

RECEIVED IN THE UNITED STATES DISTRICT COURT

JAN 31 2013 FOR THE EASTERN DISTRICT OF MISSOURI

BY MAIL EASTERN DIVISION

JAMES L. RADTKE, JR.,)	JURY TRIAL DEMANDED
)	
Plaintiff,)	
)	
v.)	
)	
REBECCA MARIE WINZEN,)	
)	
ARTURO CALVO TACA, JR., M.D.,)	
)	
ST. JOHNS MERCY MEDICAL CENTER,)	
)	
AMANDA WILHELM,)	
)	
ST. LOUIS COUNTY POLICE)	
DEPARTMENT,)	
)	
ALLEN JACK FRANCES, M.D., and)	
)	
AMERICAN PSYCHIATRIC)	
ASSOCIATION,)	
)	
Defendants.)	

COMPLAINT FOR DAMAGES AND OTHER RELIEF

Plaintiff, by and through his attorney, S. Randolph Kretchmar, complains against the defendants and states as follows:

Jurisdiction and Venue

1. This court has jurisdiction over the claims in this case pursuant to 28 U.S.C. §§ 1331, 1343, 1367, and 42 U.S.C. §§ 1983 and 1985.
2. Venue is proper in the Eastern District of Missouri under 28 U.S.C. § 1391(b)(2).

Parties

3. Plaintiff is an individual residing in St. Louis County, Missouri.

4. Defendant REBECCA MARIE WINZEN (hereafter WINZEN) is an individual residing in St. Charles County, Missouri. Further, upon information and belief, Defendant WINZEN was at all relevant times an employee or contractor of St. Johns Mercy Medical Center. Plaintiff alleges claims herein against WINZEN in any relevant official capacity, and also separately against this defendant as an individual.

5. Defendant ARTURO CALVO TACA, JR., M.D. (hereafter TACA) is an individual residing in St. Louis County, Missouri. Further, upon information and belief, Defendant TACA was at all relevant times an employee or contractor of St. Johns Mercy Medical Center. Plaintiff alleges claims herein against TACA in any relevant official capacity, and also separately against this defendant as an individual.

6. Defendant ST. JOHNS MERCY MEDICAL CENTER (hereafter MERCY) is a health care provider incorporated in Missouri, also known as "Mercy Health", and "Sisters of Mercy Health System". MERCY operates a general medical and surgical hospital in St. Louis which includes a behavioral health care unit.

7. Defendant AMANDA WILHELM (hereafter WILHELM) is an individual residing in St. Louis County, Missouri. Further, upon information and belief, Defendant WILHELM was at all relevant times a police officer employed by the St. Louis County Police Department. Plaintiff alleges claims herein against WILHELM in any relevant official capacity, and also separately against this defendant as an individual.

8. Defendant ST. LOUIS COUNTY POLICE DEPARTMENT (hereafter POLICE) is, upon information and belief, a department of St. Louis County, a municipal corporation

in the State of Missouri.

9. Defendant ALLEN JACK FRANCES, M.D. (hereafter FRANCES), is an individual residing in San Diego County, California. Plaintiff alleges claims herein against FRANCES in any relevant official capacity, and also separately against this defendant as an individual.

10. Defendant AMERICAN PSYCHIATRIC ASSOCIATION (hereafter APA) is a professional society incorporated in the District of Columbia and headquartered in Arlington, Virginia.

Complaint Narrative

11. For approximately five decades, Defendant APA has artfully constructed, and continuously and energetically promoted via the media and myriad influences, a portrayal of a supposed public health issue of "mental illness", wherein many normal human emotions, reactions and travails are said to be diagnosable medical conditions caused by brain malfunctions, which need and respond to treatment with drugs.

12. Defendant APA knew or should have known that its portrayals of mental illness were without scientific validity, deceptive, and likely to provoke widespread deprivation of individuals' civil rights.

13. Defendant FRANCES is personally and uniquely responsible for the creation, ongoing prevalent uses, and continuing omnipresent authority of the *Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition* (aka, *DSM-IV*), a publication of Defendant APA.

14. Defendant FRANCES knew or should have known that Defendant APA's portrayals of mental illness combined with the prevalent uses and continuing authority of

DSM-IV were dangerous, deceptive, and likely to provoke widespread violations of civil and human rights.

15. On the morning of February 5, 2011, Plaintiff was forcibly removed from his home, under duress and despite his repeated and continuing protests, by Defendants WILHELM and POLICE, without warrant for arrest or formal charge.

16. Plaintiff was taken in the custody of Defendants WILHELM and POLICE directly to a hospital emergency room operated by Defendant MERCY.

17. Despite Plaintiff's repeated and continuing protests that he did not need or want medical or hospital services, but simply wished to return home, and despite a clear and obvious factual absence of any emergency, Plaintiff was held in the emergency room under guard by Defendant MERCY, and prevented from leaving.

18. At no time before, on or after February 5, 2011, did Plaintiff ever present any actual, apparent or reasonably discernible threat of harm to himself or to anyone else.

19. After several hours, Defendant WINZEN contrived, through coercive and fraudulent devices and unreasonable, manufactured fears that Plaintiff might be in some objectively non-existent medical danger, to arrange Plaintiff's involuntary "admission" as a psychiatric patient in Defendant MERCY'S behavioral health unit.

20. Defendants WINZEN, WILHELM and POLICE acted without justification under color of law to deprive Plaintiff of his liberty and to force him to become an unwilling psychiatric patient in Defendant MERCY's behavioral health unit.

21. After his contrived "admission" to the hospital, Plaintiff was held continuously against his will by Defendant MERCY under the orders of Defendant TACA, until he was finally released on February 7, 2011.

22. During the period of Plaintiff's imprisonment in Defendant MERCY's behavioral health unit, Defendant TACA inserted false and defamatory statements into Plaintiff's medical records and ordered the "medication" of Plaintiff with strong psychiatric drugs for which Plaintiff did not give informed consent.

23. Defendants WINZEN, WILHELM, POLICE, TACA and MERCY, in depriving Plaintiff of his liberty and forcing him to become a psychiatric patient, relied almost totally upon officially adopted definitions of "mental illness" by Defendant APA, and especially upon the authority of Defendant Frances' creation, *DSM-IV*, to force Plaintiff into the role of a psychiatric patient and deprive him of his rights under color of law. .

24. The massively financed and continuous advocacy of specific definitions of "mental illness" by Defendant APA, combined with the written authority of Defendant Frances' *DSM-IV*, were the first cause of the deprivations by Defendants WINZEN, WILHELM, POLICE, TACA and MERCY of Plaintiff's rights under color of law.

25. The Plaintiff has suffered specific financial losses and losses of future business opportunity and reputation as a direct result of his false arrest, imprisonment and enforced role as a psychiatric patient.

26. The Plaintiff has suffered severe emotional and psychological distress as a direct result of his false arrest, imprisonment and enforced role as a psychiatric patient.

27. The Plaintiff has incurred attorney's fees and costs in the prosecution of this lawsuit. He requests an award of fees and costs pursuant to Section 1988.

Count I – False Arrest
Verses Defenant WILHELM

In support of this Count of his complaint, Plaintiff restates and re-alleges paragraphs 11 through 27.

28. At all times relevant Defendant WILHELM acted under color of law, both as an individual and in her official capacity as a police officer.

29. Defendant WILHELM arrested the Plaintiff and forcibly removed him from his home to defendant MERCY's emergency room allegedly for being dangerous to himself or others due to mental illness.

30. At the time of the arrest Defendant WILHELM had no probable cause to arrest the Plaintiff. WILHELM conducted herself in a manner shocking to the conscience with deliberate indifference to or reckless disregard for Plaintiff's constitutional rights, and thereby violated Plaintiff's Fourth Amendment right against unreasonable seizure.

WHEREFORE, the Plaintiff prays for judgment in his favor and against Defendant WILHELM, an award of damages, punitive damages, attorney's fees and costs, and any other relief to which he may be entitled.

Count II – False Arrest
Verses Defendant POLICE

In support of this Count of his complaint, Plaintiff restates and re-alleges paragraphs 11 through 27.

31. Defendant POLICE has the duty to train and control employees to conduct themselves in such manner as to respect and protect the constitutional rights of those members of the public with whom they come into contact.

32. Defendant POLICE breached their duty to the plaintiff by failing to train and control their employees including Defendant WILHELM, and/or by execution of policies or customs which include deliberate indifference to the rights of persons with whom their employees come into contact.

33. Said breach of duty by Defendant POLICE was a cause in fact of the deprivation

of the Plaintiff's constitutional right to freedom from unreasonable seizure, and consequently of his mental anguish and trauma, humiliation, embarrassment, fear of indefinite confinement and fear of abusive or hazardous treatment; and injury to reputation and standing in the community as a result of such confinement, including injury to business reputation and standing, loss of future income, loss of business contracts, and damage to credit standing.

WHEREFORE, the Plaintiff prays for judgment in his favor and against Defendant POLICE, an award of damages, punitive damages, attorney's fees and costs, and any other relief to which he may be entitled.

Count III – False Imprisonment
Verses Defendants WINZEN, TACA and MERCY

In support of this Count of his complaint, Plaintiff restates and re-alleges paragraphs 11 through 27.

34. Defendants WINZEN, TACA and MERCY, conducting themselves in a manner shocking to the conscience and with deliberate indifference to or reckless disregard for Plaintiff's human and constitutional rights, imprisoned the Plaintiff for three days without reasonable grounds to believe that any offense was committed by the plaintiff or that he was any threat to himself or anyone else.

35. In depriving Plaintiff of his liberty, WINZEN, TACA and MERCY abused powers which they possessed entirely by virtue of state law or which were only possible because the defendants were clothed with the authority of state law.

WHEREFORE, the Plaintiff prays for judgment in his favor and against Defendants WINZEN, TACA and MERCY, an award of damages, punitive damages, attorney's fees and costs, and any other relief to which he may be entitled.

Count IV – Battery
Verses Defendants TACA and MERCY

In support of this Count of his complaint, Plaintiff restates and re-alleges paragraphs 11 through 27.

36. During his contrived “admission” in Defendant MERCY’s Behavioral Health Unit, Plaintiff was willfully given unwanted and offensive bodily treatments, including but not limited to psychotropic drugs, without his informed consent.

37. Plaintiff was made to understand by employees of Defendant MERCY that he would not be allowed to refuse the aforesaid unwanted and offensive bodily treatments, which were coerced or forced as ordered in writing by Defendant TACA.

WHEREFORE, the Plaintiff prays for judgment in his favor and against Defendants TACA and MERCY, an award of damages, punitive damages, attorney’s fees and costs, and any other relief to which he may be entitled.

Count V – Conspiracy to Interfere With Civil Rights
Verses All Defendants

In support of this Count of his complaint, Plaintiff restates and re-alleges paragraphs 11 through 27.

38. Two or more of the defendants conspired for the purpose of impeding, hindering, obstructing or defeating the due course of justice in the State of Missouri, with intent to deny the Plaintiff his constitutional rights under the Fourth, Fifth and Fourteenth Amendments to the U.S. Constitution, and the equal protection of the laws, by falsely pathologizing his human emotions and reactions, which they knew or should have known to be normal.

39. Two or more of the defendants conspired for the purpose of impeding, hindering,

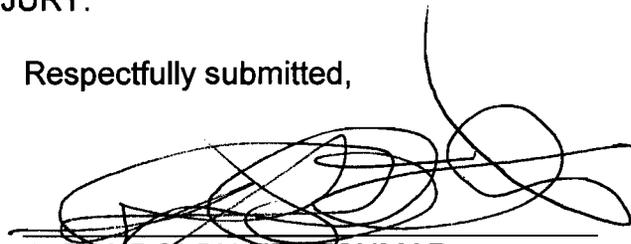
obstructing or defeating the due course of justice in the State of Missouri, to manufacture false legal evidence, apparently but not truly justifying the Plaintiff's arrest and involuntary "hospitalization" (false imprisonment).

40. Two or more of the defendants conspired to deter the Plaintiff by intimidation or threat, from becoming a witness in court and/or from testifying freely, fully and truthfully on matters pertinent to this complaint.

WHEREFORE, the Plaintiff prays for judgment in his favor and against all Defendants, an award of damages, punitive damages, attorney's fees and costs, and any other relief to which he may be entitled.

PLAINTIFF REQUESTS TRIAL BY JURY.

Respectfully submitted,



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