

**42nd JUDICIAL DISTRICT COURT
DESOTO PARISH, LOUISIANA**

JARIUS BROWN,

Plaintiff,

v.

DEPUTY JAVARREA POUNCY,
JOHN DOE 1, and
JOHN DOE 2

Defendants.

CIVIL ACTION

Docket No.

Judge:

JURY TRIAL DEMANDED

PETITION

Plaintiff, Jarius Brown, by and through his undersigned counsel, hereby files this Petition against the below named Defendants. In support, he states the following:

INTRODUCTION

1. On September 27, 2019, while in custody for nonviolent vehicle offenses, multiple employees of the DeSoto Parish Sheriff's Office (the "Sheriff's Office") brutally beat Plaintiff Jarius Brown. Prior to the incident, Mr. Brown had complied with Defendants' requests. He did not resist his arrest or fail to follow any Sheriff's Office instructions. Nor did he make any attempts to injure or threaten Defendants. Instead, Mr. Brown remained stationary while Defendants—without legal justification, warning, or provocation—struck Mr. Brown in his face and torso several times with their fists, before transferring him to a holding cell.

2. No Sheriff's Office employees present during the attack acted to prevent Defendants' acts of violence or to ensure Mr. Brown's fair handling upon his arrival at the Sheriff's Office. Indeed, it was only after the violent attack concluded that Mr. Brown was able to receive critical medical attention for the severe injuries and physical trauma the beating produced.

3. During his hospital stay, Mr. Brown—who suffered from substantial injuries to the face, nose, and chest—struggled to remain conscious. Mr. Brown also experienced mental and emotional trauma from the beating.

4. Mr. Brown carries the trauma and injuries he suffered from the beating with him today. Mr. Brown still suffers chest pains as a result of the attack and his mental health has been

severely impacted. He continues to feel extreme anxiety and unease in the presence of law enforcement and is concerned for his personal safety and that of his family.

5. The time has come to stop senseless beatings of people placed in detention facilities. Mr. Brown files this Petition and seeks recovery under Louisiana state law. This lawsuit alleges that Defendant Javarrea Pouncy and other fellow unknown officers—identified herein as John Does 1 through 2—carried out a malicious, violent, and traumatizing attack on Mr. Brown. Following the attack, Deputy Pouncy became subject to a grand jury investigation surrounding the beating of Mr. Brown, and Deputy Pouncy subsequently resigned from the Sheriff's Office.

6. That Mr. Brown's assailants are current and former deputies of the Sheriff's Office is consistent with evidence uncovered by recent media reporting that details an extensive history of violence and police brutality committed by Louisiana law enforcement officers.¹ That conduct has unfortunately been present for at least a decade and has been implicitly endorsed by Louisiana State Police ("LSP") troopers and officials—the very force that initiated Mr. Brown's arrest in this instance.²

7. For the past decade, the State's most esteemed police force has ignored or concealed numerous pieces of evidence related to police brutality and misconduct and, by setting that example, has impeded efforts to discourage and mitigate police misconduct. Specifically, LSP has routinely refused to release all relevant video footage related to violence committed by troopers against the citizens they are sworn to serve and protect, a majority of whom are Black men.³

8. Sadly, Mr. Brown is one of countless Black men who have been unjustly brutalized by law enforcement.⁴ Without accountability, law enforcement, and specifically those in DeSoto

¹ See, Jim Mustain & Jake Bleiberg, *Beatings, buried videos a pattern at Louisiana State Police*, AP NEWS, Sept. 8, 2021, <https://apnews.com/article/police-beatings-louisiana-video-91168d2848b10df739d73cc35b0c02f8>.

² *Id.*

³ *Id.* (AP reporting explaining that 67% of LSP uses of force in recent years have targeted Black people.)

⁴ See Frank Edwards, et al., *Risk of being killed by police use of force in the United States by age, race – ethnicity, and sex*, 116 PNAS 16793, 16794 (2019) (finding that Black men are 2.5 more likely than white men to be killed by law enforcement); Mark Hoekstra & Carly Will Sloan, *Does Race Matter for Police Use of Force? Evidence from 911 Calls*, NBER, Feb. 2020, <https://www.nber.org/papers/w26774>; Oliver Laughland, *US police have a history of violence against black people. Will it ever stop?*, THE GUARDIAN, Jun. 4, 2020, <https://www.theguardian.com/usnews/2020/jun/04/american-police-violence-against-black-people>.

Parish, will continue to violate the rights of people like Mr. Brown, producing disastrous consequences.⁵

PARTIES

9. Plaintiff Jarius Brown is a 29-year-old man domiciled in the State of Louisiana.

10. Defendant DeSoto Parish Sheriff's Office Deputy Javarrea Pouncy is sued in his individual capacity. Deputy Pouncy is named for violently beating Mr. Brown.

11. Defendant DeSoto Parish Sheriff's Office Deputy John Doe #1 is sued in his individual capacity. Deputy John Doe #1 is named for violently beating Mr. Brown.

12. Defendant Louisiana State Police Officer John Doe #2 is sued in his individual capacity. Officer John Doe #2 is named for his involvement in Mr. Brown's violent beating.

13. Mr. Brown is not aware of the true names of Does and therefore sues Does by such fictitious names. Mr. Brown will amend this petition to state the true name and capacity of Does when such have been ascertained.

14. Defendants at all times pertinent and relevant to this action were employed as commissioned deputies by the DeSoto Parish Sheriff's Office and were acting and/or neglected to act in the course and scope of their employment and under color of law. Plaintiff alleges that Defendants are responsible for his injuries as set forth herein.

15. Defendants are liable jointly, severally, and *in solido* for the intentional, excessive, and/or otherwise tortious conduct set forth below.

JURISDICTION AND VENUE

16. Jurisdiction is proper in this Court under La. Const. Ann. art. V, § 16 because this Court has original jurisdiction for all civil matters.

17. Venue is proper in this Court pursuant to La. Stat. Ann. § 13:5104 because Defendants are law enforcement officers, and because the wrongful conduct at issue in this matter arose out of the discharge of Defendants' official duties and occurred wholly within this District. *See* La. Stat. Ann. § 13:5104(a).

⁵ See Jamiles Larty & Abbie VanSickle, 'Don't Kill Me': Others Tell of Abuse by Officer Who Killed George Floyd, THE NEW YORK TIMES, Feb. 2, 2021, <https://www.nytimes.com/2021/02/02/us/derek-chauvin-georgefloyd-past-cases.html>.

FACTUAL ALLEGATIONS

A. Deputies Employed by the DeSoto Parish Sheriff's Office Brutally Attack Plaintiff After His Arrest

18. On September 27, 2019, Plaintiff Jarius Brown was stopped and arrested by an LSP officer for alleged traffic violations and other controlled substance offenses.

19. Upon his arrest by LSP, Mr. Brown was put into handcuffs and searched. At the time of his arrest, he possessed a small bag of marijuana.

20. Shortly after his arrest, Mr. Brown was transported by LSP Officer John Doe #2 to the Sheriff's Office.

21. Upon information and belief, Mr. Brown arrived at the Sheriff's Office early in the morning of September 27.

22. Upon his arrival, Mr. Brown was transferred into the custody of Defendants Pouncy and John Doe #1 ("Officer Defendants"). It is unknown whether LSP Officer John Doe #2 said anything to Officer Defendants upon their arrival. LSP is currently under scrutiny by the Federal Bureau of Investigations and the Department of Justice for unlawful use of force and alleged encouragement thereof.

23. Mr. Brown was then led by Officer Defendants to the Sheriff's Office laundry room to change into a prison jumpsuit.

24. When Mr. Brown arrived in the laundry room, Officer Defendants instructed him to strip naked, bend over, and cough. Mr. Brown complied with these instructions and all other instructions given to him by Officer Defendants.

25. After removing his clothes, Mr. Brown turned to face Officer Defendants, who then without warning or provocation began to beat Mr. Brown. Officer Defendants hit Mr. Brown numerous times in his face and torso, causing serious injuries.

26. Mr. Brown collapsed as a result of Officer Defendants' attack, after which Officer Defendants delivered one final blow to Mr. Brown's body before ceasing.

27. After succumbing to the violence, Mr. Brown was provided a prison jumpsuit by Officer Defendants and led to a holding cell where he remained in isolation—bloody, beaten and

struggling to remain conscious, before his injuries were noticed by another officer at the Sheriff's Office.

28. Mr. Brown did not provoke the attack, nor did Defendants explain their actions contemporaneously or after the attack. Mr. Brown sustained injuries to his face and torso as a result of Defendants' punches. He was left bloody and with fractures to his face and eye socket. He also experienced significant pain in his chest.

29. Officer Defendants, by committing overt, hostile acts during the attack on Mr. Brown acted in concert and assisted one another to accomplish the unlawful purpose described above.

30. Although Mr. Brown is not aware whether any detention facility video exists of the brutal attack, officer bodycam video captures the state of Mr. Brown shortly after the beating. The still shot from that video below graphically depicts the physical and emotional effects of that beating.



31. As a result of the injuries sustained, Mr. Brown was transported to Ochsner LSU Health Shreveport - LA where he was evaluated and treated for, among other things, (1) an orbital fracture on the left side of his face; (2) a fracture of his nasal bones; and (3) abrasions on his left eyelid. Officer Defendants were present at Ochsner LSU Health Shreveport - LA during the entirety of Mr. Brown's visit and treatment.

32. Mr. Brown felt threatened and uneasy during his treatment because of the continued presence of Officer Defendants.

B. Mr. Brown’s Claims Are Timely Filed Because a Parallel Federal Lawsuit Suspended Application of the Applicable Two-Year Prescription Period.

33. Pursuant to La. Civ. Code Ann. art. 3493.10, victims of crimes of violence have a two-year prescriptive period in which to bring a claim.⁶

34. Mr. Brown’s assault by DeSoto Parish officers is a crime of violence under La. Civ. Code Ann. art. 3493.10.⁷ He was severely beaten by two officers while he was defenseless, suffering facial fractures, lacerations, and chest pain.

35. Although this cause of action accrued on September 27, 2019—the day of the assault—Mr. Brown filed a lawsuit in the federal district court of the District of Louisiana on September 24, 2021, raising this state law claim under the supplemental jurisdiction of that court pursuant to 28 U.S.C. § 1367(a).⁸ That lawsuit suspended the applicable two-year prescription period for Mr. Brown’s until its disposition on September 29, 2022.

36. Because Mr. Brown brings this claim on September 30, 2022—three days before the two-year prescription period expires on October 3, 2022—his action is timely filed.

FIRST CAUSE OF ACTION
SECOND DEGREE BATTERY
(AGAINST INDIVIDUAL DEFENDANTS POUNCY AND DOE # 1)

37. Mr. Brown repeats and realleges each and every allegation contained in the previous paragraphs of this petition as if fully alleged herein.

38. Mr. Brown asserts violations of Louisiana state law relative to intentional torts by the individual Defendants.

⁶ La. Civ. Code Ann. art. 3493.1 (“Delictual actions which arise due to damages sustained as a result of an act defined as a crime of violence under Chapter 1 of Title 14 of the Louisiana Revised Statutes of 1950, except as provided in Article 3496.2, are subject to a liberative prescription of two years.”)

⁷ Louisiana law defines a crime of violence as “an offense that has, as an element, the use, attempted use, or threatened use of physical force against the person or property of another, and that, by its very nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense or an offense that involves the possession or use of a dangerous weapon.” La. R.S. 14:2(13). Second degree battery is an enumerated crime of violence offense under La. R.S. 14:2(13).

⁸ *Brown v. Pouncy et al*, 5:21CV03415 (W.D. La. 2021).

39. Defendants were acting within the course and scope of their employment with DeSoto Parish Sheriff's Office.

40. Officers are liable for civil torts when they preform, "acts or omissions which constitute criminal, fraudulent, malicious, intentional, willful, outrageous, reckless, or flagrant misconduct."⁹ Under this standard, "only the most egregious conduct by parish agents, employees or representatives that exhibits an active desire to cause harm, or a callous indifference to the risk of potential harm from flagrantly bad conduct, will rise to the level of 'willful misconduct' or 'criminal, willful, outrageous, reckless, or flagrant misconduct'"¹⁰

41. While delictual actions ordinarily have a one year prescriptive period,¹¹ there is an exception for torts which also qualify as a "crime of violence."¹² Under Louisiana law, a crime of violence is an offense that has, "as an element, the use, attempted use, or threatened use of physical force against the person or property of another, and that, by its very nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense."¹³ Second degree battery is a specific enumerated offense,¹⁴ and thus the two-year prescriptive period applies to such cases.¹⁵

42. Second degree battery is a battery when the offender intentionally inflicts serious bodily injury.¹⁶ Serious bodily injury is bodily injury which involves unconsciousness; extreme physical pain; protracted and obvious disfigurement; protracted loss or impairment of the function of a bodily member, organ, or mental faculty; or a substantial risk of death.¹⁷

43. Mr. Brown's attack is consistent with Louisiana's interpretation of a "crime of violence" and thus Defendants' conduct falls under the two-year statute of limitation of La. Civ.

⁹ LA Rev Stat § 9:2798.1.

¹⁰ *Haab ex rel. Children v. E. Bank Consol. Special Serv. Fire Prot. Dist. of Jefferson Parish*, 139 So. 3d 1174, 1182 (La. Ct. App. 2014).

¹¹ La. Civ.Code art. 3492.

¹² La. Civ.Code art. 3493.10.

¹³ La. R.S. 14:2(13).

¹⁴ *Id.*

¹⁵ *Creighton v. Evergreen Presbyterian Ministries, Inc.*, 214 So.3d 860 (La. Jan. 9, 2017) (Louisiana Supreme Court reversed the lower court's denial of two-year prescriptive period for second degree battery under La. C.C. art. 3493.10 and remanded the matter to the district court "to allow the parties to fully address the applicability of La. C.C. art. 3493.10.").

¹⁶ La. R.S. 14:34.1.

¹⁷ *State v. Walker*, 53,975 (La. App. 2 Cir. 6/30/21), 321 So. 3d 1154, 1162, reh'g denied (Aug. 5, 2021), writ denied, 2021-01334 (La. 11/23/21), 328 So. 3d 83.

Code Ann. art. 3493.10. As described fully above, Mr. Brown was brutally beaten by two DeSoto Parish deputies while Mr. Brown remained in a defenseless and harmless position. He struggled to maintain consciousness and suffered facial fractures, lacerations, and chest pain as a result of the attack. The severity of this attack escalated Defendants' conduct to second degree battery, one of the qualifying crimes of violence under La. R.S. 14:2(13).

44. Defendants at all times relevant hereto were acting under color of state law.

45. Defendants intended to inflict serious bodily injury. Specific intent may be "inferred from the circumstances surrounding the offense and the conduct of the defendant."¹⁸

46. Defendants intended to cause serious physical harm to Mr. Brown by hitting him numerous times in his face and torso without provocation.

47. As a direct and proximate result of the intentional acts of Defendants, carried out in reckless disregard, Mr. Brown suffered physical injury and continues to suffer from severe shock, distress, anguish, sorrow, and loss of enjoyment of life.

48. The aforementioned physical and psychological injuries sustained by Mr. Brown were caused wholly by reason of the intentional acts of Defendants as described herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court enter judgment in his favor and against Defendants, and award the following relief:

a. Award Plaintiff damages compensating him for his physical and emotional harms, including but not limited to compensatory, pecuniary, and medical expense damages according to proof.

b. Award Plaintiff punitive damages for Defendants' conduct.

c. Grant Plaintiff such other and further relief as the Court deems just and proper.

By: /s/ Michael X. Imbroscio

¹⁸ *State v. Walker*, 53,975 (La. App. 2 Cir. 6/30/21), 321 So. 3d 1154, 1162, reh'g denied (Aug. 5, 2021), writ denied, 2021-01334 (La. 11/23/21), 328 So. 3d 83.

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