

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

SHALIMAR HOWARD,

Plaintiff,

v.

CASE NO:

HON:

LIVINGSTON COUNTY, CRAIG CARBERRY,
WILLIAM VAILLIENCOURT, and MIKE TAYLOR
in their individual and official capacities,

Defendants.

CHRISTOPHER TRAINOR & ASSOCIATES CHRISTOPHER J. TRAINOR (P42449) AMY J. DEROUIN (P70514) Attorneys for Plaintiff 9750 Highland Road White Lake, MI 48386 (248) 886-8650 (248) 698-3321-fax Amy.derouin@cjtrainor.com	
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THERE IS NO OTHER PENDING OR RESOLVED CIVIL ACTION ARISING OUT OF THE TRANSACTION OR OCCURRENCE ALLEGED IN THE COMPLAINT

COMPLAINT AND JURY DEMAND

NOW COMES Plaintiff, **SHALIMAR HOWARD**, by and through her attorneys, CHRISTOPHER TRAINOR & ASSOCIATES, and for her Complaint against the above-named Defendants state as follows:

1. That Plaintiff is a resident of the City of Dexter, County of Washtenaw, State of Michigan.
2. That Defendant LIVINGSTON COUNTY is a municipal corporation and governmental subdivision organized under the laws of the State of Michigan.
3. That Defendant CRAIG CARBERRY is and/or was a detective sergeant employed by the Michigan State Police and was acting under color of law, in his individual and official capacity, and within the course and scope of his employment at all times mentioned herein.
4. That Defendant WILLIAM VAILLIENCOURT is a prosecuting attorney employed by Livingston County Prosecutor's Office and/or Livingston County and was acting in his individual and official capacity and, upon information and belief, was acting outside his prosecutorial and/or quasi-judicial duties at all relevant times alleged herein.
5. Defendant MIKE TAYLOR is an assistant prosecuting attorney employed by Livingston County Prosecutor's Office and/or Livingston County and was acting in his individual and official capacity and, upon information and belief, was acting outside his prosecutorial and/or quasi-judicial duties at all relevant times alleged herein.

6. All relevant events giving rise to this lawsuit occurred in the City of Howell, County of Livingston, State of Michigan
7. That this lawsuit arises out of Defendants' violations of Plaintiff's federal constitutional rights as secured by the First and Fourth Amendments of the United States Constitution, and consequently, Plaintiff has a viable claim for damages under 42 U.S.C. § 1983. Plaintiff also has viable state law claim against these Defendants.
8. Jurisdiction is vested in this Court pursuant to 28 U.S.C. § 1331 [federal question], 28 U.S.C. § 1343 [civil rights] as well as supplemental jurisdiction pursuant to 28 U.S.C §1367 as to the state law claims alleged.
9. That the amount in controversy exceeds Seventy-Five Thousand Dollars (\$75,000.00) not including interest, costs, and attorney fees.

FACTS

10. Plaintiff realleges and incorporates by reference each and every paragraph of this Complaint as though fully set forth herein.
11. That Plaintiff began her employment with the Michigan Department of Corrections ("MDOC") on or about August 18, 2002 as a probation officer.

12. That in or around February of 2010, Plaintiff was assigned to the Livingston County Probation Office where she worked with the Livingston County Prosecutor's Office which included, but not limited to, Defendant VAILLIENCOURT and Defendant TAYLOR.
13. That as an MDOC probation officer, Plaintiff adhered to the MDOC policy of collaborative case management which provided vast discretion to probation officers as to how probation officers handled lack of compliance by their probationer including, but not limited to, the decision to violate a probationer.
14. That the Livingston County Prosecutor's Office which included, Defendant VAILLIENCOURT and Defendant TAYLOR, had a practice to control the probation arm of the Livingston County courts in holding probationers to a standard that was acceptable to Defendant VAILLIENCOURT but, at times, in opposition to MDOC policy relating to collaborative case management.
15. That upon information and belief, Defendants VAILLIENCOURT and/or TAYLOR misused their discretion to determine whether to charge a probationer with a crime or, in other words, violate a probationer, in a discriminatory manner in which such manner protected one class of persons while not protecting another class from investigatory and

charging decisions.

16. That Plaintiff publicly voiced her concerns in opposition to Defendants VAILLIENCOURT's and TAYLOR's discriminatory practice as it related to violating probationers and, as a direct consequence of Plaintiff's public opposition, Defendants VAILLIENCOURT and TAYLOR developed animosity toward Plaintiff which included, but was not limited to, being openly critical of her for not violating one or more probationers and expressed dissatisfaction with Plaintiff in failing to conform to their discriminatory and/or arbitrary practice despite the fact that she was following MDOC policy as it related to collaborative case management.
17. That on March 23, 2017, Plaintiff was subpoenaed to testify in a civil parenting case in Livingston County Circuit Court before Judge Theresa Brennan, which involved one of her probationers.
18. That during the March 23, 2017 hearing, Plaintiff provided the Court with honest testimony relating to her probationer despite her testimony being cut-off by Judge Brennan and her request to elaborate on parts of her testimony being denied and/or ignored by Judge Brennan.

19. That after the March 23, 2017 hearing and a subsequent hearing on June 8, 2017, where Defendants VAILLIENCOURT and TAYLOR intentionally did not include Plaintiff even though it involved her same probationer from the March 23, 2017 hearing, Defendants VAILLIENCOURT and TAYLOR undertook to perform a secretive investigation of Plaintiff which included, but not limited to, the following: (i) review of video of Plaintiff's testimony on March 23, 2017; (ii) ordering the transcript of Plaintiff's testimony on March 23, 2017; and (iii) obtaining a copy of Plaintiff's notes from the probationer's MDOC file.
20. That despite Defendants VAILLIENCOURT's and TAYLOR's investigation revealing that Plaintiff's testimony was truthful at the March 23, 2017 and knowing that she had not committed any crime whatsoever, Defendant VAILLIENCOURT requested that the Michigan State Police conduct an investigation into whether Plaintiff committed perjury during her March 23, 2017 testimony.
21. That in an attempt to undermine Plaintiff's credibility with her employer, Defendant VAILLIENCOURT provided a letter to Plaintiff's supervisor at MDOC on August 18, 2017, where he falsely accused Plaintiff of committing perjury at the March 23, 2017 hearing.

22. That within this letter Defendant VAILLIENCOURT attempted to silence Plaintiff for her opposition as to the Prosecutor's discriminatory and/or arbitrary practice in relation to violating probationers by obstructing her job duties in which such obstructions included, but are not limited to the following: (i) Defendants will not prosecute any probation violation that would require Plaintiff's testimony or that would rely on her credibility; (ii) Defendants will not call Plaintiff as a witness; and (iii) Plaintiff is not permitted in the premises of the Prosecutor's Office.
23. That MDOC Internal Affairs subsequently performed its own investigation into the perjury allegations made by Defendant VAILLIENCOURT and TAYLOR, which included the taking of Plaintiff's statement, whereby MDOC ultimately took no action whatsoever against Plaintiff as its findings did not support any wrongdoing by Plaintiff.
24. That upon information and belief, Defendants VAILLIENCOURT and TAYLOR were aware of the results of MDOC Internal Affairs investigation, but they continued to actively participate in the investigation against Plaintiff as to the allegations of perjury that they knew were false.

25. That despite knowing there was no probable cause to support that Plaintiff had committed any crime, Defendants VAILLIENCOURT and/or TAYLOR charged Plaintiff with three counts of perjury on January 12, 2018 in which said charges were allegedly supported by the investigation conducted by Defendant CARBERRY and warrant request submitted and prepared by Defendants VAILLIENCOURT, TAYLOR, and CARBERRY.
26. That upon information and belief, Defendant CARBERRY's investigation was a sham investigation as there was no probable cause to support that Plaintiff had committed any crime in which said investigation was only a repeat of Defendants VAILLIENCOURT's and/or TAYLOR's investigation that also failed to support any showing of probable cause.
27. That on January 12, 2018, Defendant CARBERRY called Plaintiff and stated that there was a warrant for her arrest and that she needed to turn herself in which Plaintiff was subsequently arraigned on the same day.
28. That as a result of the false perjury charges against her, Plaintiff was suspended without pay from her position at MDOC on January 12, 2018.

29. That after the Preliminary Examination in May of 2018, Defendants VAILLIENCOURT and/or TAYLOR voluntarily dismissed one of the perjury charges against Plaintiff.
30. That on August 2, 2019, the trial court granted Plaintiff's motion to dismiss and quash the two remaining perjury charges against her in which the trial court concluded that there was no probable cause to support any count of perjury against Plaintiff.
31. That as a direct and proximate cause of Defendants' unlawful actions against Plaintiff as described herein, Plaintiff has suffered injuries and damages including, but not limited to, the following: potential loss of earnings and earning capacity; loss of career opportunities; loss or reputation and esteem in the community; mental and emotional distress; and loss of the ordinary pleasures of life.

COUNT I
VIOLATION OF THE FOURTH AMENDMENT
42 U.S.C. § 1983—ILLEGAL SEARCH AND SEIZURE
AS TO DEFENDANTS CARBERRY, VAILLIENCOURT, and TAYLOR

32. Plaintiff realleges and incorporates by reference each and every paragraph of this Complaint as though fully set forth herein.
33. That the Fourth Amendment to the United States Constitution establishes that Plaintiff has the right to be free from the deprivation of life, liberty, and bodily security without due process of law and to be free from

unreasonable searches and seizures.

34. At all material times, Defendants acted under color of law and unreasonably when they violated Plaintiff's Fourth Amendment rights when they falsely arrested and falsely detained Plaintiff without probable cause or exigent circumstances.
35. Defendants acted unreasonably and failed in their duties when they falsely arrested/detained/seized Plaintiff without considering the totality of the circumstances and then proceeded with the legal process thereafter without probable cause.
36. Defendants acted under color of law and are not entitled to qualified immunity because they violated Plaintiff's clearly established Fourth Amendment right to be free from unreasonable searches and seizures.
37. Defendants' illegal and unconstitutional acts were the direct and proximate cause of Plaintiff's deprivation of her constitutional rights.
38. Due to Defendants' actions, Plaintiff's Fourth Amendment rights were violated and pursuant to 42 U.S.C. § 1983, Plaintiff respectfully request that this Honorable Court to award exemplary, compensatory, and punitive damages plus costs, interest, and attorney fees as set forth in 42 U.S.C. § 1988.

WHEREFORE, Plaintiff requests that this Honorable Court enter an award in her favor and against Defendants in an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00) exclusive of costs, interest, and attorney fees.

COUNT II
42 U.S.C. §1983
VIOLATION OF THE FIRST AMENDMENT OF THE UNITED STATES
CONSTITUTION RETALIATION AS TO DEFENDANTS
VAILLIENCOURT, and TAYLOR

39. Plaintiff realleges and incorporates by reference each and every paragraph of this Complaint as though fully set forth herein.
40. Defendants were at all times acting under color of law when they unlawfully retaliated against her in violation of her First Amendment rights.
41. That throughout her career as a probation officer, Plaintiff verbally and publicly expressed her opposition as to the discriminatory practice of the Livingston County Prosecutor's Office, which included Defendants VAILLIENCOURT and TAYLOR, as to the treatment of probationers.
42. That Plaintiff's complaints as referenced above were matters of public concern that outweighed any governmental interest in suppressing her speech.
43. Plaintiff's activities and speech were protected by the First Amendment to the United States Constitution.

44. Defendants tarnished Plaintiff's reputation and ultimately caused her to be falsely arrested, suspended without pay with her employer, and proceeded with the legal process thereafter without probable cause in response to Plaintiff's exercise of her First Amendment rights and their actions are not protected by qualified immunity.
45. That Defendants' conduct was designed to silence Plaintiff and prevent her from making complaints which would likely prevent an ordinary person from continuing to engage in the exercise of speech.
46. As a result of the conduct complained of herein, Plaintiff suffered deprivation of clearly established rights protected and secured by the First and Fourteenth Amendments to the United States Constitution and by other laws, including her right to free speech, and her right to be free from retaliation for exercising her right to free speech.
47. That as a direct and proximate cause of Defendants' actions, Plaintiff has suffered and will continue to suffer damages.
48. As a result of Defendants' violation/deprivation of Plaintiff's constitutional rights, Plaintiff has a viable claim for compensatory and punitive damages to 42 U.S.C. §1983 together with costs, interest, and attorney fees pursuant to 42 U.S.C. §1988.

WHEREFORE, Plaintiff requests that this Honorable Court enter an award in her favor and against Defendants in an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00) exclusive of costs, interest, and attorney fees.

COUNT III
42 U.S.C. § 1983
VIOLATION OF THE FOURTEENTH AMENDMENT
SUBSTANTIVE DUE PROCESS AS TO DEFENDANTS CARBERRY,
VAILLIENCOURT, AND TAYLOR

49. Plaintiff realleges and incorporates by reference each and every paragraph of this Complaint as though fully set forth herein.
50. Defendants were at all times relevant to this action acting under color of law when they violated Plaintiff's Fourteenth Amendment rights.
51. The Fourteenth Amendment to the United States Constitution prohibits a State from depriving Plaintiff of a property right, liberty interest, bodily integrity, reputation, and/or "good name" without due process of law.
52. Under the Due Process Clause of the Fourteenth Amendment, citizens have clearly established rights as to personal security and bodily integrity.
53. The Fourteenth Amendment to the United States Constitution protects Plaintiff from arbitrary and capricious actions by the government.
54. At all pertinent times, Plaintiff had, and has, a liberty interest in her own good name.

55. As a result of Defendants' actions, Plaintiff has been mischaracterized as a criminal and her good character has been maligned.
56. Plaintiff's false arrest/seizure/detainment and Defendants' false statements that she violated the law have deprived her of her good name and such unlawful actions by Defendants were arbitrarily and capriciously undertaken.
57. As a result of the dangers created by Defendants, Plaintiff suffered a deprivation of clearly established rights protected and secured by the Fourteenth Amendment to the United States Constitution, including but not limited to her liberty interest in his good name, reputation, integrity, honor, and her opportunity to take advantage of future employment opportunities, as well as her liberty interest in bodily security and integrity.
58. Defendants' acts were at all times reckless, intentional, and/or deliberately indifferent and deprived Plaintiff of her rights under the Fourteenth Amendment to the United States Constitution.
59. As a result of Defendants' violation/deprivation of Plaintiff's constitutional rights, Plaintiff has a viable claim for compensatory and punitive damages to 42 U.S.C. §1983 together with costs, interest, and attorney fees pursuant to 42 U.S.C. §1988.

WHEREFORE Plaintiff respectfully requests that this Honorable Court enter an award in her favor and against Defendants in an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00 00) exclusive of interests, costs, and attorney fees.

COUNT IV
CIVIL CONSPIRACY AS TO DEFENDANTS
CARBERRY, VAILLIENCOURT, and TAYLOR

60. Plaintiff realleges and incorporates by reference each and every paragraph of this Complaint as though fully set forth herein.
61. Defendants acted in concert to unlawfully arrest Plaintiff and then proceeded with the legal process thereafter without probable cause for crimes that she clearly did not commit.
62. That Defendants submitted false evidence in order to institute charges against Plaintiff.
63. That Defendants agreed to continue to pursue and/or refuse to dismiss the criminal action against Plaintiff despite the fact that they knew they had no probable cause to support that Plaintiff had committed any crime whatsoever.
64. That due to Defendants' refusal to dismiss the criminal charges wrongfully alleged against Plaintiff, Plaintiff was forced to participate in

unnecessary criminal proceedings in which all charges were ultimately dismissed against her on August 2, 2019.

65. That as a result of Defendants' unlawful actions, Plaintiff sustained injuries and damages.

WHEREFORE Plaintiff respectfully requests that this Honorable Court enter an award in her favor and against Defendants in an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00 00) exclusive of interests, costs, and attorney fees.

COUNT V
DEFENDANT LIVINGSTON COUNTY'S
CONSTITUTIONAL VIOLATIONS

66. Plaintiff realleges and incorporates by reference each and every paragraph of this Complaint as though fully set forth herein.
67. Defendant LIVINGSTON COUNTY acted intentionally and with deliberate indifference to the obvious and/or known risks to Plaintiff's safety, health, reputation, and/or liberty when it practiced and/or permitted customs and/or practices which resulted in violation of Plaintiff's constitutional rights complained of herein.

68. These unlawful customs, policies, and/or practices included, but were not limited to the following:
 - a. failing to train and supervise its employees;
 - b. failing to supervise, review, and/or discipline employees whom Defendant LIVINGSTON COUNTY knew or should have known were violating or were prone to violate citizens' constitutional rights, thereby permitting and/or encouraging its employees to engage in illegal conduct; and
 - c. failing to require its employees to comply with established policies and/or procedures and to discipline or reprimand employees who violated these established policies.
69. Defendant VAILLIENCOURT further acted as the final decision maker for Defendant LIVINGSTON COUNTY when he acted against Plaintiff in violation of her constitutional rights when he made false statements about her character, credibility, and performance as well as obstructing her job duties as a probation officer.
70. Defendants' violations of Plaintiff's constitutional and statutory rights were a direct and proximate cause of her injuries.

71. The facts as set forth in the preceding paragraphs constitute a violation of Plaintiff's clearly established constitutional rights and pursuant to 42 U.S.C. § 1983, Plaintiff has a viable claim for compensatory and punitive damages as well as interest, costs, and attorney fees.

WHEREFORE Plaintiff respectfully requests that this Honorable Court enter an award in her favor and against Defendants in an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00 00) exclusive of interests, costs, and attorney fees.

COUNT VI
TORTIOUS INTERFERENCE WITH A BUSINESS RELATIONSHIP AS TO DEFENDANT VAILLIENCOURT AND DEFENDANT TAYLOR

72. Plaintiff realleges and incorporates by reference each and every paragraph of this Complaint as though fully set forth herein.

73. At all times relevant to this Complaint, Plaintiff had a business relationship with MDOC in which she was employed as a probation officer.

74. Defendants VAILLIENCOURT and TAYLOR had knowledge of Plaintiff's business relationship with MDOC.

75. Defendants VAILLIENCOURT and TAYLOR intentionally interfered with Plaintiff's business relationship with the MDOC which included, but is not limited to the following: knowingly providing false accusations of

perjury to MDOC; obstructing her job duties as referenced above, and prepared and submitted a warrant request in order to have her unlawfully arrested without probable cause.

76. That as a result of Defendants' unlawful actions, Plaintiff sustained injuries and damages which included, but is not limited to, suspension without pay, potential loss of earnings and earning capacity, and loss of career opportunities.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter an award in her favor and against Defendants in an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00) exclusive of costs, interest, and attorney fees.

Respectfully Submitted,
CHRISTOPHER TRAINOR & ASSOCIATES

BY: /s/ Christopher J. Trainor

CHRISTOPHER J. TRAINOR (P42449)

AMY J. DEROUIN (P70514)

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Dated: May 19, 2020
CJT/ajd

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

SHALIMAR HOWARD,
Plaintiff,

v.

CASE NO:
HON:

LIVINGSTON COUNTY, CRAIG CARBERRY,
WILLIAM VAILLIENCOURT, and MIKE TAYLOR
in their individual and official capacities,

Defendants.

<p>CHRISTOPHER TRAINOR & ASSOCIATES CHRISTOPHER J. TRAINOR (P42449) AMY J. DEROUIN (P70514) Attorneys for Plaintiff 9750 Highland Road White Lake, MI 48386 (248) 886-8650 (248) 698-3321-fax Amy.derouin@cjtrainor.com</p>	
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DEMAND FOR TRIAL BY JURY

NOW COMES Plaintiff, **SHALIMAR HOWARD**, by and through her attorneys, CHRISTOPHER TRAINOR & ASSOCIATES, and hereby make a Demand for Trial by Jury in the above-captioned matter.

Respectfully Submitted,
CHRISTOPHER TRAINOR & ASSOCIATES

BY:/s/ Christopher J. Trainor _____
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Dated: May 19, 2020
CJT/ajd