was questioned about where she and Ashley were headed and personal questions regarding Ashley Dobbs' situation. At that point, Defendant Farrell transitioned to questions related to marijuana and the presence of marijuana in the vehicle.

13. Angel Dobbs denied any knowledge of marijuana in the vehicle, denied the odor of marijuana, and denied possessing any marijuana. Defendant Farrell instructed Angel Dobbs to remain in the field and that a female trooper, Defendant Helleson, was en route.

14. Defendant Farrell next ordered Ashley Dobbs out of the vehicle and questioned her regarding their destination and marijuana. Ashley Dobbs also denied any knowledge of marijuana in the car or on her person or in her possessions.

15. At this time Defendant Helleson walked up to the scene. Defendant Farrell explained to Helleson that Plaintiffs were “acting weird” and that was why he requested Defendant Helleson to search both Plaintiffs.

16. Without asking either Plaintiff for consent to search the vehicle Defendant Farrell began searching the vehicle. Upon information and belief, Defendant Farrell justified the search of the vehicle on the supposed “smell of marijuana.” Defendant Farrell was admittedly sick and his sense of smell was diminished if not completely gone. Plaintiffs denied that there was any smell of marijuana at the scene and Defendant Farrell never located any marijuana after a throughout search of the vehicle.

17. Farrell started his search on the driver’s side. At the same time, Defendant Helleson instructed Angel Dobbs to stand directly in front of Defendant Farrell’s DPS-issued cruiser, which was parked on the side of a public freeway and both Defendant Helleson and Angel Dobbs were

illuminated by lights from the police vehicle in full view of Defendant Farrell and the passing public. At that time she explained that she would be searching Angel Dobb's person and put on blue latex gloves without explaining to Angel the need for gloves. When Angel Dobbs questioned what the term "person" meant in response to the request for consent to search her person, and why Helleson had latex gloves on, Helleson told her not to worry about that. Angel Dobbs was never asked for, nor did she give consent to Helleson to frisk, pat-down, search, or otherwise touch her. Plaintiffs had made no threatening statements, movements, or gestures and there were no facts existing which would support reasonable suspicion for a frisk or probable cause for the intrusive cavity search which would soon follow.

18. On the side of the road, within view of passing vehicles on both the adjacent roadway and the highway exit ramp, Defendant Helleson, with Ms. Dobbs facing away from her, began to run her fingers along Angel Dobbs' bra straps, under and over and around the clasp area. She then pulled Ms. Dobbs' sweatpants back. At this time, she ran her fingers up and down through Ms. Dobbs' gluteal cleft inserting her finger in and around Angel's anus. At the time, Angel Dobbs suffered and continues to suffer from a medical condition called *Hidradenitis suppurativa* that causes the formation of cysts. These cysts are extremely sensitive and contact with them causes severe pain. Defendant Helleson's contact with Angel's anus irritated one of these cysts causing her severe and continuing pain and discomfort.

19. Next, Defendant Helleson turned Angel Dobbs around, pulled the front of her sweat pants out and inserted her hands down the front of her pants. First she ran her fingers along Angel's upper and inner thigh, then she spread Angel's vaginal labia and inserted two fingers into her vagina and moved her fingers as she "searched" her vaginal cavity. Helleson's penetration of Angel's vagina was painful, humiliating, and shamefully embarrassing. Just like with Angel's search, this intrusive cavity search occurred on the side of a public freeway illuminated by lights from the police vehicle in full view of the passing public. Moreover, this roadside body cavity search was done without her consent, without any particularized suspicion whatsoever and wholly without probable cause in violation of clearly established Constitutional law.

20. At this point, Angel Dobbs was overwhelmed with emotion and a feeling of helplessness and reacted stating that Helleson had just violated her in a most horrific manner.

21. The non-consensual roadside body cavity search ceased at this time and Defendant Helleson sent Angel back to the field and called over Plaintiff Ashley Dobbs.

22. Helleson's search of Ashley Dobbs was performed exactly like the search of Angel Dobbs. Defendant Helleson first ran her gloved fingers through Ashley's gluteal cleft and inserted her finger into Ashley's anus. Then she turned Ashley around and inserted her fingers into Ashley's vagina. Likewise, this cavity search occurred in front of the police vehicle lights on the

side of a heavily traveled roadway in full view of the passing public.

23. Adding insult to injury, Defendant Helleson contacted the anus and vagina of both women without changing the latex gloves between cavity searches of each Plaintiff.

24. During these roadside body cavity searches, Defendant Farrell was conducting his non-consensual search of the vehicle and Angel Dobb's personal belongings. Upon finding prescription hydrocodone medication in the proper container displaying the fact that the medicine was prescribed to Plaintiff Angel Dobbs, Defendant Farrell questioned Angel Dobbs about her usage of the pills and other medication.

25. Defendant Farrell searched the entire front and rear passenger compartments as well the glove box, trunk, and both Plaintiffs' purses without finding any contraband or evidence of other narcotics being present. Finally, without any legitimate basis for searching the Plaintiffs and without any justification for the prolonged detention, Defendant Farrell attempted to morph this situation into a DWI investigation. Farrell did not have any reasonable suspicion or probable cause to believe Angel was intoxicated or driving impaired. Despite the wholesale lack of evidence regarding DWI, Farrell attempted to administer the Horizontal Gaze Nystagmus test, although his methodology was highly improper, not based on any scientific basis and was otherwise useless. Needless to say, Angel passed the "test" and both Plaintiffs were issued warnings for littering and released at the scene.

26. When Angel commented to Defendant Farrell that she felt “totally violated” by Helleson’s inserting her fingers inside of her vagina and anus Defendant Farrell said told her she and was searched “because someone is a daily smoker in that car and “she can attribute it [the search] to that”

27. After the stop and the roadside body cavity search was over, Angel Dobbs realized that her bottle of prescription Hydrocodone was not in her purse, was not in the vehicle, and was not in Ashley Dobb’s purse. In an attempt to give the Defendants the benefit of the doubt, Angel returned to the scene of the stop the next morning and the pill bottle was not there either. The last person to handle the hydrocodone bottle, which was properly prescribed to Angel Dobbs, was Defendant Farrell.

28. Both Angel Dobbs and Ashley Dobbs were subjected to a most heinous, illegal, and unconstitutional deprivation of their rights to be free from warrantless searches and seizures; indeed both women were subjected to as invasive of a search as is humanly possible while standing in the open public with vehicles passing by and in full view of Defendant Farrell who is a male. The Defendants’ actions were not based on consent, particularized suspicion, or probable cause of a commission of a crime and were not at all reasonable in light of the circumstances.

29. Further, the Defendants’ actions were in violation of clearly established law regarding strip searches and cavity searches, which has for years, required that officers must have reasonable suspicion to conduct a frisk

or individualized probable cause to conduct a lawful search. There was no probable cause that either Plaintiff possessed drugs. There were no extenuating circumstances present that would lead any reasonable officer to believe there was reasonable suspicion or particularized probable cause with respect to Plaintiffs to warrant a search of their person, much less an intrusive and demeaning cavity search.

V. CAUSE OF ACTION UNDER 42 U.S.C. §1983

30. As a result of Defendants' malicious physical invasion and unconstitutional search and seizure, despite the lack reasonable suspicion and/or particularized probable cause, to establish the existence of any crime, Defendants deprived Plaintiffs of their right to equal protection of the laws and impeded the due course of justice, in violation of the Fourth Amendment of the Constitution of the United States and 42 U.S.C. § 1983.

31. Defendants' actions and omissions deprived Plaintiffs of their Constitutional right to bodily security and liberty under the Fourteenth Amendment of the United States Constitution and were an unreasonable and unnecessary invasive physical search and seizure under the Fourth Amendment of the United States Constitution.

32. Further, at all times relevant hereto, Defendants, as troopers or peace officers employed by the Department of Public Safety ("DPS"), were acting under the direction, control, and supervision of the DPS Director Steve McCraw, who is responsible for making the policy of the department, its

employees, troopers and staff. The Defendants were acting pursuant to official policy, practice, custom, and operation of the DPS. In the alternative, the searches are part of persistent or widespread practices, which although not officially authorized, are so common and well settled as to constitute a custom that fairly represents DPS policy.

33. Acting under color of law, by and through its policy maker Steve McCraw, and pursuant to official policy or custom and practice, McCraw, intentionally, knowingly, recklessly, or with deliberate indifference to the rights of the citizens of Texas and to Plaintiffs, failed to instruct, supervise, control, and discipline, on a continuing basis, Defendants in the performance of their duties to refrain from:

- a. Conspiring to violate the rights, privileges, and immunities guaranteed to each Plaintiff by the Constitution and Laws of the United States and the Laws of the State of Texas, and
- b. Otherwise depriving citizens and individuals of their constitutional and statutory rights, privileges, and immunities.

34. Defendant McCraw had knowledge of, or in the alternative had he diligently exercised his duties to instruct, supervise, control, and discipline on a continuing basis, he should have had knowledge of the wrongs that were perpetrated against Plaintiffs as heretofore alleged. The DPS, by and through its Director Steve McGraw, had the power to prevent or aid in preventing the commission of said wrongs, could have done so, and intentionally, knowingly, or with deliberate indifference to the rights of the persons such as Plaintiffs,

failed or refused to do so.

35. The DPS, directly or indirectly, under color of law, by and through its final policymaker, Director McCraw, approved or ratified the unlawful, deliberate, malicious, reckless, and wanton conduct of Defendants heretofore described.

36. Defendant McGraw had actual notice of previous problems and complaints concerning a long standing pattern of police misconduct involving unlawful strip searches, cavity searches and the like, yet failed to take corrective action.

37. The individual Defendants were not adequately trained as to the requirements of probable cause, obtaining proper informed consent to search, and performing or not performing strip or cavity search. On information and belief, Defendant Helleson has performed numerous unconsented and illegal cavity searches of females and is an ongoing and pervasive problem.

38. The final policymaker with respect to training of officers is DPS Director Steve McCraw. Director McCraw knew from experience that troopers would often encounter situations where cavity searches might, in the opinion of a trooper, be necessary. Director McCraw knew from experience that troopers would encounter persons on the side of Texas roadways in circumstances which would require troopers to consider pat-down frisks, full body searches, strip searches and cavity searches. Yet knowing that troopers would encounter such situations, Director McCraw failed to institute any

program of training to instruct troopers in (1) identifying situations in which such searches were lawful and (2) procedures for conducting such searches in a lawful manner. Situations involving horrific searches such as the ones in this case are so widespread that the Director McCraw's failure to train his troopers on the requirements of proper searches amounts to a deliberate indifference on the part of the State to the constitutional rights of persons situated like the Plaintiffs. (1) The officers exceeded constitutional limitations by searching the Plaintiffs in the manner conducted herein; (2) the searches arose under circumstances that constitute a usual and recurring situation with which troopers must deal; (3) the inadequate training demonstrates a deliberate indifference on the part of the DPS toward persons with whom the police officers come into contact; and (4) there is a direct causal link between the constitutional deprivation and the inadequate training. Director McCraw's failure to train his troopers on proper police procedure involving searches of persons including strip searches and/or cavity searches was a proximate cause of the illegal search and seizure herein.

39. Director McCraw knew from experience that troopers would often encounter situations where cavity searches might, in the opinion of a trooper, be necessary. Director McCraw knew from experience that troopers would encounter persons on the side of Texas roadways in circumstances which would require troopers to consider pat-down frisks, full body searches, strip searches and cavity searches. Yet knowing that troopers would encounter

such situations, Director McCraw failed to implement any *written directives* or other guidance to troopers in (1) identifying situations in which such searches were lawful and (2) procedures for conducting such searches in a lawful manner.

40. As a direct result of Defendants' illegal conduct, Plaintiffs have suffered physical, mental and emotional injuries and were deprived of their Constitutional rights for which they sue herein.

VII. DAMAGES

41. As a direct and proximate result of the acts and omissions outlined above, Plaintiffs have been severely damaged. Defendants' conduct caused physical pain, as well as emotional distress and mental anguish and trauma.

42. Plaintiffs seek compensatory damages in an amount deemed sufficient by the trier of fact to compensate them for their damages, which include physical pain, mental anguish, pain, and suffering.

43. Plaintiffs also seek exemplary damages against Defendants.

44. Plaintiffs have retained the services of the undersigned attorneys, and claim entitlement to an award of reasonable and necessary attorney's fees under 42 U.S.C. §1983 and 1988.

VIII. JURY DEMAND

45. Plaintiffs respectfully request trial by jury.

IX. PRAYER

For these reasons, Plaintiffs seek judgment against Defendants for:

- a. compensatory and actual damages in an amount deemed sufficient by the trier of fact;
- b. exemplary damages;
- c. attorney's fees under 42 U.S.C. §1983 and §1988;
- d. costs of court; and
- e. interest allowed by law for prejudgment and/or post-judgment interest.

Respectfully submitted,

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