

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION**

Jane Doe,)	
)	
Plaintiff,)	
)	
v.)	
)	<u>COMPLAINT</u>
Officer Gerard James Hildebrandt and the)	(Jury Trial Demanded)
City of Travelers Rest,)	
)	
Defendants.)	
)	

Plaintiff Jane Doe (“Plaintiff”) files this Complaint by and through her undersigned counsel of record, and brings this civil rights action pursuant to 42 U.S.C. § 1983 against Officer Gerard James Hildebrandt (“Defendant Hildebrandt”) and the City of Travelers Rest (“Defendant Travelers Rest”) (collectively “Defendants”).

PARTIES

1. Plaintiff Jane Doe is a citizen of South Carolina and resides in Greenville County, South Carolina.

2. Upon information and belief, at all times relevant to this Complaint, Officer Gerard James Hildebrandt was a citizen of South Carolina and resided in Anderson County, South Carolina, and was employed by the Travelers Rest Police Department, a branch of the City of Travelers Rest. At all times relevant to this Complaint, Defendant Hildebrandt acted under color of state law.

3. At all times relevant to this Complaint, the City of Travelers Rest, South Carolina has been a governmental entity established under the laws and constitution of the State of South Carolina transacting and conducting business in Greenville County, South Carolina, and with a

principal place of business in Greenville County, South Carolina. As it relates to the underlying subject matter of this case, upon information and belief, Defendant Travelers Rest operated by and through its servants, agents, and/or authorized representatives, and had actual knowledge of the actions and/or inactions of these authorized individuals.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over the federal claims against Defendants pursuant to 28 U.S.C. § 1331 because those claims arise under federal law, 42 U.S.C. § 1983.

5. This Court has supplemental jurisdiction over the state claims against Defendants pursuant to 28 U.S.C. § 1367 because those claims arise under the same facts as those over which the Court has original jurisdiction as described in the preceding paragraph.

6. The Court further has personal jurisdiction over all Defendants as one Defendant resides in this District and the acts and/or omissions complained of occurred within this District.

7. Venue is proper in the District of South Carolina, Greenville Division, pursuant to 28 U.S.C. § 1391(b)(1) & (2), as at least one Defendant resides in this District and the acts or omissions complained of occurred within this District.

FACTUAL ALLEGATIONS

Plaintiff's assault

8. On or about July 3, 2022, Plaintiff was involved in a verbal dispute with her boyfriend and he called the police.

9. Upon information and belief, Defendant Hildebrandt responded to the residence.

10. Upon information and belief, Defendant Hildebrandt told Plaintiff that, if she didn't do what he told her, she would be taken to jail.

11. Upon information and belief, Defendant Hildebrandt then instructed Plaintiff to leave the residence, further commanding her to follow him in her car to a local park where she could “sober up” so that she would not be charged with driving under the influence.

12. Upon information and belief, Defendant Hildebrandt led Plaintiff to a secluded area on the campus of Travelers Rest High School.

13. Upon information and belief, after luring Plaintiff to the secluded area, Defendant Hildebrandt forcefully removed Plaintiff’s shorts, forced her legs open, performed non-consensual oral sex on her, and digitally penetrated Plaintiff without her consent.

14. Upon information and belief, Defendant Hildebrandt then forced Plaintiff to perform oral sex on him.

15. Upon information and belief, Defendant Hildebrandt wore his uniform and his service weapon while assaulting Plaintiff.

16. Upon information and belief, Defendant Hildebrandt’s assault on the Plaintiff left her with vaginal tears, and bruises from her collarbone to her toes.

17. Following the assault, Plaintiff suffers significant mental and emotional trauma, including her complete fear of law enforcement officers and her corresponding trauma response to seeing or interacting with such officers.

Defendant Hildebrandt’s history

18. Upon information and belief, Defendant Hildebrandt’s assault on Plaintiff was not the first time he deprived a citizen of their rights while working for a law enforcement agency.

19. Upon information and belief, Defendant Hildebrandt was formerly employed with the Laurens County Sheriff’s Office.

20. Upon information and belief, while working for the Laurens County Sheriff's Office, Defendant Hildebrandt engaged in the excessive use of force against a detainee on July 29, 2021.

21. Upon information and belief, a video recording from the R. Eugene Johnson Detention Center shows Defendant Hildebrandt grabbing, lifting, and carrying Jarvis Evans by his neck into the jail's booking area.

22. Upon information and belief, Defendant Hildebrandt's act of carrying Jarvis Evans by his neck was in direct violation of the Laurens County Sheriff's Office policies prohibiting all forms of chokeholds.

23. Upon information and belief, while in the booking area, Defendant Hildebrandt continued to choke Jarvis Evans and smash his face into the booking area's glass window.

24. Upon information and belief, Defendant Hildebrandt's use of force against Jarvis Evans was in direct violation of Laurens County Sheriff's Office policies.

25. Defendant Hildebrandt was ultimately fired from the Laurens County Sheriff's Office in August 2021 for violating the agency's use of force policy.

Defendant Travelers Rest's History

26. Upon information and belief, following Defendant Hildebrandt's assault of the Plaintiff, Chief Ben Ford of the Travelers Rest Police Department stated that there were no "red flags" in Defendant Hildebrandt's file when he was hired by Defendant Travelers Rest.

27. Upon information and belief, Defendant Hildebrandt was hired by Defendant Travelers Rest in December 2021, roughly three months after his dismissal from the Laurens County Sheriff's Office for violating its use of force policy.

28. Upon information and belief, the case at issue is not the first instance of sexual assault committed by officers of the Travelers Rest Police Department.

29. Upon information and belief, in 2019, Officer Shawn Jenkins was an employee of the Travelers Rest Police Department and an advisor through the Boy Scouts Post 466 mentoring program.

30. Upon information and belief, on or about August 5, 2019, a minor involved in the mentoring program went to Jenkins's house, and only he and Jenkins were present in the home.

31. Upon information and belief, for unknown reasons, Jenkins had his Travelers Rest Police Department issued taser at his home with him.

32. Upon information and belief, Jenkins then began asking the minor inappropriate sexual questions and propositioning the minor for sexual activity.

33. Upon information and belief, after the minor declined to engage in sexual activity with Jenkins, Jenkins picked up his taser, pointed it at the minor's chest, and told the minor to strip or he would be tased.

34. Upon information and belief, the minor attempted to escape the house but the door was deadbolted, and Jenkins ultimately engaged in sexual acts with the minor while continuing to threaten him with the taser.

35. Upon information and belief, Defendant Travelers Rest settled the subsequent lawsuit with the minor victim in January 2022.

**FOR A FIRST CAUSE OF ACTION
(Unreasonable Search and Seizure in Violation
Of the Fourth and Fourteenth Amendments)
(against Defendant Hildebrandt)**

36. Plaintiff repeats and realleges the factual allegations contained in Paragraphs 8-35 as if fully restated herein.

37. This action is brought against Defendant Hildebrandt, in his individual capacity, pursuant to the Fourth Amendment to the United States Constitution as incorporated through the Fourteenth Amendment, for Defendant's violations of 42 U.S.C. § 1983.

38. At all times material hereto, Defendant Hildebrandt was an employee and/or agent of Defendant Travelers Rest and acting within the course and scope of his employment, under color of state law, to wit, under color of the statutes, ordinances, regulations, policies, customs, and usages of Defendant Travelers Rest.

39. As set forth in this Complaint, upon information and belief, on or about July 3, 2022, Defendant Hildebrandt detained Plaintiff and ordered her to a secluded area under the guise of avoiding a DUI and then forcefully removed her shorts before engaging in forced sex acts with Plaintiff.

40. Upon information and belief, throughout the interaction between Defendant Hildebrandt and Plaintiff, Defendant Hildebrandt wore his uniform, displayed his service weapon, and threatened Plaintiff with arrest if she did not comply with his commands.

41. Upon information and belief, Defendant Hildebrandt had no reason to believe that Plaintiff had committed a crime, to believe that Plaintiff possessed evidence of a crime, or that Plaintiff had a weapon on her person. The seizure and subsequent forced strip search of Plaintiff by Defendant Hildebrandt was objectively unreasonable in light of the facts and circumstances confronting him.

42. By the time of this incident, the laws prohibiting Defendant Hildebrandt's unconstitutional search and seizure were clearly established under the Fourth Amendment of the United States Constitution.

43. Defendant Hildebrandt knew or should have known, and every reasonable officer in his position would have concluded, that the seizure and subsequent forced strip search of Plaintiff was excessive, unjustifiable, and unlawful.

44. Upon information and belief, Defendant Hildebrandt that his seizure and forced strip search of Plaintiff were in violation of policy.

45. Defendant Hildebrandt did not have reasonable suspicion or probable cause that Plaintiff had committed a crime, that she was armed and dangerous, or that she possessed evidence of a crime on her person.

46. No underlying offense has ever been alleged against Plaintiff, and Defendant Hildebrandt did not have reasonable suspicion that Plaintiff was engaged in criminal activity or that she was in possession of a weapon or evidence.

47. Defendant Hildebrandt's conduct was objectively and subjectively unreasonable.

48. As a direct and proximate result of Defendant Hildebrandt's acts, omissions, and unreasonable search and seizure of Plaintiff, Officer Hildebrandt deprived Plaintiff of the rights guaranteed to her by the Fourth and Fourteenth Amendments of the United States Constitution, in particular, depriving her of the right to bodily integrity and to be free of excessive force.

49. Defendant Hildebrandt is liable to Plaintiff for her injuries, pain, and suffering.

**FOR A SECOND CAUSE OF ACTION
(Excessive Use of Force in Violation of
the Fourth and Fourteenth Amendments)
(against Defendant Hildebrandt)**

50. Plaintiff repeats and realleges the factual allegations contained in Paragraphs 8-35 as if fully restated herein.

51. This action is brought against Defendant Hildebrandt, in his individual capacity, pursuant to the Fourth Amendment to the United States Constitution as incorporated through the Fourteenth Amendment, for Defendant's violations of 42 U.S.C. § 1983.

52. At all times material hereto, Defendant Hildebrandt was an employee and/or agent of Defendant Travelers Rest and acting within the course and scope of his employment, under color of state law, to wit, under color of the statutes, ordinances, regulations, policies, customs, and usages of Defendant Travelers Rest.

53. As set forth in this Complaint, upon information and belief, on or about July 3, 2022, Defendant Hildebrandt used his authority to order Plaintiff to a secluded area under the guise of avoiding a DUI and used force to engage in sexual assault against Plaintiff, and forcefully made her perform sexual acts on him.

54. Upon information and belief, throughout the interaction between Defendant Hildebrandt and Plaintiff, Defendant Hildebrandt wore his uniform, displayed his service weapon, and threatened Plaintiff with arrest if she did not comply with his directions.

55. At no time did Plaintiff pose any threat of danger to Defendant Hildebrandt, and thus any application of force by him was unreasonable under the circumstances.

56. By the time of this incident, the laws prohibiting Defendant Hildebrandt's unconstitutional use(s) of force were clearly established under the Fourth Amendment of the United States Constitution.

57. Defendant Hildebrandt knew or should have known, and every reasonable police officer in his position would have concluded, that the force used against Plaintiff was excessive, unjustifiable, and unlawful.

58. Defendant Hildebrandt had actual knowledge that his use of force against Plaintiff was in violation of policy.

59. In his capacity as a police officer, and upon information and belief, Defendant Hildebrandt had a history of abusing his authority and using excessive force against citizens, depriving such citizens of their bodily integrity.

60. At the time of her assault by Defendant Hildebrandt, Plaintiff was an unarmed citizen who was under the influence of alcohol and in a vulnerable position. Despite his knowledge that Plaintiff was unarmed, under the influence, and vulnerable, Defendant Hildebrandt nevertheless took her to a secluded area and forcefully assaulted her.

61. Defendant Hildebrandt's conduct was objectively and subjectively unreasonable.

62. As a direct and proximate result of Defendant Hildebrandt's acts, omissions, and clear use(s) of excessive force, Officer Hildebrandt deprived Plaintiff of the rights guaranteed to her by the Fourth and Fourteenth Amendments of the United States Constitution, in particular, depriving her of the right to bodily integrity and to be free of excessive force.

63. Defendant Hildebrandt is liable to Plaintiff for her injuries, pain, and suffering.

FOR A THIRD CAUSE OF ACTION
(Excessive Use of Force in Violation of the Fourth
and Fourteenth Amendments and Monell v.
Department of Social Services of City of New York
(against Defendant Travelers Rest)

64. Plaintiff repeats and realleges the factual allegations contained in Paragraphs 8-35 as if fully restated herein.

65. This action is brought against Defendant Travelers Rest, pursuant to the Fourth Amendment to the United States Constitution as incorporated through the Fourteenth Amendment, for Defendant Travelers Rest's violations of 42 U.S.C. § 1983.

66. Prior to July 3, 2022, Defendant Travelers Rest developed and maintained customs and policies and/or a pattern and practice that exhibited a deliberate indifference to the constitutional rights of citizens in Travelers Rest, including systemic deprivation of Fourth Amendment rights, which, in turn, caused the violation of Plaintiff's rights. The systemic deprivation of rights constituted a widespread pattern, of which Defendant Travelers Rest had personal and intimate knowledge, and these were obvious, flagrant, rampant and not isolated occurrences.

67. Defendant Travelers Rest maintained a custom and policy and/or pattern and practice of using, encouraging, and allowing the use of excessive force, deprivation of due process, and sexual assault, as well as failing to adequately and properly train, retrain, supervise, and discipline officers, and failing to conduct fair and impartial investigations of complaints of officer misconduct, officers' uses of excessive force, and officers' sexual assaults.

68. Upon information and belief, Defendant Travelers Rest has had a history of excessive force complaints and allegations of sexual assaults and Constitutional rights' violations committed by its police officers, as well as allegations of failing to properly vet new officers, hiring officers it knows or has reason to know are unfit for office, failing to discipline, failing to correct misconduct, and failing to properly train and/or supervise officers, which Defendant Travelers Rest has either ignored or endorsed through a lack of investigation and internal remediation within the Travelers Rest Police Department.

69. Upon information and belief, following Plaintiff's assault by Defendant Hildebrandt, Chief Ben Ford of the Travelers Rest Police Department stated that there were no "red flags" in Defendant Hildebrandt's file when he was hired despite Defendant Hildebrandt's firing from the Laurens County Sheriff's Office three months prior for the excessive use of force.

70. Together, this conduct demonstrates a perpetual and deliberate indifference to the constitutional rights of the citizens of Travelers Rest, including Plaintiff, whose constitutional right to be free of unlawful detention, illegal search and seizure, sexual assault and excessive and unlawful force guaranteed by the Fourth Amendment of the United States Constitution was violated on July 3, 2022.

71. Defendant Travelers Rest was aware of problems with employees' actions, inactions, and omissions while acting under the color of law, and employees' uses of excessive force, retaliatory acts, and violations of due process of law.

72. Defendant Travelers Rest's conduct was objectively and subjectively unreasonable.

73. Defendant Travelers Rest's pattern and practice constituted deliberate indifference and was the cause in fact and proximate cause of Plaintiff's injuries.

74. These failures constitute violations of Plaintiff's substantive due process rights guaranteed under 42 U.S.C. § 1983, the Fourth Amendment, and the Fourteenth Amendment to the United States Constitution.

75. Defendant Travelers Rest is liable to Plaintiff based upon these improper practices.

FOR A FOURTH CAUSE OF ACTION
(Gross Negligence)
(against Defendant Travelers Rest)

76. Plaintiff repeats and realleges the factual allegations contained in Paragraphs 8-35 as if fully restated herein.

77. This is an action for gross negligence brought against Defendant Travelers Rest under the laws of the State of South Carolina.

78. This cause of action is brought pursuant to the South Carolina Tort Claims Act, S.C. Code §§ 15-78-10, *et seq.*

79. At all times relevant to this complaint, Defendant Hildebrandt was an employee and/or agent of the Travelers Rest Police Department, which is a subdivision of Defendant Travelers Rest, and were acting within the course and scope of their employment, in furtherance of the issues of Defendant Travelers Rest, and with Defendant Travelers Rest's knowledge and consent.

80. Defendant Travelers Rest is liable for the actions and omissions of its employees and/or agents that gave rise to this action, including the actions of Defendant Hildebrandt.

81. Defendant Travelers Rest, by and through its employees and agents, owed a duty to Plaintiff to act in a prudent and reasonable manner with regard to her health and safety in the following particulars, to wit:

- a. to properly vet candidates for employment as law enforcement officers, to include background checks and determining fitness for office based on actual or constructive knowledge of prior constitutional deprivations perpetrated by such candidates;
- b. to ensure supervision and remediation of officers with previous incidents involving the use of excessive force;
- c. to properly train officers on sexual harassment and sexual assault;
- d. to properly train and educate officers on the appropriate use of force;
- e. to properly train officers regarding interactions with members of the public and appropriate conduct when responding to calls from the public;
- f. to prevent officers from engaging in sexual activity, whether consensual or not, while on duty;

- g. to properly train and supervise officers to prevent quid pro quo transactions with members of the public, particularly those involving the threat of detention or arrest.

82. Defendant Travelers Rest also owed ministerial duties in the following particulars,

to wit:

- a. to provide responsible and effective operations of the Travelers Rest Police Department;
- b. to establish proper policies, customs, and regulations of the Travelers Rest Police Department;
- c. to supervise its law enforcement officers;
- d. to properly train and retrain said officers;
- e. to discipline said officers and only retain those officers fit for duty; and
- f. to properly correct and remediate any known deficiencies within its officers or within the Travelers Rest Police Department.

83. Upon information and belief, prior to the incident involving Plaintiff, Defendant Travelers Rest had customs or policies of the following, which upon information and belief still exist at this time:

- a. failing to conduct thorough background checks to determine whether potential candidates for law enforcement officer positions do not have prior incidents of excessive force or constitutional deprivations;
- b. hiring candidates, such as Defendant Hildebrandt, despite prior instances of excessive force or deprivation of constitutional rights;
- c. failing to properly train officers regarding appropriate force;
- d. failing to properly train officers regarding sexual harassment and sexual assault;

- e. failing to properly train officers regarding interactions with members of the public and appropriate conduct when responding to calls for assistance;
- f. failing to properly supervise Defendant Hildebrandt despite his firing for excessive force three months prior to his hire by Defendant Travelers Rest;
- g. failing to prevent officers from engaging in sex acts, whether forced or consensual, while on duty; and
- h. failing to properly train, retrain, supervise, and discipline law enforcement officers, including Defendant Hildebrandt.

84. The aforementioned failures amounted to violations of non-discretionary and non-delegable duties owed to citizens of Travelers Rest, including Plaintiff.

85. As such, Defendant Travelers Rest breached its duties, including ministerial duties owed to Plaintiff.

86. Defendant Travelers Rest's failure to reprimand and intervene and/or take corrective action against its officers is evidence that Defendant Travelers Rest ratified and promulgated officer misconduct, and provides further evidence of its breach of duties owed to the citizens of Travelers Rest, including Plaintiff.

87. Upon information and belief, in the years prior to the incident involving Plaintiff, despite knowledge that officers had engaged in non-consensual sexual conduct with citizens of Travelers Rest, Defendant Travelers Rest never reviewed, or formally amended training and/or policies and/or disciplinary measures and/or suspension techniques to eradicate or even mitigate the threat posed by its officers.

88. Defendant Travelers Rest's continued and repeated failures as described herein resulted in Defendant Hildebrandt breaching the duty he owed willfully and wantonly disregarding

the bodily integrity of Plaintiff by luring Plaintiff to a secluded area using his authority as an officer, threatening to arrest Plaintiff if she did not comply with his directives, and forcefully sexually assaulting Plaintiff.

89. Defendant Travelers Rest knew or should have known of the dangers posed by its actions and failures illustrated in this Complaint, and that said actions and inactions were reckless and or constituted the total absence of care likely to result in violations of a citizen's rights, and as such were reasonably foreseeable.

90. Defendant Travelers Rest, by and through its duly authorized employees, owed a duty to Plaintiff to be reasonable in the management and conduct of the Travelers Rest Police Department.

91. Defendant Travelers Rest, by and through Defendant Hildebrandt, breached duties owed to Plaintiff by using his authority and threats of detention to attack and sexually assault Plaintiff.

92. Each act or omission detailed in this matter constitutes a separate occurrence.

93. Defendant Travelers Rest's actions and omissions, by and through its authorized agents, were unreasonable, constituted a total absence of care, and breached duties owed to Plaintiff and actually and proximately contributed to and/or caused the injuries sustained by Plaintiff.

94. Plaintiff is entitled to Judgment against Detention Travelers Rest for damages as to be determined by the tries of fact in this case.

JURY DEMAND

WHEREFORE, Plaintiff demands a trial by jury and respectfully requests that this Court award the following damages, jointly and severally against Defendants, as provided by South Carolina law and the United States Constitution, including but not limited to the following:

- a. Compensatory, actual, and consequential damages to Plaintiff;
- b. Costs of this action and attorneys' fees to Plaintiff for the civil rights causes of action under 42 U.S.C. § 1988;
- c. Loss of earnings and/or earning capacity;
- d. Punitive damages;
- e. Such other and further relief as this Court may deem appropriate.

Respectfully submitted, this 25th day of July, 2023.

STROM LAW FIRM, LLC

/s/ Bakari T. Sellers

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