Judicial Council of the Eleventh Circuit

COMPLAINT OF JUDICIAL MISCONDUCT OR DISABILITY

To begin the complaint process, complete this form and prepare the brief statement of facts described in item 5 (below). The RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, adopted by the Judicial Conference of the United States, contain information on what to include in a complaint (Rule 6), where to file a complaint (Rule 7), and other important matters. The rules are available in federal court clerks' offices, on individual federal courts' Web sites, and on www.uscourts.gov.

Your complaint (this form and the statement of facts) should be typewritten and must be legible. For the number of copies to file, consult the local rules or clerk's office of the court in which your complaint is required to be filed. Enclose each copy of the complaint in an envelope marked "COMPLAINT OF MISCONDUCT" or "COMPLAINT OF DISABILITY" and submit it to the appropriate clerk of court**.**

1. Name of Complainant: Tiwanda Lovelace

Contact Address: 7368 San Pablin St.
Las Vegas, NV 89139

Daytime telephone: (702) 860-0116 or (702) 750-7190

2. Name(s) of Judge(s): **Hon. Judge William S. Duffey** of Northern District of Georgia – Atlanta Division AND

Court: **Hon. Black, Pryor and Kravitch** of Eleventh Circuit of Appeals

3. Does this complaint concern the behavior of the judge(s) in a particular lawsuit or lawsuits?

[X] Yes [ ] No

If "yes," give the following information about each lawsuit:

Court: Northern District of Georgia

Case Number: 1:03-CV-00925-JTC / 1:03-CV-00925-WSD

Docket number of any appeal to the 11TH Circuit: 04-16688-EE

Are (were) you a party or lawyer in the lawsuit?

[X] Party [ ] Lawyer [ ] Neither

THIS COMPLAINT OF MISCONDUCT INCLUDES: Attachments of Supporting Documents totaling 69 pages listed as (COM) pages numbered # 8-77.

If you are (were) a party and have (had) a lawyer, give the lawyer's name, address, and telephone number:

_____

_____

4. Have you filed any lawsuits against the judge?

[ ] Yes [X] No

If "yes," give the following information about each such lawsuit:

Court: _____

Case Number: _____

Present status of lawsuit: _____

Name, address, and telephone number of your lawyer for the lawsuit against the judge:

_____

_____

Court to which any appeal has been taken in the lawsuit against the judge:

_____

Docket number of the appeal: _____

Present status of the appeal: _____

5. **Brief Statement of Facts.** In accordance with rules, I have attached a **(5) five** page brief **Statement of Facts** (**pages numbered as 3-8**) on which the claim of judicial misconduct or disability is based. Including what happened, when and where it happened, and any information that would help an investigator check the facts. The complaint also includes an additional pages listed as **COM List of Attachments - (4 pages)**, **Background Summary of Facts (2 pages)** that form the basis of the allegations **includes copies of Docket Items and Supporting Documents - Totals (69 pages).**

NOTE: THIS COMPLAINT OF MISCONDUCT INCLUDES ATTACHMENTS of Supporting Documents totaling 69 pages listed as COM Pages, numbered # 8-77.

(82 pages total - 7a,b & 13 a-e)

6. **Declaration and signature:**

I declare under penalty of perjury that the statements made in this complaint are true and correct to the best of my knowledge.

(Signature) Tiwanda Lovelace (Date) 08-09-2015

COMPLAINT OF MISCONDUCT
BRIEF STATEMENT OF FACTS

This Complaint of Misconduct alleges that Hon. Judge William S. Duffey of Northern District of Georgia – Atlanta Division committed the acts listed:

> Litigant…treated in a demonstrably egregious and hostile manner; AND The Court(s) delay of this Complaint arose out of an illicit motive and in order to assist the Def. who are a governmental entity, evade accountability; AND The judge's used their office to offer special treatment when minority Pltf. files suit against governmental agencies; AND Discrimination against minority female litigant on account of race, ethnicity, sex…through manipulation of filings/docket entries; thus, obstructing justice.' See COM pgs. 8-77.

Each act alleged, leads to a substantial and widespread lowering the public's confidence in the courts. Each instance listed would never have happened so blatantly if Pltf. were not a minority female filing in Forma Pauperis. The 'Courts' (refers to Judge and its Clerks) maintained control of all filings and Certificate of Service but used its office to offer favor for Defendants through mislabeling, editing, withholding, manipulation and delaying filings and motions. Litigant alleges and provides supporting documentation of the following allegations;

1. While under control of Judge's, some Clerk employees, ignored, mislabeled, and manipulated some Docket entries, withheld filings and motions which greatly assisted the Def. It is egregious when a litigant submits filings to the

Courts; yet, 'they' work against Pltf. (See COM-Pgs. #26-28, 35-54, 57, 66).

2. Although Hon. Jack T. Camp cited Collins, 503 U.S. 123, 112 S. Ct. at 1067…'local government "can be found liable under 1983…for 'willful misconduct' and …'conscious indifference.' The Courts never acknowledged this part of Order AND then switched to a judge who would ignore Docket that shows Summons processed and accept Def's. Answer stating that they weren't Served and are not 'suable entity'- (4 mos. Late) (See Attached: COM-Pgs. # 14-19, 20-25, 59-61 or See Docket Item #7, pg. 7-8 and Docket #17).
3. Courts refused to acknowledge Pltf.'s filings of REPEATED Motions for Correction and Notice of (Clerks) Error's, indicated cause for concern with the - *1st Motion filed, April 1, 2003* - Document #5 regarding the editing of filings, and removal of the Dekalb County Police from the Docket when clearly listed on Complaint and *2nd Motion filed July 27, 2004* - Docket #14 regarding Clerks mislabeling and withholding filings. Both Judges ignored that these Motions demonstrated a serious concern and neither acknowledged as serious infraction; therefore, 'they' condoned and were most likely were colluding. (See COM-Pgs. #35-37, 28-50, 51-54, 57. Also see COM pgs. 14-19 –Pacer Printout).
4. Courts created the question of service and (again) incorrectly listed Def. as Dekalb Central Probation, changing at their discretion. In response to Pltf.'s Request for Entry of Default, Clerks sent a Notice to both; Pltf. and Def.:

Notice to respond to Summary Judgment dated April 23, 2004. This Notice instructed the Def. to Answer within 20 days. Both Def. Counsel were the same, but filed no answer. (See Docket item #11-2 or See COM-Pgs. # 19-24, 55-56).

5. The Amended Motion (27 pages of supporting docs) was submitted in triplicate and mailed to Clerks for Def. on May 6, 2004- (See COM-Pgs. #29-34); The Courts unfairly allowed Def. an additional (4) four months to Answer and to blame Plaintiff, although Court Order shows Clerks had duty to process service and docket shows processed. (See COM-Pgs. #29-31, 32-33, 34, 57. See Docket #17-ANSWER AND Response filed August 19, 2004). See COM pgs. 59-65.
6. After the case was conveniently reassigned to Hon. Judge William S. Duffey, suddenly the initials kt (I assume was Kahn, Thomas) were *'handling'* ALL of the motions, pleadings and my filings (that laid mislabeled and dormant until such time that they could then be disregarded). (See COM-Pgs. #59-61 & 66 and See Docket Entries #15-21). Ignoring facts…COM 26-30. See COM 31…
7. *Without my signature,* Courts began a second Summons Process and allowed Def. to file Motions to Strike filings and blame Pltf. for Service. Clerks advised Def. Answer was due July 29, 2004. Def. still didn't file ANSWER until August 19, 2004. (COM-Pgs. #31, 57, 59-61, 62-66 & (btwn) Docket #13 #14.
8. The Courts ensured delay after delay for Pltf's. filings although Complaint was filed initially April 4, 2003 (1 year and 7 mos. earlier); However, Def. filings

were expedited and addressed within 30 days from Def (extremely late, generic) Answer. (See COM-Pgs. #57, 59-61, 62-66 and See Docket Entry #17-21.

9. Judge William S. Duffey accepted and recited the Def. as if, factual, even when it clearly contradicted with Orders & Docket– (See Docket # 24 – Order, Section II – page 3 and See COM-Pgs. #59-61, 62-66); However, while clearly only using words like 'alleged' when referencing Pltf...Blatantly offering favoritism toward Def. (See Docket # 24 – Order, Section I – page 2).

10. Court referenced the initial Judges Order, only utilizing 'in part' the section that provides basis for bias in that the Court disregarded Order delegating Clerks to process service. See Attach# - Pltf. properly filed ALL documents in triplicate & Docket [11-2] Full docket text says: *Notice of [11-2…mailed 04/2/2004(bsm).* (See COM-Pgs. #32, 34, 55, 56 & See Certif'd Mail Receipts).

11. Courts also refused to acknowledge other filings by Pltf..; such as, Pltf.'s Response to Def. untimely Answer and Pltf.'s Opposition to Def. Motion to Dismiss, which refuted Defendants 'denial of Service and accusations of Pltf.'s Motions being improperly filed– (See Docket # 24 – Order, Section II – page 3). Plaintiffs shouldn't have to fight Court and its Clerk when filing Complaints. See COM pgs. 67-69, 72-77. COM pgs. 14-19 –Pacer Printout.

COURT OF APPEALS Complaint- Hon. Black, Pryor and Kravitch of 11th Circuit

The Court of Appeals Judges deliberated and their response did not coincide with

my Complaint. The response mentioned that my claim was filed *only* under 42 U.S.C. 1983 and added that it was dismissed for 'failure to state a claim' but 'this' was not applicable (see Docket #33,)…the Courts reasons for dismissal was that 'Def. were not a suable entity' and for 'lack of service.' Despite Clerks being delegated for Service Process AND despite Hon. Jack T. Campbell's ruling (Def.) *'...can be held liable'* – Docket Item #7, page 8), EACH, Judge did not review any of Pltf.'s filings or they would have clearly recognized foul play. It was as if they were prepped and/or did not even review the Complaint. Therefore, demonstrating a standard response without even reviewing the facts, the filings, which assisted Def. and Clerks in noncompliance of Court Rules. (See Docket #33 Sect. I, pgs. 2, 4-footnote. See COM 20-27). Most Complaints that are filed against governmental agencies by minority litigants are summarily dismissed for *'failure to state a claim'* or the entity is deemed as an *'un-suable entity.'* In addition, the Court of Appeals stated, '(Def.) were not served properly…we need not address that issue.' No one acknowledged Clerks duty to Process Service simply circumvented justice. (Docket #33 Sect. I, pgs. 2, 4-footnote. COM pgs. 20-27. Each act alleged in this Complaint, Obstructs Justice, leads to a substantial and widespread lowering the public's confidence in the courts. Each instance listed would never have happened so blatantly if Pltf. were not a minority female filing in Forma Pauperis against a governmental agency. I'd like to address the timeliness of this Complaint below.

TIMELINESS OF MISCONDUCT COMPLAINT

Regarding the timeliness of this complaint, Plaintiff has suffered continued opposition from many governmental agencies who has 'under color of law' taken housing and gainful employment. Plaintiff has been barred from obtaining legal representation due to parties involved. Without stable housing and living conditions, Litigant had been physically unable to compile the necessary supporting documentation (See COM-Pgs. #71). To this day, Def., Dekalb County Police, has refused to correct, update CGIC and forward corrections to CJIS. Recently, records reflects inaccurate information, charges and recently displayed a photo of a black male as being Pltf... (See COM-Pgs. #70). In the blink of an eye and with no hesitation, I was deliberately deprived my opportunity for justice by the Courts Judges, Clerks AND the Def. (as demonstrated in COM pgs. 8-77). The Courts disregard for minority, female plaintiff has led to recent incident where Pltf. was detained, handcuffed, paraded and detained due to inaccuracies maintained on CGIC and CJIS. The behavior of the Court Judges and its Clerks not only condoned the Def. actions prior to the Complaint BUT facilitated the continuation of violation of and deprivation rights…which continues today. Plaintiff has been subject to years of unnatural opposition, persecution due to negative public opinion on lawsuits against state/governmental entities; thus, giving 'Cart Blanche' or a license for obstructing justice and deprivation of Rights.

(COM) COMPLAINT OF MISCONDUCT ATTACHMENTS
(Supporting Documents - 64 pages, numbered #8-77)

- **COM-Page(s) #11-12:** Background and Summary of Complaint. (2 pages)
- **COM-Page(s) #14-19:** Copy of Pacer Docket List of Entries/Items (6 pages).
- **COM-Page(s) #19:** Copy of 1st page of **COMPLAINT**, initially filed March 11, 2003. After 9 months, ALLOWED TO PROCEED. See Docket Item #2 Section I - page(s) 1, 2 and Section II - page 2. See Docket # 4 – Order: Mag. Judge Alan J. Baverman GRANTED affidavit to proceed in forma pauperis on April 4, 2003.
- **COM-Page(s) #20-25:** A Copy of **ORDER**, Hon. Judge Camp advised, *"…To sufficiently plead a § 1983 claim against a local government entity, a Pltf.. must allege…AND… A local government entity "can be found liable under § 1983 only where the [entity] itself causes the constitutional violation*
- *at issue." AND when referencing Lovelace, the Judge added, "Pltf. has adequately stated claims upon which relief can be granted, and her claims have an arguable basis in law and fact."* Refer to Docket Item #7, page 6, 7 & 8 (6 pages- 1, 6-10).
- **COM-Page(s) #26-28:** Printout of Docket list Item #7: Order shows Clerks had duty to process service (3 pages).
- **COM-Page(s) #29-31:** Copies of Plaintiff's completed service forms to

Courts Clerk on February 17, 2004 AND Original Summons shows mailed/issued March 16, 2004 shows signed and processed by clerk. Summons signed and submitted. Printout of Docket List confirming Service (3 pages).

- **COM-Page(s) #32-33**Copies of BOTH; the Initial signed USM-285 and the 2nd USM-285 unsigned, and initiated by Courts Clerks (2 pages).
- **COM-Page(s) #34:** Copies of Certified Mail Receipts demonstrating filings and motions sent in triplicate to Courts Clerks. Reference for Docket Items # 8, 11-12. (1 page).
- Reference Docket Items #11, 12 Section II – page 3:
    - Motion(s): **Request for Entry of Default Due to Def. Failure to Answer And Request for Summary Judgment** dated April 23, 2004
    - **Amended Motion for Summary Judgment w/ Supporting Documentation to Support Genuine Issue for Trial** filed May 6, 2004 (1st 6 pages only – see #10 (below), 7 pages not included in this Complaint **COM-Page(s) #45-50**).
- Copies of both **Motion(s) for Correction and Notice of Error:**
    - **COM-Page(s) #35-37:** Docket #5: 1st Motion dated April 15, 2003 – regarding Clerks removal, editing of or manipulating Plaintiffs filings (3 pages – #1, 5 & 7).

- **COM-Page(s) #38-50:** Docket #5: 2nd Motion dated July 27, 2004 – Regarding Clerks withholding, manipulating, delaying and mislabeling Motions (13 pages – includes 1st 6 pages of Amended Motion dated May 6, 2004).

- **COM-Page(s) #51-52:** Copy of Docket Notation between and under # *13* - # *14*: shows only Item 11 (filed April 23, 2004) was submitted to newly assigned Judge Duffey on JULY 15, 20014…CLEARLY, withholding Item 12-Amended Motion (filed May 6, 2004). (2 pages).
- **COM-Page(s) #53-54:** Copy of Docket Notation on System showing Item 12-Amended Motion (filed May 6, 2004) mislabeled (2 pages).
- **COM-Page(s) #55-56:** Docket item #11-2: Clerks sent, Notice to respond to Summary Judgment allocating Defendants time for response is (20) twenty days... (2 pages).
- **COM-Page(s) #57:** A copy of Docket notation which is manipulated to reflect that Plaintiff executed a second Summons when the Courts processed on its own. This entry also confirms Defendants ignored deadline. (1 page).
- **COM-Page(s) #58:** Docket Notation under # *13* - # *14*: Case Reassigned to Judge William S. Duffey on July 15, 20014 (1 page).
- **COM-Page(s) #59-61:** Docket # 17: Defendants ANSWER finally filed August 14, 2004 (1-3 pages) and Response to Plaintiffs Request for Entry of

Default (4 pages 1-4).

- **COM-Page(s) #62-65:** Docket # 24 & #25: Judge William S Duffey - Order of Dismissal shows favor and willfully delayed out of an illicit motive and in order to assist the Def. who are a governmental entity, evade accountability.
- **COM-Page(s) #66:** See Docket Entries #15-21: Clerk Initials (kt) were *'handling'* ALL of the motions, pleadings and my filings (that laid mislabeled and dormant (1 page).
- **COM-Page(s) #67-69:** Partial copy of Docket #33: The Judges COA incorrectly stated, 'claim was filed *only* under 42 U.S.C. 1983' and added that it was 'dismissed for 'failure to state a claim' but 'this' was not applicable. They never questioned whether Clerks duty to provide Service of Summons on IFP and Pro Se case.
- **COM-Page(s) #70:** A Copy of Recent background search reflecting inaccurate information, charges and on March 8, 2014, Georgia government site displayed a photo of a black male listed as being Pltf. (1 page).
- **COM-Page(s) #71:** A copy of a letter referencing the use of an illegally obtained warrant to take housing and employment for decades from plaintiff (1 page).
- **COM-Page(s) #72-77:** A partial copy of Docket # 20 - Plaintiffs Memorandum in Opposition of Defendants Motion to Dismiss (1st 6 pages).

BACKGROUND AND SUMMARY OF COMPLAINT

On March 11, 2003, Pltf. filed civil action in the U.S. District Court, against Def. Dekalb Central Probation and the Dekalb County Police Dept. under 28 USC, 42 U.S.C. §1983, 28 U.S.C. § 2201 and 42 U.S.C. 1983 and 1988, 28 U.S.C. § 2680 (a) and (h), alleging violations of the Due Process and Equal Protection Clauses of the 14th Amendment; asserting a general "deprivation of rights." (Docket Item #2 Section I - page(s) 1, 2 and Section II - page 2).

Pltf. alleged that Dekalb County Police, acting under color of state law, caused various constitutional harms and engaged in "willful misconduct… conscious indifference" by failing to train and supervise its employees in the entry and maintenance of criminal history information in CJIS and GCIC. Mag. Judge Alan J. Baverman GRANTED affidavit to proceed in forma pauperis on April 4, 2003. *See Docket # 4 – Order*. Hon. Jack T. Camp DISMISSED claims against Def., Dekalb Central Probation; however, ALLOWED TO PROCEED with claims against Def. -Dekalb County Police Dept. on January 30, 2004.

> Hon. Jack T. Camp stated: "…To sufficiently plead a § 1983 claim against a local government entity, a Pltf.. must allege that: (1) the government entity inadequately trained or supervised its employees; (2) the failure resulted from an official policy of the government entity; and (3) the policy caused the employees to violate the Pltf.'s rights…but (they) deliberately chose not to take any action (demonstrating) deliberate indifference to the rights of person with whom the police come into contact"). A local government entity "can be found liable under § 1983 only where the [entity] itself causes the constitutional violation at issue." 'Pltf. has adequately stated claims upon

> which relief can be granted, and her claims have an arguable basis in law and fact.' (See Docket Item #7, pgs. 7 & 8. See COM-Pgs. # 14-19, 20-25)

After (9) nine months, Clerks were ordered to process Service on Def... Pltf. turned in all completed service forms to Courts Clerk on February 17, 2004. Summons shows mailed/issued March 16, 2004 – See Docket # 9 and See Attach. # shows signed and processed by clerk. Also see COM-Page(s) #29-33. Order-COM 20-27.

Case was reassigned to Hon. William S. Duffey on July 15, 20014, After Pltf. filed Motion(s): Request for Entry of Default Due to Def. Failure to Answer And Request for Summary Judgment dated April 23, 2004 & Amended Motion for Summary Judgment w/ Supporting Documentation to Support Genuine Issue for Trial filed May 6, 2004 – *See Docket #11, 12 Section II – page 3 and - See Docket Notation under # 13 - # 14… and/or review COM pgs.14-19 Pacer Printout.*

Def. did not file Answer until August 19, 2004. See Docket # 17: Defendants ANSWER. The Courts ensured delay after delay for Pltf.'s. filings - Complaint was filed initially April 4, 2003 (1 year and 7 mos. earlier); However, Def. filings were expedited and addressed within 30 days from Def (extremely late, generic) Answer. (See COM-Pgs. #57, 59-61, 62-66 and See Docket Entry #17-21 and/or review COM pgs.14-19 Pacer Printout.

Case dismissed - *See Docket # 24 & #25 - ORDER.*

which relief can be granted, and her claims have an arguable basis in law and fact.' (See Docket Item #7, page 7 & 8.)

After (9) nine months, Clerks were ordered to process Service on Def... Pltf. turned in all completed service forms to Courts Clerk on February 17, 2004. Summons shows mailed/issued March 16, 2004 – See Docket # 9 and See Attach. # shows signed and processed by clerk.

Case was reassigned to Hon. William S. Duffey on July 15, 20014, After Pltf. filed Motion(s): Request for Entry of Default Due to Def. Failure to Answer And Request for Summary Judgment dated April 23, 2004 & Amended Motion for Summary Judgment w/ Supporting Documentation to Support Genuine Issue for Trial filed May 6, 2004 – *See Docket #11, 12 Section II – page 3 and - See Docket Notation under # 13 - # 14...*

Def. did not file Answer until August 14, 2004. See Docket # 17: Defendants ANSWER. The Courts ensured delay after delay for Pltf's. filings - Complaint was filed initially April 4, 2003 (1 year and 7 mos. earlier); However, Def. filings were expedited and addressed within 30 days from Def (extremely late, generic) Answer. (See COM-Pgs. #57, 59-61, 62-66 and See Docket Entry #17-21.

Case dismissed - *See Docket # 24 & #25 - ORDER.*

4months,CLOSED

U.S. District Court
Northern District of Georgia (Atlanta)
CIVIL DOCKET FOR CASE #: 1:03-cv-00925-WSD

Lovelace v. DeKalb Central Proba, et al
Assigned to: Judge William S. Duffey, Jr
Demand: $0
Case in other court: USCA - 11th Circuit, 04-16688-EE
Cause: 42:1983 Civil Rights Act

Date Filed: 04/04/2003
Date Terminated: 11/24/2004
Jury Demand: None
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

Tiwanda Lovelace

represented by **Tiwanda Lovelace**
P.O. Box 232091
Las Vegas, NV 89123
PRO SE

V.

Defendant

DeKalb Central Probation
TERMINATED: 01/30/2004

Defendant

Dekalb County Police Department

represented by **Charles George Hicks**
Office of DeKalb County Attorney
DeKalb County Administration Building
1300 Commerce Drive
Fifth Floor
Decatur, GA 30030
404-371-3011
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Mark Ashland Thompson
DeKalb County Law Department
1300 Commerce Dr.
5th Floor
Decatur, GA 30030
404-371-3011
Email:
mathompson@dekalbcountyga.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Rupal Dinesh Vaishnav

Indermark Vaishnav, LLC
Building 9, Suite 100
7000 Peachtree Dunwoody Road
Atlanta, GA 30328
678-615-3413
Fax: 678-455-7149
Email: rupal@i-vlaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

William J. Linkous , III
Freeman Mathis & Gary, LLP
100 Galleria Parkway
Suite 1600
Atlanta, GA 30339-5948
770-818-0000
Fax: 770-937-9960
Email:
william.linkous@gwinnettcounty.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
03/11/2003	1	Affidavit in support of request to proceed in forma pauperis. (aet) (Entered: 03/13/2003)
03/11/2003	2	COMPLAINT filed. (aet) (Entered: 03/13/2003)
03/11/2003	3	ANSWERS TO INITIAL DISCLOSURES by plaintiff. (aet) (Entered: 03/13/2003)
03/13/2003		SUBMITTED to Mag Judge Alan J. Baverman on [1-1] affidavit (aet) (Entered: 03/13/2003)
04/04/2003		Case reported statistically. Matter transferred from 1:03-mi-53. Case assigned to Judge Jack T. Camp (Calendar sheet forwarded) (aet) (Entered: 04/08/2003)
04/04/2003	4	ORDER by Mag Judge Alan J. Baverman GRANTING [1-1] affidavit to proceed in forma pauperis. The Clerk is directed to assign this case to a District Judge for a frivolity determination pursuant to 28 U.S.C. 1915(e) (cc) (cdg) (Entered: 04/09/2003)
04/04/2003		Terminated submissions. (cdg) (Entered: 04/09/2003)
04/09/2003		SUBMITTED to Judge Jack T. Camp on [1-1] affidavit for frivolity determination. (cdg) (Entered: 04/09/2003)
04/15/2003	5	MOTION by plaintiff for correction and notice of error: District court clerk excluded 1st dft from complaint with brief in support. (cdg) (Entered: 04/15/2003)
05/08/2003		SUBMITTED to Judge Jack T. Camp on [5-1] motion for correction and notice of error: District court clerk excluded 1st dft from complaint (file in chambers) (cdg) (Entered: 05/08/2003)

07/30/2003	6	Notice of filing change of address by plaintiff. (cdg) (Entered: 08/05/2003)
01/30/2004	7	ORDER by Judge Jack T. Camp GRANTING [5-1] motion for correction and notice of error: the court DIRECTS the Clerk to list Dekalb County Police Department as a defendant on the docket; the Court DISMISSES w/prejudice plaintiff's claims against dft Dekalb Central Probation; pla's claims against the Dekalb County Police Department are ALLOWED TO PROCEED as any other civil action. Clerk to forward USM285 forms to plaintiff to be completed w/in 20 days. [7-1] order to be submitted on 2/26/04 , (cc: w/usm285, summons, and initidiscl forms) (kt) (Entered: 02/02/2004)
02/17/2004	8	ANSWERS TO INITIAL DISCLOSURES by plaintiff. (dfb) (Entered: 02/24/2004)
02/17/2004		Received summons and USM-285 form from plaintiff for dft DeKalb County Police Dept. (dfb) (Entered: 02/24/2004)
03/16/2004	9	Summons issued for defendant Dekalb County Police. (dfb) (Entered: 03/16/2004)
03/16/2004		Package prepared and forwarded to USM for service upon defendant Dekalb County Police. (dfb) (Entered: 03/16/2004)
03/18/2004	10	REQUEST FOR WAIVER of Service as to Dekalb County Police mailed 3/17/04 Waiver of Service due by 4/16/04 for Dekalb County Police (bsm) (Entered: 03/20/2004)
04/23/2004	11	MOTION by Tiwanda Lovelace for clerk to enter default as to Dekalb County Police and for summary judgment (bsm) (Entered: 04/26/2004)
04/26/2004		Notice of [11-2] motion for summary judgment by Tiwanda Lovelace filed 4/23/04 mailed 4/26/04. (bsm) (Entered: 04/26/2004)
05/06/2004	12	Amended MOTION by plaintiff amending [11-1] motion for clerk to enter default as to Dekalb County Police, [11-2] motion for summary judgment (fmm) (Entered: 05/07/2004)
06/23/2004		SUBMITTED to Judge Jack T. Camp on [11-1] motion for clerk to enter default as to Dekalb County Police, [11-2] motion for summary judgment (cdg) (Entered: 06/23/2004)
07/12/2004	13	Return of Service Executed by Tiwanda Lovelace. Dekalb County Police Department served on 7/9/2004, answer due 7/29/2004.(cdg) (Entered: 07/20/2004)
07/15/2004		Case reassigned to Judge William S. Duffey for all further proceedings. (mmc) (Entered: 07/21/2004)
07/15/2004		Submission of 11 Motion for Clerk's Entry of Default, Motion for Summary Judgment to District Judge William S. Duffey Jr.. (mmc) (Entered: 07/21/2004)
07/27/2004	14	MOTION for correction and request for Clerk to submit 12 amended motion to Judge William S. Duffey, Jr.by Tiwanda Lovelace. (adg) (Entered: 08/02/2004)
08/02/2004		Submission of 12 Amended Motion for Clerk to enter default, submitted to District Judge William S. Duffey Jr. (FILE IN CHAMBERS) (adg) (Entered: 08/02/2004)
08/16/2004	16	CERTIFICATE OF SERVICE of plaintiff's response to defendant's 2nd interrogatories, by Tiwanda Lovelace. (kt) (Entered: 08/20/2004)

08/17/2004	15	MOTION to Dismiss, with brief in support, by Dekalb County Police Department. (Attachments: # 1 Brief)(kt) (Entered: 08/20/2004)
08/19/2004	17	ANSWER to Complaint by Dekalb County Police Department. Discovery ends on 1/16/2005.(kt) (Entered: 08/20/2004)
08/19/2004	18	MOTION to Strike, with brief in support, Plaintiff's papers filed with the Clerk in accordance with this Court's 7 Order, by Dekalb County Police Department. (Attachments: # 1 Brief)(kt) (Entered: 08/20/2004)
08/27/2004	19	RESPONSE to 11 Motion for Clerk's Entry of Default, and 12 Amended Motion for Clerk's Entry of Default, filed by Dekalb County Police Department. (kt) (Entered: 08/31/2004)
09/02/2004	22	CERTIFICATE OF SERVICE REFLECTING RE-SERVICE OF DOCUMENTS, by Dekalb County Police Department. (kt) (Entered: 09/17/2004)
09/03/2004	20	MEMORANDUM in Opposition TO 15 MOTION to Dismiss, filed by Tiwanda Lovelace. (kt) (Entered: 09/14/2004)
09/13/2004	23	NOTICE Of Filing Response to defendants' 17 Answer to Complaint, by Tiwanda Lovelace. (kt) (Entered: 09/20/2004)
09/14/2004		Submission of 15 MOTION to Dismiss, to District Judge William S. Duffey Jr.. (kt) (Entered: 09/14/2004)
09/15/2004	21	REPLY BRIEF in support of 15 MOTION to Dismiss, filed by Dekalb County Police Department. (kt) (Entered: 09/17/2004)
09/17/2004		ORDER (by docket entry only) denying as moot 11 Motion for Clerks Entry of Default, denying as moot 11 Motion for Summary Judgment in light of Pff's filing of Amended Motion for Entry of Default and Motion for Summary Judgment 12 . Approved by Judge William S. Duffey Jr. on 9/17/04. (se) (Entered: 09/17/2004)
11/24/2004	24	ORDER granting Defendant's 15 Motion to Dismiss,denying Plaintiff's 12 Request for Entry of Default and Request for Summary Judgment, granting Plaintiff's 14 Motion for Correction and Request for District Court Clerk to Submit Amended Motion to Judge William S. Duffey, Jr. and granting in part and denying in part Defendant's 18 Motion to Strike Plaintiff's Papers Filed with Clerk. Plaintiff's case is DISMISSED WITHOUT PREJUDICE. Signed by Judge William S. Duffey, Jr. on 11/24/04. (dfb) (Entered: 11/29/2004)
11/24/2004		Civil Case Terminated. (dfb) (Entered: 11/29/2004)
11/29/2004	25	CLERK'S JUDGMENT dismissing Plaintiff's complaint without prejudice. (cc) (dfb) (Entered: 11/29/2004)
12/22/2004	26	NOTICE OF APPEAL by Tiwanda Lovelace as to 24 Order 25 Clerk's Judgment. (TOF/IFP/Appeal fee letter mailed to plaintiff)(cc:USCA) Transcript Order Form due on 1/5/2005 (ckd) (Entered: 12/23/2004)
12/23/2004		Transmission of certifed copy of Notice of Appeal, Judgment, Order, Appeal Fee letter and Docket Sheet to US Court of Appeals re: 26 Notice of Appeal (ckd) (Entered: 12/23/2004)
12/30/2004	27	USCA Acknowledgment of 26 Notice of Appeal filed by Tiwanda Lovelace C

		Appealed to USCA - 11th Circuit Case Number 04-16688-E (kac) (Entered: 01/03/2005)
01/13/2005	28	MOTION and DECLARATION for leave to Appeal in forma pauperis by Tiwanda Lovelace. (kac) (Entered: 01/18/2005)
01/18/2005		Submission of 28 MOTION and DECLARATION to Appeal in forma pauperis re: 26 Notice of Appeal submitted to District Judge William S. Duffey. (kac) (Entered: 01/18/2005)
01/19/2005	29	ORDER granting 28 Motion to Appeal in forma pauperis. Signed by Judge William S. Duffey Jr. on 1/19/05. (kt) (Entered: 01/21/2005)
04/08/2005		CERTIFICATE OF READINESS of Appeal Record (1 volume pleadings)re: 26 Notice of Appeal filed by Tiwanda Lovelace, USCA Case Number 04-16688-EE (ckd) (Entered: 04/11/2005)
04/11/2005	30	Certified copy of CERTIFICATE OF READINESS transmitted to USCA re: 26 Notice of Appeal. Case Appealed to USCA 11th Circuit Case Number 04-16688-EE (ckd) (Entered: 04/11/2005)
04/11/2005		FORTHWITH LETTER from USCA re: 26 Notice of Appeal filed by Tiwanda Lovelace. Case Appealed to USCA 11th Circuit Case Number 04-16688-EE. Appeal Record due by 4/25/2005. (ckd) (Entered: 04/11/2005)
04/11/2005		Certified and Transmitted Record on Appeal to US Court of Appeals (1 volume pleadings) re: 26 Notice of Appeal Case Appealed to USCA 11th Circuit Case Number 04-16688-EE. (ckd) (Entered: 04/11/2005)
04/15/2005	31	USCA Acknowledgment COR re: 26 Notice of Appeal filed by Tiwanda Lovelace, Case Appealed to USCA 11th Circuit Case Number 04-16688-EE. (ckd) (Entered: 04/18/2005)
04/18/2005	32	NOTICE of Docketing Record on Appeal from USCA re: 26 Notice of Appeal filed by Tiwanda Lovelace, Case Appealed to USCA 11th Circuit Case Number 04-16688-EE. (ckd) (Entered: 04/19/2005)
09/02/2005		Appeal Record Returned re: 26 Notice of Appeal. Case Appealed to USCA - 11th Circuit Case Number 04-16688-EE. (1 Vol. of Pldgs) (kac) (Entered: 09/06/2005)
09/02/2005	33	Certified copy of JUDGMENT of USCA AFFIRMING the decision of the District Court re: 26 Notice of Appeal filed by Tiwanda Lovelace. Case Appealed to USCA - 11th Circuit Case Number 04-16688-EE. (kac) (Entered: 09/06/2005)

PACER Service Center			
Transaction Receipt			
06/21/2015 19:33:58			
PACER Login:	7westpublishing:4546060:0	**Client Code:**	
Description:	Docket Report	**Search Criteria:**	1:03-cv-00925-WSD

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

TIWANDA LOVELACE,

Plaintiff

v.

DEKALB CENTRAL PROBATION,

Defendant.

CIVIL ACTION
NO. 1:03-CV-925-JTC

ORDER

Because the Magistrate granted Plaintiff, pro se, leave to proceed in forma pauperis [#4-1], this case is now before the Court for a frivolity review under 28 U.S.C. § 1915(e)(2). Also pending is Plaintiff's Motion for Correction and Notice of Error [#5-1] because the docket does not list the Dekalb County Police Department as a Defendant despite Plaintiff's naming such entity as a Defendant in her Complaint. The Court **GRANTS** Plaintiff's motion for correction [#5-1] and **DIRECTS** the Clerk to list the Dekalb County Police Department as a Defendant on the docket.

I. Background[1]

Plaintiff presently resides in Las Vegas, Nevada, but was formerly a resident of Duluth, Georgia. On July 31, 1992, Plaintiff plead guilty in the

[1] All facts are taken from Plaintiff's Complaint and are assumed to be true.

7

19

court;[4] (2) Congress abrogated the state's Eleventh Amendment immunity in legislation enacted under Section Five of the Fourteenth Amendment; or (3) the suit seeks prospective injunctive relief from an individual state official. Harbert Int'l, Inc. v. James, 157 F.3d 1271, 1277-78 (11th Cir. 1998). None of these exceptions apply in this case. Therefore, Dekalb Probation, a division of the Georgia Department of Corrections, is immune from Plaintiff's § 1983 suit. See Stevens v. Gay, 864 F.2d 113, 115 (11th Cir. 1989) (finding plaintiff's Section 1983 suit against the Georgia Department of Corrections barred under the Eleventh Amendment). Accordingly, the Court **DISMISSES with prejudice** Plaintiff's claims against Dekalb Probation.

The Court cannot say that Plaintiff's claims against the Dekalb County Police Department ("Dekalb Police") are frivolous or malicious, or that Plaintiff could prove no set of facts to support these claims.[5] Plaintiff alleges

---

[4] The State of Georgia may waive its Eleventh Amendment immunity only by legislative act. Ga. Const. Art. I, § II, ¶ IX(e). The State has legislatively waived its immunity only as to claims brought under the Georgia Tort Claims Act ("GTCA") in Georgia state courts. Ga. Const. Art. I, § II, ¶ IX(f); O.C.G.A. § 50-21-23(b); McCall v. Dep't of Human Res., 176 F. Supp. 2d 1355, 1361-62 (M.D. Ga. 2001) (observing that "the GTCA specifically disavows any intent to waive the state's Eleventh Amendment immunity" in federal suits); Ramey v. Ga. Dep't of Corr., 153 F. Supp. 2d 1382, 1387 (M.D. Ga. 2001) (same).

[5] It is unclear whether the Dekalb County Police Department is an independent legal entity capable of being sued. Nonetheless, for purposes of this frivolity review, the Court will consider Plaintiff's claims against the Police Department as claims against Dekalb County, which is a legal entity capable of being sued.

that the Dekalb Police failed to train and supervise its employees regarding maintenance of offenders' arrest records. Plaintiff alleges that these failures were intentional and that they deprived Plaintiff of her federal constitutional rights.

To sufficiently plead a § 1983 claim against a local government entity, a plaintiff must allege that: (1) the government entity inadequately trained or supervised its employees; (2) the failure resulted from an official policy of the government entity; and (3) the policy caused the employees to violate the plaintiff's rights. See Thomas ex rel. Thomas v. Roberts, 261 F.3d 1160, 1173 (11th Cir. 2001), rev'd on other grounds, 536 U.S. 953, 122 S. Ct. 2653 (2002). A plaintiff may prove that an official policy existed by showing that the government knew it needed to train or supervise its employees but deliberately chose not to take any action. Id. See also Collins v. City of Harker Heights, 503 U.S. 115, 123-24, 112 S. Ct. 1061, 1068 (1992) (noting that the failure to train or supervise must amount to "'deliberate indifference' to the rights of persons with whom the police come into contact") (citation omitted). A local government entity is not vicariously liable under § 1983 for the actions of its agents or employees. Collins, 503 U.S. at 123, 112 S. Ct. at 1067 (noting that a local government "can be found liable under § 1983 only

21

where the [entity] itself causes the constitutional violation at issue") (citation omitted).

Although Plaintiff's claims against Dekalb Police are not plead with great factual particularity, they are sufficient to survive a frivolity review under 28 U.S.C. § 1915(e)(2). Plaintiff alleges that Dekalb Police, acting under color of state law, engaged in "willful misconduct . . . that raises a presumption of conscious indifference to consequences" by failing to train and supervise its employees in the entry and maintenance of criminal history information in CJIS and GCIC. Plaintiff alleges that Dekalb Police's actions caused the various constitutional harms specified in her Complaint. Thus, Plaintiff has adequately stated claims upon which relief can be granted, and her claims have an arguable basis in law and fact.

IV. Conclusion

For the foregoing reasons, the Court **GRANTS** Plaintiff's motion for correction [#5-1] and **DIRECTS** the Clerk to list the Dekalb County Police Department as a Defendant on the docket. The Court **DISMISSES with prejudice** Plaintiff's claims against Defendant Dekalb Central Probation. Plaintiff's claims against the Dekalb County Police Department are **ALLOWED TO PROCEED** as any other civil action.

The Court **DIRECTS** the Clerk to send Plaintiff the USM 285 form, summons, and initial disclosures form. The Court **DIRECTS** Plaintiff to complete the USM 285 form, summons, and initial disclosures form, and to return one of each to the Clerk of the Court within twenty (20) days of Plaintiff's receipt of the forms. Plaintiff's failure to timely comply with these requirements may result in dismissal of this action. The Court **DIRECTS** the Clerk to resubmit this action to the undersigned if Plaintiff fails to comply with the above requirements.

Upon receipt of the completed forms, the Clerk shall prepare an envelope addressed to the U.S. Marshal Service and containing adequate first class postage for Defendant's use in returning the waiver forms. The Clerk shall transmit this envelope, along with the USM 285, summons, two (2) copies of the Notice of Lawsuit and Request for Waiver of Service of Summons form, two (2) copies of the waiver form, two (2) copies of the complaint, two (2) copies of Plaintiff's initial disclosures, and two (2) copies of this Order to the U.S. Marshal Service for mailing to Defendant.

The U.S. Marshal Service employee mailing these items to Defendant shall affix the mailing date and his or her signature to each Notice of Lawsuit and Request for Waiver form. The Court **DIRECTS** the U.S. Marshal Service to mail these items to Defendant and send a copy of the notice form to the

Clerk. If the waiver form is not returned to the U.S. Marshal Service within thirty-five (35) days, the U.S. Marshal Service shall personally serve the summons and complaint on Defendant. The executed waiver form or the completed USM 285 shall be filed with the Clerk. Defendant has a duty to avoid unnecessary costs of serving the summons, and if Defendant fails to comply with the request for waiver, it must bear the costs of personal service unless good cause can be shown for failure to return the waiver.

Plaintiff must also serve upon Defendant or its counsel a copy of every additional pleading or other document which is filed with the Clerk of the Court, including with each document filed a certificate stating the date on which an accurate copy of that document was mailed to Defendant or its counsel. The Court shall disregard any documents which have not been properly filed with the Clerk, or which do not include a certificate of service. Plaintiff shall keep the Court and Defendant advised of her current address at all times during the pendency of this action, and her failure to do so may result in dismissal of this action.

SO ORDERED, this 29 day of January, 2004.

JACK T. CAMP
UNITED STATES DISTRICT JUDGE

24

04/15/2003	5	MOTION by plaintiff for correction and notice of error: District court clerk excluded 1st dft from complaint with brief in support. (cdg) (Entered: 04/15/2003)
05/08/2003		SUBMITTED to Judge Jack T. Camp on [5-1] motion for correction and notice of error: District court clerk excluded 1st dft from complaint (file in chambers) (cdg) (Entered: 05/08/2003)
07/30/2003	6	Notice of filing change of address by plaintiff. (cdg) (Entered: 08/05/2003)
01/30/2004	7	ORDER by Judge Jack T. Camp GRANTING [5-1] motion for correction and notice of error: the court DIRECTS the Clerk to list Dekalb County Police Department as a defendant on the docket;\the Court DISMISSES w/prejudice plaintiff's claims against dft Dekalb Central Probation;\pla's claims against the Dekalb County Police Department are ALLOWED TO PROCEED as any other civil action.\Clerk to forward USM285 forms to plaintiff to be completed w/in 20 days. [7-1] order to be submitted on 2/26/04 , (cc: w/usm285, summons, and initidiscl forms) (kt) (Entered: 02/02/2004)
02/17/2004	8	ANSWERS TO INITIAL DISCLOSURES by plaintiff. (dfb) (Entered: 02/24/2004)
02/17/2004		Received summons and USM-285 form from plaintiff for dft DeKalb County Police Dept. (dfb) (Entered: 02/24/2004)
03/16/2004	9	Summons issued for defendant Dekalb County Police. (dfb) (Entered: 03/16/2004)
03/16/2004		Package prepared and forwarded to USM for service upon defendant Dekalb County Police. (dfb) (Entered: 03/16/2004)
03/18/2004	10	REQUEST FOR WAIVER of Service as to Dekalb County Police mailed 3/17/04

On 02-17-2004, Pacer Court records No. 8 – Plaintiff's USM285 forms and Summons were completed and returned. Lovelace returned ALL completed forms as directed.

Pacer No. 9 - shows that the <u>SUMMONS WAS ISSUED ON 03/16/2004</u> to the Defendants-Dekalb County Police Dept. BUT after (4) Four Months past the allotted (20) twenty days..

The Court **DIRECTS** the Clerk to send Plaintiff the USM 285 form, summons, and initial disclosures form. The Court **DIRECTS** Plaintiff to complete the USM 285 form, summons, and initial disclosures form, and to return one of each to the Clerk of the Court within twenty (20) days of Plaintiff's receipt of the forms. Plaintiff's failure to timely comply with these requirements may result in dismissal of this action. The Court **DIRECTS** the Clerk to resubmit this action to the undersigned if Plaintiff fails to comply with the above requirements.

Upon receipt of the completed forms, the Clerk shall prepare an envelope addressed to the U.S. Marshal Service and containing adequate first class postage for Defendant's use in returning the waiver forms. The Clerk shall transmit this envelope, along with the USM 285, summons, two (2) copies of the Notice of Lawsuit and Request for Waiver of Service of Summons form, two (2) copies of the waiver form, two (2) copies of the complaint, two (2) copies of Plaintiff's initial disclosures, and two (2) copies of this Order to the U.S. Marshal Service for mailing to Defendant.

The U.S. Marshal Service employee mailing these items to Defendant shall affix the mailing date and his or her signature to each Notice of Lawsuit and Request for Waiver form. The Court **DIRECTS** the U.S. Marshal Service to mail these items to Defendant and send a copy of the notice form to the

1:03-cv-00925-WSD Lovelace v. DeKalb Central Proba. et al
William S. Duffey, Jr. presiding
Date filed: 04/04/2003
Date terminated: 11/24/2004
Date of last filing: 09/02/2005

Docket Information and Related Docket Entries
Case 1:03-cv-00925-WSD Document 7

Filed: 01/30/2004
Entered: 02/02/2004
Entered By: Karen Thornton,
Event Name(s): Order, Order, USM 285 Service
Full Docket Text for Document 7:
ORDER by Judge Jack T. Camp GRANTING [5-1] motion for correction and notice of error: the court DIRECTS the Clerk to list Dekalb County Police Department as a defendant on the docket; the Court DISMISSES w/prejudice plaintiff's claims against dft Dekalb Central Probation; pla's claims against the Dekalb County Police Department are ALLOWED TO PROCEED as any other civil action. Clerk to forward USM285 forms to plaintiff to be completed w/in 20 days. [7-1] order to be submitted on 2/26/04 , (cc: w/usm285, summons, and initidisel forms) (kt)

All Related Docket Entries

Filed: 03/11/2003
Entered: 03/13/2003
Entered By: Former Employee,
Event Name(s): Affidavit
Full Docket Text for Document 1:
Affidavit in support of request to proceed in forma pauperis. (aet)

AO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

Northern District of Georgia

Tiwanda Lovelace

v.

DeKalb County Police Department

SUMMONS IN A CIVIL CASE

CASE NUMBER: 1:03-CV-925-JTC

TO: (Name and address of Defendant)

DeKalb County Police Department
c/o CEO Vernon Jones
Manuel J Maloof Center
1300 Commerce Dr., 6th Fl
Decatur GA 30030

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Tiwanda Lovelace
P.O. Box 232091
Las Vegas NV 89123

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

Luther D. Thomas
CLERK

3/16/04
DATE

Olma Bankhead
(By) DEPUTY CLERK

(9)

NOTICE OF LAWSUIT AND REQUEST FOR
WAIVER OF SERVICE OF SUMMONS

TO: DeKalb County Police Dept.
c/o CEO Vernon Jones
1300 Commerce Drive, 6th Floor
Decatur, GA 30030

Civil Action

No. 1:03-cv-925-JTC-JTC
Tiwanda Lovelace
vs.
DeKalb County Police Dept.

MAR 18 2004
Clerk
Deputy Clerk

A lawsuit has been commenced against you (or the entity on whose behalf you are addressed). A copy of the complaint is attached to this notice. It has been filed in the United States District Court for the Northern District of Georgia, Atlanta Division, and has been assigned the above case number. The enclosed Complaint WAIVER OF SERVICE OF SUMMONS form are served pursuant to Rule 4(d) of the Federal Rules of Civil Procedure.

This is not a formal summons or notification from the court, but rather my request that you sign and return the enclosed waiver of service in order to save the cost of serving you with a judicial summons and an additional copy of the complaint. The cost of service will be avoided if the United States Marshal's Service receives a signed copy of the waiver within 35 days after the date designated below as the date on which this Notice and Request is sent. I enclose a stamped and addressed envelope (or other means of cost-free return) for your use. An extra copy of the waiver is also attached for your records.

If you comply with this request and return the signed waiver, it will be filed with the court and no summons will be served on you. The action will then proceed as if you had been served on the date the waiver is filed, except that you will not be obligated to answer the complaint before 60 days from the date designated below as the date on which this notice is sent (or before 90 days from that date if your address is not in any judicial district of the United States).

If you do not return the signed waiver within the time indicated, appropriate steps will be taken to effect formal service in a manner authorized by the Federal Rules of Civil Procedure and then, to the extent authorized by those Rules, the court will be asked to require you (or the party on whose behalf you are addressed) to pay the full costs of such service. In that connection, please read the statement concerning the duty of parties to waive the service of the summons, which is set forth on the reverse side of the waiver form.

If you waive further service YOU MUST COMPLETE, SIGN AND DATE THE WAIVER OF SERVICE OF SUMMONS form ON ALL COPIES. If you are served on behalf of a corporation, unincorporated association (including a partnership), or other entity, you must indicate under your signature your relationship to that entity. If you are served on behalf of another person and you are authorized to receive process, you must indicate under your signature your authority.

This portion to be completed by U.S. Marshal's Service only.

I affirm that this request is being sent to you on behalf of the plaintiff, this 17th day of MAR, 2004.

Signature (USMS Official)

7	*Filed:* *Entered:*	01/30/2004 02/02/2004	Order
	Filed: *Entered:*	02/17/2004 02/24/2004	Remark
8	*Filed:* *Entered:*	02/17/2004 02/24/2004	DEACTIVATED-Response to Initial Disclosures
	Filed & Entered:	03/16/2004	USM 285 Service
9	*Filed & Entered:*	03/16/2004	Summons Issued
10	*Filed:* *Entered:*	03/18/2004 03/20/2004	Request for Waiver of Service
11	*Filed:* *Entered:* *Terminated:*	04/23/2004 04/26/2004 09/17/2004	Motion for Clerks Entry of Default
	Filed & Entered:	04/26/2004	Notice (Other)
12	*Filed:* *Entered:* *Terminated:*	05/06/2004 05/07/2004 11/24/2004	Motion for Miscellaneous Relief
	Filed & Entered:	06/23/2004	Submission to District Judge
13	*Filed:* *Entered:*	07/12/2004 07/20/2004	Return of Service Executed
	Filed: *Entered:*	07/15/2004 07/21/2004	Order Reassigning Case
	Filed: *Entered:*	07/15/2004 07/21/2004	Submission to District Judge

9 - SUMMONS WAS ISSUED 03/16/2004

12 - Clerks should have listed as Amended Motion for Summary Judgment instead of Motion for Miscellaneous Relief - Clerks delayed submitting to Judge

On 02-17-2004, Pacer Court records No. 8 – Plaintiff's USM285 forms and Summons were completed and returned. Lovelace returned ALL completed forms as directed. NOTE: Amended Motion (12) was not submitted to Judge. AND the Amended Motion for Entry of Default / Motion for Summary Judgment from 05/06/2004 to July even though Defendants had only 20 days to respond.

COURTS ALLOWED DEFENDANTS TO DENY SERVICE AND THEY PLACED BLAME ON PLAINTIFF WHEN COURTS CLERKS WAS CLEARLY ORDERED TO PROCESS.

U.S. DOJ Marshal USM-285 Initial Process Paperwork

NOTE: This was a part of the initial paperwork that was used by Clerks Office to process Service upon the Defendants. Per PACER Docket Item #9 – March 16, 2004 Clerks mailed.

U.S. Department of Justice
United States Marshals Service

PROCESS RECEIPT AND RETURN
See Instructions for "Service of Process by the U.S. Marshal" on the reverse of this form.

PLAINTIFF: Tiwanda Lovelace	COURT CASE NUMBER: 1 03 CV 0925
DEFENDANT: DeKalb County Police Department	TYPE OF PROCESS: Civil Complaint

SERVE ➡ **AT**

NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN
DeKalb County Police Department

ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code)
MANUEL J. MALOOF CENTER - CEO VERNON JONES
1300 Commerce Dr. 6th Floor DECATUR GA 30030

SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW:

Tiwanda Lovelace
P.O. Box 232091
LAS Vegas NV 89123

Number of process to be served with this Form - 285	1
Number of parties to be served in this case	1
Check for service on U.S.A.	

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE *(Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available For Service):*
Fold Fold

Signature of Attorney or other Originator requesting service on behalf of:		TELEPHONE NUMBER	DATE
Tiwanda Lovelace	☒ PLAINTIFF ☐ DEFENDANT	702-837-9894	02/07/04

SPACE BELOW FOR USE OF U.S. MARSHAL ONLY — DO NOT WRITE BELOW THIS LINE

I acknowledge receipt for the total number of process indicated. *(Sign only first USM 285 if more than one USM 285 is submitted)*	Total Process	District of Origin No.	District to Serve No.	Signature of Authorized USMS Deputy or Clerk	Date

I hereby certify and return that I ☐ have personally served, ☐ have legal evidence of service, ☐ have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., shown at the address inserted below.

☐ I hereby certify and return that I am unable to locate the individual, company, corporation, etc., named above *(See remarks below)*

Name and title of individual served *(if not shown above)*

☐ A person of suitable age and discretion then residing in the defendant's usual place of abode.

Address *(complete only if different than shown above)*

Date of Service | Time am pm

Signature of U.S. Marshal or Deputy

Service Fee	Total Mileage Charges *(including endeavors)*	Forwarding Fee	Total Charges	Advance Deposits	Amount owed to U.S. Marshal or	Amount of Refund

REMARKS:

PRIOR EDITIONS MAY BE USED

1. CLERK OF THE COURT

FORM USM-285 (Rev. 12/15/80)

Clerks Secondary U.S. DOJ Marshal's USM-285 Process of Service Form

U.S. Department of Justice
United States Marshals Service

PROCESS RECEIPT AND RETURN
See Instructions for "Service of Process by the U.S. Marshal" on the reverse of this form

PLAINTIFF: Tiwanda Lovelace
COURT CASE NUMBER: 1:03-cv-925 JTC
DEFENDANT: DeKalb County Police Dept & Vernon Jones
TYPE OF PROCESS: Civil Complaint

SERVE → NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC. TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN
DeKalb County Police Dept & Vernon Jones
AT ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code)
1300 Commerce Drive 6th Floor Decatur, GA 30030

SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW

Tiwanda Lovelace
P.O. Box 232091
Las Vegas, NV 89123

Number of process to be served with this Form - 285: 1
Number of parties to be served in this case:
Check for service on U.S.A.:

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available for Service):
Fold

Signature of Attorney or other Originator requesting service on behalf of ☐ PLAINTIFF ☐ DEFENDANT | TELEPHONE NUMBER | DATE

SPACE BELOW FOR USE OF U.S. MARSHAL ONLY — DO NOT WRITE BELOW THIS LINE

I acknowledge receipt for the total number of process indicated (Sign only first USM 285 if more than one USM 285 is submitted)	Total Process: 1	District of Origin: No 19	District to Serve: No 19	Signature of Authorized USMS Deputy or Clerk	Date: 7/6/04

I hereby certify and return that I ☒ have personally served, ☐ have legal evidence of service, ☐ have executed as shown in "Remarks", the process described on the individual, company, corporation, etc. at the address shown above or on the individual, company, corporation, etc., shown at the address inserted below.

☐ I hereby certify and return that I am unable to locate the individual, company, corporation, etc., named above (See remarks below)

Name and title of individual served (if not shown above): PATRICIA MOORE, EX. SEC. TO CEO
☐ A person of suitable age and discretion then residing in the defendant's usual place of abode

Address (complete only if different than shown above)

Date of Service: 7/6/04 Time: 12:20 pm
Signature of U.S. Marshal or Deputy: S.B. COLE

Service Fee	Total Mileage Charges (including endeavors)	Forwarding Fee	Total Charges	Advance Deposits	Amount Owed to U.S. Marshal*	Amount of Refund
$45.00	$15.00		$60.00			

RECEIVED IN CLERK'S OFFICE J.B.D.C.-Atlanta

REMARKS: 1ST ENDORSEMENT - 1 USM, 40 MILES - RT, SERVED.

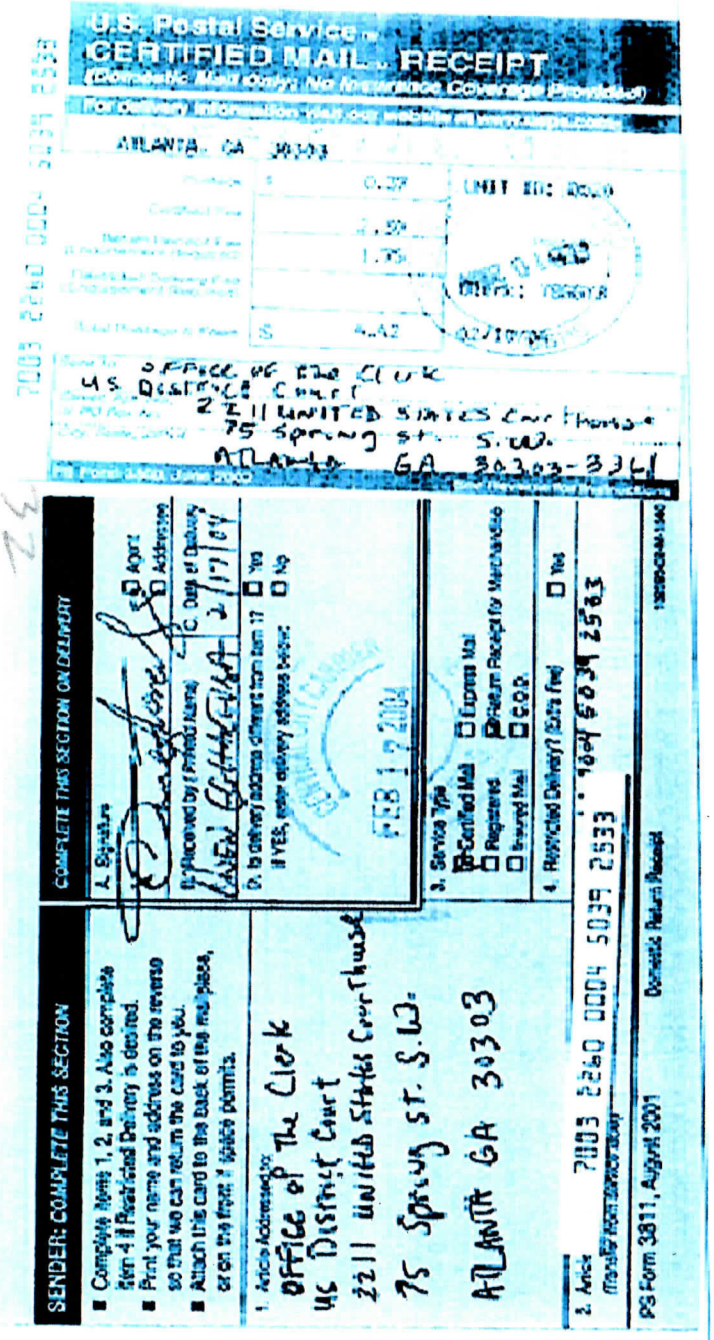
JUL 12 2004

LUTHER D. THOMAS, Clerk
By: H. Hunt, Deputy Clerk

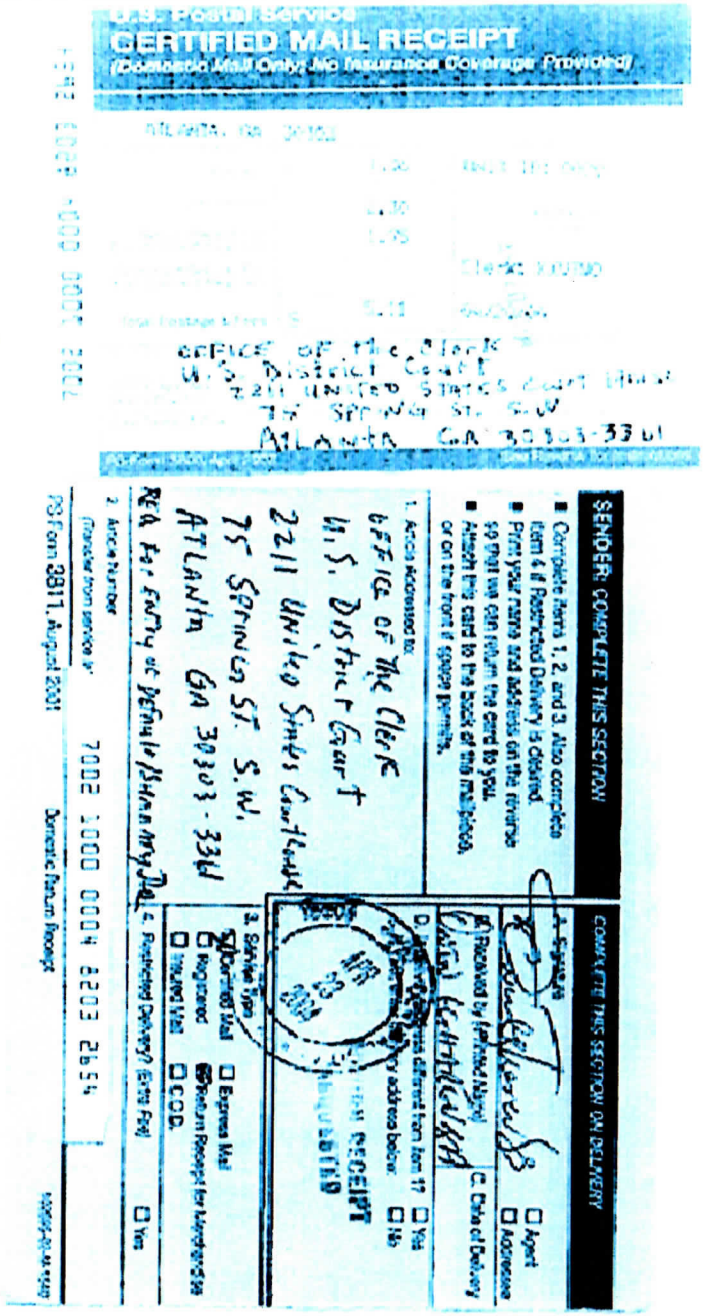
Attachment B

Courts decided to process *another* Summons - (4) Four Months Later - 07/09/2004, NOTE: Plaintiff's signature not listed... *After* Plaintiff filed Request for Entry of Default, Motion for Summary Judgment and Amended motion w/ attachment...

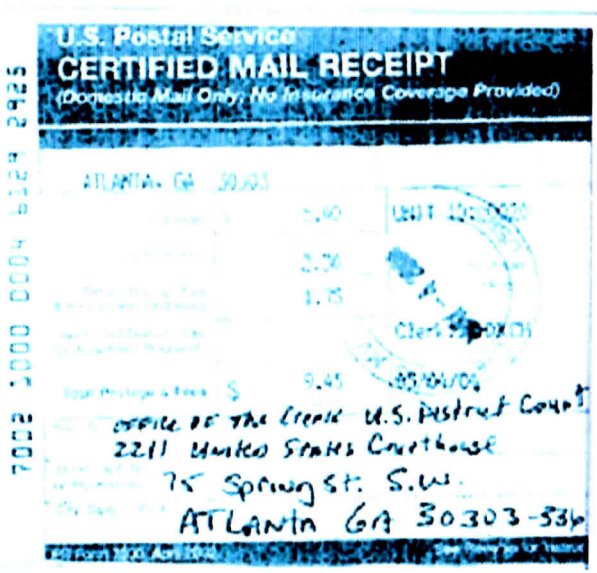
DOCKET ITEM # 8



DOCKET ITEM # 11



DOCKET ITEM # 12



DOCKET ITEM # 8 –
Plaintiffs Answer to Initial Disclosures AND Completed Summons, USM-285, etc... for service for Def. Dekalb County Police Dept

DOCKET ITEM # 11 –
Request for Entry of Default and Request for Summary Judgment

DOCKET ITEM # 12 –
Amended Motion Request for Entry of Default and Request for Summary Judgment to include Attachments supporting genuine issue for trial

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

TIWANDA, *Pro se,*

Plaintiff,

CIVIL ACTION FILE
NO. 1 03 CV 0925 – JTC

V.

DEKALB COUNTY
POLICE DEPARTMENT, and

Board of Corrections
DEKALB CENTRAL PROBATION,

Et al.,

Defendants,

MOTION FOR CORRECTION and NOTICE OF ERROR: DISTRICT COURTS CLERK EXCLUDED 1ST DEFENDANT FROM COMPLAINT (1-7 Pages)

1. Original COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF was submitted on March 11, 2003 against Defendants, **DEKALB COUNTY POLICE DEPARTMENT and Board of Corrections-DEKALB CENTRAL PROBATION** under 28 USC 1983 for violation of Plaintiff's Federally Protected, constitutional guaranteed rights; Violations of Equal Protection Clause of the 14th Amendment, Due Process Clause, and Deprivation of rights.

33

U.S. District Court
U.S. District Court for the Northern District of Georgia (Atlanta

CIVIL DOCKET FOR CASE #: 03-CV-925

Lovelace v. DeKalb Central Proba

Filed: 04/04/03
Assigned to: Judge Jack T. Camp
Demand: $0,000
Nature of Suit: 440
Lead Docket: None
Jurisdiction: Federal Question
Dkt # in ND/GA,Atlanta : is 1:03-mi-00053
Cause: 42:1983 Civil Rights - Action for deprivation of rights

TIWANDA LOVELACE
plaintiff

Tiwanda Lovelace
[COR LD NTC] [PRO SE]
1470 Boggs Road
#1008
Duluth, GA 30096
(678)380-8405

v.

DEKALB CENTRAL PROBATION
defendant

DOCKET PROCEEDINGS

Click on the Icon to View the Document Display Cost.

DATE	#	IMG	DOCKET ENTRY
3/11/03	1		Affidavit in support of request to proceed in forma pauperis. (aet) [Entry date 03/13/03]
3/11/03	2		COMPLAINT filed. (aet) [Entry date 03/13/03]
3/11/03	3		ANSWERS TO INITIAL DISCLOSURES by plaintiff. (aet)

3a

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

TIWANDA LOVELACE, *Pro Se*,

Plaintiffs,

V.

CIVIL ACTION FILE
NO. 1 03-MI-0053

DEKALB COUNTY
POLICE DEPARTMENT, and

Board of Corrections
DEKALB CENTRAL PROBATION,

Et al.,

Defendants,

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

I. INTRODUCTION

1. Plaintiff is filing this action in the United States District Court, Northern District of Georgia, against Defendants **Dekalb Central Probation Division** under 28 USC 1983 for violation of Plaintiff's federally protected, constitutional guaranteed rights to due process of law based upon the failure and refusal of Defendants to follow and

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

TIWANDA LOVELACE, *Pro Se*,

Plaintiffs,

V.

DEKALB COUNTY POLICE DEPARTMENT, Et al,

Defendants.

CIVIL ACTION FILE

NO. 1-03-CV-0925 WSD

Motion For Correction and Request For District Court Clerk to Submit Amended Motion to Judge William S. Duffey, Jr.

1. On May 6, 2004, Tiwanda Lovelace, Plaintiff, filed an Amended Motion for Clerk to enter default as to Dekalb County Police Department; Motion for Summary judgment. The Motions were amended to include attachments supporting genuine issue for trial.

2. On July 15, 2004, Case was reassigned to Hon. Judge William S. Duffey, Jr. for all further proceedings. Clerk's office neglected to provide the amended motions and only submitted Motion filed April 26, 2004, which did not clarify or provide support for request.

38

3. Plaintiff requests that the District Court Clerk provide Judge William S. Duffey, Jr., with the amended motion, along with attachments filed on May 6, 2004; which consist of 6 pages and 21 pages of supporting documents or attachments. (Refer to Pacer printout enclosed, dated July 23, 2004).

Signed: Ti Love 07/24/04
Tiwanda Lovelace, *Pro se*
Address: P. O. Box 232091
Las Vegas, NV 89123
(702) 407-3034

ATTACHMENTS (1-2)

1. Copy **Pacer Printout** dated July 23, 2004, 4 pgs. Displays record of incorrect

   motion submitted to Judge William S. Duffey.

2. Copy of **Request For Entry of Default Due to Defendants Failure to file Answer to Complaint and Request for Summary Judgment; Amended- to include Attachments supporting genuine issue for trial** dated May 6, 2004, 6 pgs.

U.S. District Court
Northern District of Georgia (Atlanta)
CIVIL DOCKET FOR CASE #: 1:03-cv-00925-WSD

Lovelace v. DeKalb Central Proba, et al
Assigned to: Judge William S. Duffey Jr.
Demand: $0
Lead Docket: 1:03-cv-00925-WSD
Case in other court: ND/GA,Atlanta, 1:03-mi-00053
Cause: 42:1983 Civil Rights Act

Date Filed: 04/04/2003
Jury Demand: None
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

Tiwanda Lovelace

represented by **Tiwanda Lovelace**
P.O. Box 232091
Las Vegas, NV 89123
PRO SE

V.

Defendant

DeKalb Central Probation
TERMINATED: 01/30/2004

Dekalb County Police Department

Date Filed	#	Docket Text
07/15/2004		Submission of 11 Motion for Clerk's Entry of Default, Motion for Summary Judgment to District Judge William S. Duffey Jr.. (mmc) (Entered: 07/21/2004)
07/15/2004		Case reassigned to Judge William S. Duffey for all further proceedings. (mmc) (Entered: 07/21/2004)

07/12/2004	13	Return of Service Executed by Tiwanda Lovelace. Dekalb County Police Department served on 7/9/2004, answer due 7/29/2004.(cdg) (Entered: 07/20/2004)
06/23/2004		SUBMITTED to Judge Jack T. Camp on [11-1] motion for clerk to enter default as to Dekalb County Police, [11-2] motion for summary judgment (cdg) (Entered: 06/23/2004)
05/06/2004	12	Amended MOTION by plaintiff amending [11-1] motion for clerk to enter default as to Dekalb County Police, [11-2] motion for summary judgment (fmm) (Entered: 05/07/2004)
04/26/2004		Notice of [11-2] motion for summary judgment by Tiwanda Lovelace filed 4/23/04 mailed 4/26/04. (bsm) (Entered: 04/26/2004)
04/23/2004	11	MOTION by Tiwanda Lovelace for clerk to enter default as to Dekalb County Police and for summary judgment (bsm) (Entered: 04/26/2004)
03/18/2004	10	REQUEST FOR WAIVER of Service as to Dekalb County Police mailed 3/17/04 Waiver of Service due by 4/16/04 for Dekalb County Police (bsm) (Entered: 03/20/2004)
03/16/2004		Package prepared and forwarded to USM for service upon defendant Dekalb County Police. (dfb) (Entered: 03/16/2004)
03/16/2004	9	Summons issued for defendant Dekalb County Police. (dfb) (Entered: 03/16/2004)
02/17/2004		Received summons and USM-285 form from plaintiff for dft DeKalb County Police Dept. (dfb) (Entered: 02/24/2004)
02/17/2004	8	ANSWERS TO INITIAL DISCLOSURES by plaintiff. (dfb) (Entered: 02/24/2004)
01/30/2004	7	ORDER by Judge Jack T. Camp GRANTING [5-1] motion for correction and notice of error: the court DIRECTS the Clerk to list Dekalb County Police Department as a defendant on the docket; the Court DISMISSES w/prejudice plaintiff's claims against dft Dekalb Central Probation; pla's claims against the Dekalb County Police Department are ALLOWED TO PROCEED as any other civil action. Clerk to forward USM285

		forms to plaintiff to be completed w/in 20 days. [7-1] order to be submitted on 2/26/04 , (cc: w/usm285, summons, and initidiscl forms) (kt) (Entered: 02/02/2004)
07/30/2003	6	Notice of filing change of address by plaintiff. (cdg) (Entered: 08/05/2003)
05/08/2003		SUBMITTED to Judge Jack T. Camp on [5-1] motion for correction and notice of error: District court clerk excluded 1st dft from complaint (file in chambers) (cdg) (Entered: 05/08/2003)
04/15/2003	5	MOTION by plaintiff for correction and notice of error: District court clerk excluded 1st dft from complaint with brief in support. (cdg) (Entered: 04/15/2003)
04/09/2003		SUBMITTED to Judge Jack T. Camp on [1-1] affidavit for frivolity determination. (cdg) (Entered: 04/09/2003)
04/04/2003		Terminated submissions. (cdg) (Entered: 04/09/2003)
04/04/2003	4	ORDER by Mag Judge Alan J. Baverman GRANTING [1-1] affidavit to proceed in forma pauperis. The Clerk is directed to assign this case to a District Judge for a frivolity determination pursuant to 28 U.S.C. 1915(e) (cc) (cdg) (Entered: 04/09/2003)
04/04/2003		Case reported statistically. Matter transferred from 1:03-mi-53. Case assigned to Judge Jack T. Camp (Calendar sheet forwarded) (aet) (Entered: 04/08/2003)
03/13/2003		SUBMITTED to Mag Judge Alan J. Baverman on [1-1] affidavit (aet) (Entered: 03/13/2003)
03/11/2003	3	ANSWERS TO INITIAL DISCLOSURES by plaintiff. (aet) (Entered: 03/13/2003)
03/11/2003	2	COMPLAINT filed. (aet) (Entered: 03/13/2003)
03/11/2003	1	Affidavit in support of request to proceed in forma pauperis. (aet) (Entered: 03/13/2003)

PACER Service Center

Transaction Receipt

07/23/2004 23:37:17

PACER Login:	tl0470	**Client Code:**	
Description:	Docket Report	**Search Criteria:**	1:03-cv-00925-WSD
Billable Pages:	2	**Cost:**	0.14

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

TIWANDA LOVELACE, *Pro Se*,

Plaintiffs,

V.

CIVIL ACTION FILE

NO. 1-03-CV-0925-JTC

DEKALB COUNTY POLICE DEPARTMENT,
Et al.,

Defendants.

Request For Entry of Default Due To Defendants Failure to file Answer to Complaint And Request for Summary Judgement; AMENDED- to include Attachments supporting genuine issue for trial

1. March 13, 2003, Complaint was filed and on January 30, 2004 plaintiff was allowed to proceed with civil action. On March 16, 2004, summons was issued with Complaint upon the Respondent. The Summons directed that the Respondent file an answer with the Department within 20 calendar days of receipt of the Notice of Summons and Complaint. The Defendants

45

was sent Request for Waiver of Service that was to be returned by April 16, 2004 but have failed to submit to the District Court clerk's office.

2. The Notice of Civil Complaint and Summons provided that failure to file an answer would constitute a default and a waiver of the right to a hearing (In accordance with Article 7 of Chapter 11 of Title 9 of the O.C.G. A. and F.C.R.P Rule 55 - Failure to answer a Complaint is grounds for a default judgment).

Request for Summary Judgment; AMMENDED

3. Defendants failed to respond to plaintiff's complaint, which states while acting under color of state law, abused their status as officers by failing to prevent the posting and maintenance of inaccurate information on criminal background listed as Attachment C, exhibit 4. (According to C1, Official Transcript, pg. 2- D.A. stated 'Plaintiff had no prior criminal record' as of July 31, 1992, yet, CJIS/GCIC dated Oct 22, 2002 implies First Offender Act changed to conviction Oct. 22, 1988 when plaintiff was not sentenced for original and only charge of theft by taking until July 31, 1992- per attached Certified Copy of Original Criminal Proceedings.)

4b

4. Defendants failed to respond to plaintiff's complaint which states that although Dekalb County Police Officers, defendants, are responsible for adequate training, implement procedures that provide validation annually of information provided in order to avoid errors, yet, for more (10) ten years dates and charges were misrepresented implying repeated criminal activities. (CJIS/GCIC lists several different charges for same original offense; also, arrest or received dated June 27, 1992 list charges 1-Financial Transaction card fraud, 2. Theft by taking – when in fact per Official Transcript, pg. 3 lines 07-11 state clearly that this was exact date when Lovelace, plaintiff took plane to turn herself in 4 years after- yet, officers attempted to imply continued criminal activity. Although charges were dismissed as quickly as assigned, officers aware of how to manipulate records did the damage intentionally- without serving warrant plaintiff had no knowledge, hence, no opportunity to defend.)
5. Defendants failed to respond to complaint that states that Plaintiff was unlawfully and unconstitutionally denied Due Process protection which includes; notice of modification and opportunity for rebuttal before sentence was modified changing First Offender Act to conviction. Defendants can not produce notice because no notice was given. According to CJIS/GCIC

sentence modified Oct. 28, 1988 and warrant issued May 19, 1993- without cause, notice or due process five months after Interstate Case reports declared Lovelace reporting as directed. (Refer to Attachments for copy of Interstate Case Report, copy of original Conditions of Probation, and attached Certified Copy of Original Criminal Proceedings only list offense as Theft by Taking not Forgery, Credit Card Fraud, etc...)

6. Defendants had every opportunity to respond and could have easily served warrant on many occasions being that Plaintiff's address was on file with Detroit Probation office making whereabouts were available, yet, warrant remains on GCIC/CJIS even 14years later continuing to impede and cause harm to Plaintiff's reputation, which has limited employment opportunities. Plaintiff contends this shows willful intent, and malicious conduct but Defendant failed to respond. According to CJIS/GCIC, warrant NCIC #w612857969 was issued May 19, 1993 while Lovelace was reporting to Michigan Probation Office. Several attempts were previously made to enforce original warrant but no attempt was made to enforce current warrant for over 14 years- barring plaintiff from any opportunity for rebuttal.
7. Defendants failed to respond to previous attempts to correct and challenge the accuracy of plaintiff's background. (Refer to letters sent- listed in

Original Complaint as Attachment C7, C11- Refer to attached letter, documents, and CJIS/GCIC was submitted to D.A. c/o defendant with proof of delivery.)

8. Defendants can offer no legitimate, let alone compelling, interest to justify its discriminatory treatment and refusal to provide equal protection under the Fourteenth Amendment. Even after providing defendants with necessary information to prove incorrect information was allowed to remain on CJIS/GCIC, defendants refused to respond. Defendants can not produce any just cause as to how sentence could be modified without proper procedures being followed and valid documents filed to justify actions which has led to over 14 years of misleading information, incorrect dates/charges to imply repeated criminal activity.

WHEREFORE, Plaintiff respectfully prays that the Court grant the equitable and legal relief set forth in the Prayer for Relief in initial Complaint listed on pgs 21-22; which includes- Court Cost, Punitive damages, Compensatory damages, and include the Plaintiffs record being expunged in accordance with Statutes and Laws.

Signed: _____,
Tiwanda Lovelace, *Pro se*
Address: P. O. Box 232091
Las Vegas, NV 89123
(702) 837-9894 (702) 845-2442

ATTACHMENTS (1-6)

1. **CJIS/GCIC dated Oct. 22, 2002, 6 pgs.** This lists 5 arrest or received notations and one warrant allegedly for non-payment of restitution. All arrest or received notations are in reference to original, single act for which plaintiff was given First Offender Act.
2. **Clerk of Superior Court CERTIFICATION, 3pgs.** – Copy of original criminal proceedings for case # 89cr2414 – 3 of 6 pgs. Filed in open court July 31, 1992.
3. **Copy of Original Transcript, 4 pgs.** (pg.1- list July 31st, 1992 as court date; pg. 2 line 16-17 shows D.A. stating 'Ms. Lovelace by our records has no prior criminal record'; pg. 3 lines 7-11- states clearly 'plaintiff turned herself in on July 27th'; pg.16- provides recertified date Nov. 08, 2002.)
4. **Copy of Interstate Case Report, 1 pg.** from Michigan probation office, dated Aug. 02, 1993, (requested immediately after discovering information maintained on CJIS/GCIC).
5. **Copy of original Conditions of Probation, 1 pg.** advising transfer to Michigan approved and assigning Probation Officer, K. Funny.
6. **Copies of 2 Letters, 3 pgs ea. requesting corrections, challenging accuracy and completeness of CJIS/GCIC sent to District Attorneys office and FBI, CJIS division with proof of delivery.**

50

04/23/2004	11	MOTION by Tiwanda Lovelace for clerk to enter default as to Dekalb County Police and for summary judgment (bsm) (Entered: 04/26/2004)
04/26/2004		Notice of [11-2] motion for summary judgment by Tiwanda Lovelace filed 4/23/04 mailed 4/26/04. (bsm) (Entered: 04/26/2004)
05/06/2004	12	Amended MOTION by plaintiff amending [11-1] motion for clerk to enter default as to Dekalb County Police, [11-2] motion for summary judgment (fmm) (Entered: 05/07/2004)
06/23/2004		SUBMITTED to Judge Jack T. Camp on [11-1] motion for clerk to enter default as to Dekalb County Police, [11-2] motion for summary judgment (cdg) (Entered: 06/23/2004)
07/12/2004	13	Return of Service Executed by Tiwanda Lovelace. Dekalb County Police Department served on 7/9/2004, answer due 7/29/2004.(cdg) (Entered: 07/20/2004)
07/15/2004		Case reassigned to Judge William S. Duffey for all further proceedings. (mmc) (Entered: 07/21/2004)
07/15/2004		Submission of 11 Motion for Clerk's Entry of Default, Motion for Summary Judgment to

54

04/23/2004	11	MOTION by Tiwanda Lovelace for clerk to enter default as to Dekalb County Police and for summary judgment (bsm) (Entered: 04/26/2004)
04/26/2004		Notice of [11-2] motion for summary judgment by Tiwanda Lovelace filed 4/23/04 mailed 4/26/04. (bsm) (Entered: 04/26/2004)
05/06/2004	12	Amended MOTION by plaintiff amending [11-1] motion for clerk to enter default as to Dekalb County Police, [11-2] motion for summary judgment (fmm) (Entered: 05/07/2004)
06/23/2004		SUBMITTED to Judge Jack T. Camp on [11-1] motion for clerk to enter default as to Dekalb County Police, [11-2] motion for summary judgment (cdg) (Entered: 06/23/2004)
07/12/2004	13	Return of Service Executed by Tiwanda Lovelace. Dekalb County Police Department served on 7/9/2004, answer due 7/29/2004.(cdg) (Entered: 07/20/2004)
07/15/2004		Case reassigned to Judge William S. Duffey for all further proceedings. (mmc) (Entered: 07/21/2004)
07/15/2004		Submission of 11 Motion for Clerk's Entry of Default, Motion for Summary Judgment to

Copy of Docket Notation between and under *# 13 - # 14*:

shows only Item 11 (filed April 23, 2004) was submitted to newly assigned Judge Duffey on JULY 15, 20014…

CLEARLY, withholding Item 12- (filed May 6, 2004) Amended Motion.

ECF Query Reports Utilities Logout

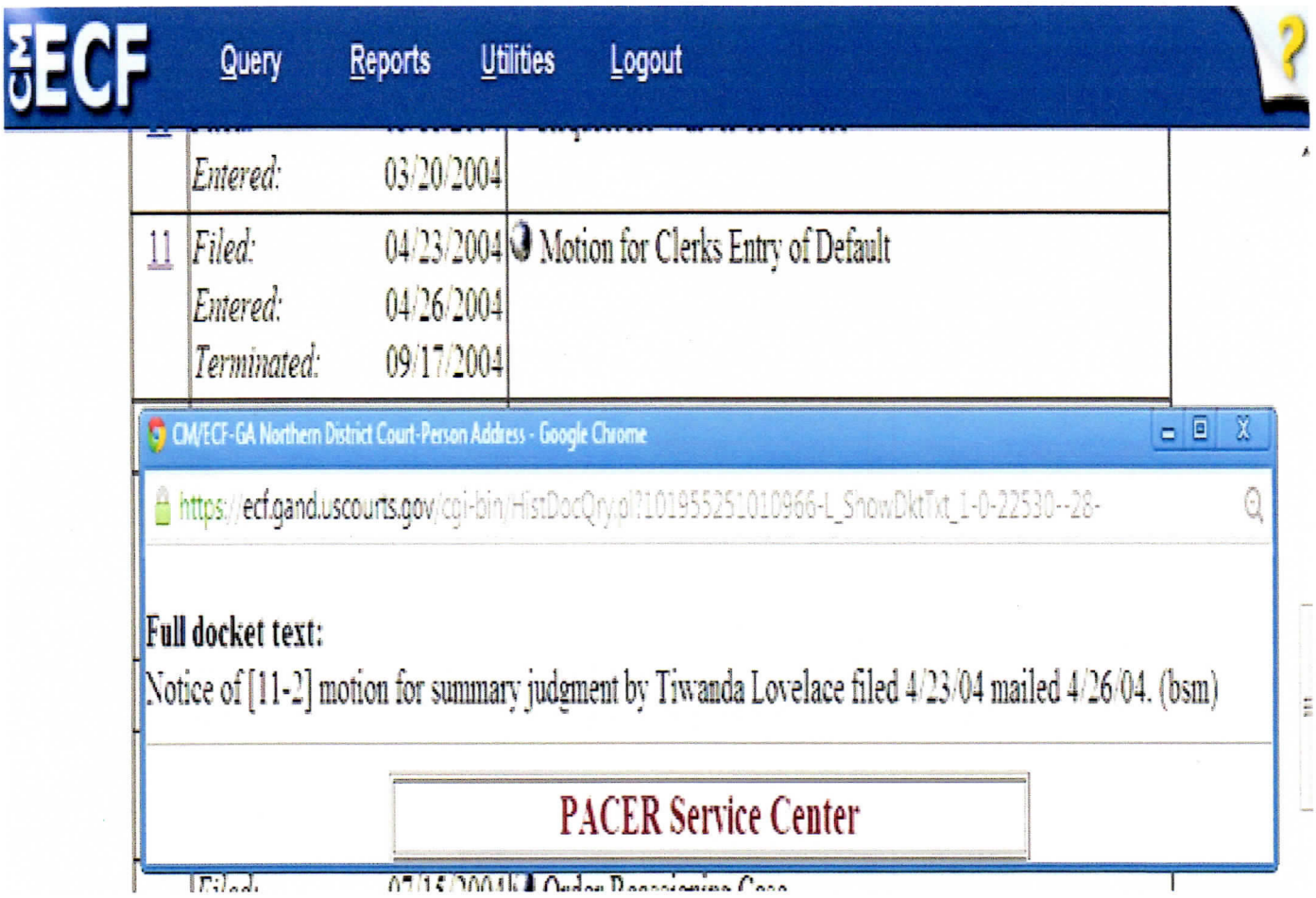
10	*Filed:*	03/18/2004	Request for Waiver of Service
	Entered:	03/20/2004	
11	*Filed:*	04/23/2004	Motion for Clerks Entry of Default
	Entered:	04/26/2004	
	Terminated:	09/17/2004	
	Filed & Entered:	04/26/2004	Notice (Other)
12	*Filed:*	05/06/2004	Motion for Miscellaneous Relief
	Entered:	05/07/2004	
	Terminated:	11/24/2004	

CM/ECF - GA Northern District Court - Person Address - Google Chrome

https://ecf.gand.uscourts.gov

Full docket text for document 12:
Amended MOTION by plaintiff amending [11-1] motion for clerk to enter default as to Dekalb County Police, [11-2] motion for summary judgment (fmm)

43



Plaintiff provided courts with 3 copies of every filing (as confirmed by date-stamps and as confirmed received and mailed below!)

Clerk ignored Request for Summary Motion for Judgment after allotted 20 days for response and after switching Judges. I was never addressed but the Clerks processed ANOTHER USM-285 without a Court Order or my signature. Clearly, manipulating the 'system.'

The initial Court's Order advising Clerks to process the USM-285 was back in February not July. Clerks was supposed to Enter Default and Motion for Summary Judgments after 20 days after receiving Amended Motion which included documents supporting genuine issue for trial

N O T I C E

To: Tiwanda Lovelace
P.O. Box 232091
Las Vegas, NV 89123

April 26, 2004

UNITED STATES DISTRICT COURT
for the
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

Tiwanda Lovelace,

plaintiff

v.

DeKalb Central Probation, et al,

defendant

CIVIL ACTION

NO. 1:3-cv-925-JTC

NOTICE TO RESPOND TO SUMMARY JUDGMENT MOTION

On 4/23/04, Tiwanda Lovelace, et al, filed a motion for summary judgment in this Court, case document number 11.

Pursuant to this Court's order dated April 14, 1987, opposing counsel is hereby notified that within 20 days from the date said motion was

55

served, filing of all materials, including any affidavits, depositions, answers to interrogatories, admissions on file and any other relevant materials to be considered in opposition to the motion for summary judgment, is required. Federal Rules of Civil Procedure, Rule 56(c); Moore v. State of Florida, 703 F.2d 516, 519 (11th Cir. 1983).

Unless otherwise stated by the trial court, the Court will take said motion for summary judgment under advisement immediately upon the close of the aforesaid 20 day period. Id. at 519. See also Donaldson v. Clark, 786 F.2d 1570, 1575 (11th Cir. 1986); Griffith v. Wainwright, 772 F.2d 822, 825 (11th Cir. 1985).

The entry of a summary judgment by the trial court is a final judgment on the claim or claims decided. Finn v. Gunter, 722 F.2d 711, 713 (11th Cir. 1984). Whenever the non-moving party bears the burden of proof at trial on a dispositive issue and the party moving for summary judgment has demonstrated the absence of any genuine issue of fact, the nonmoving party must go beyond the pleadings and must designate, by affidavit or other materials, "... specific facts showing that there is a genuine issue for trial." Federal Rules of Civil Procedure, Rule 56(e); Celotex Corp. v. Catrett, 477 U.S. 317, 324; 106 S.Ct. 2548, 2552-53; 91 L.Ed.2d 265, 272-3.

Luther D. Thomas, Clerk
United States District Court
Northern District of Georgia

Copies to counsel of record

56

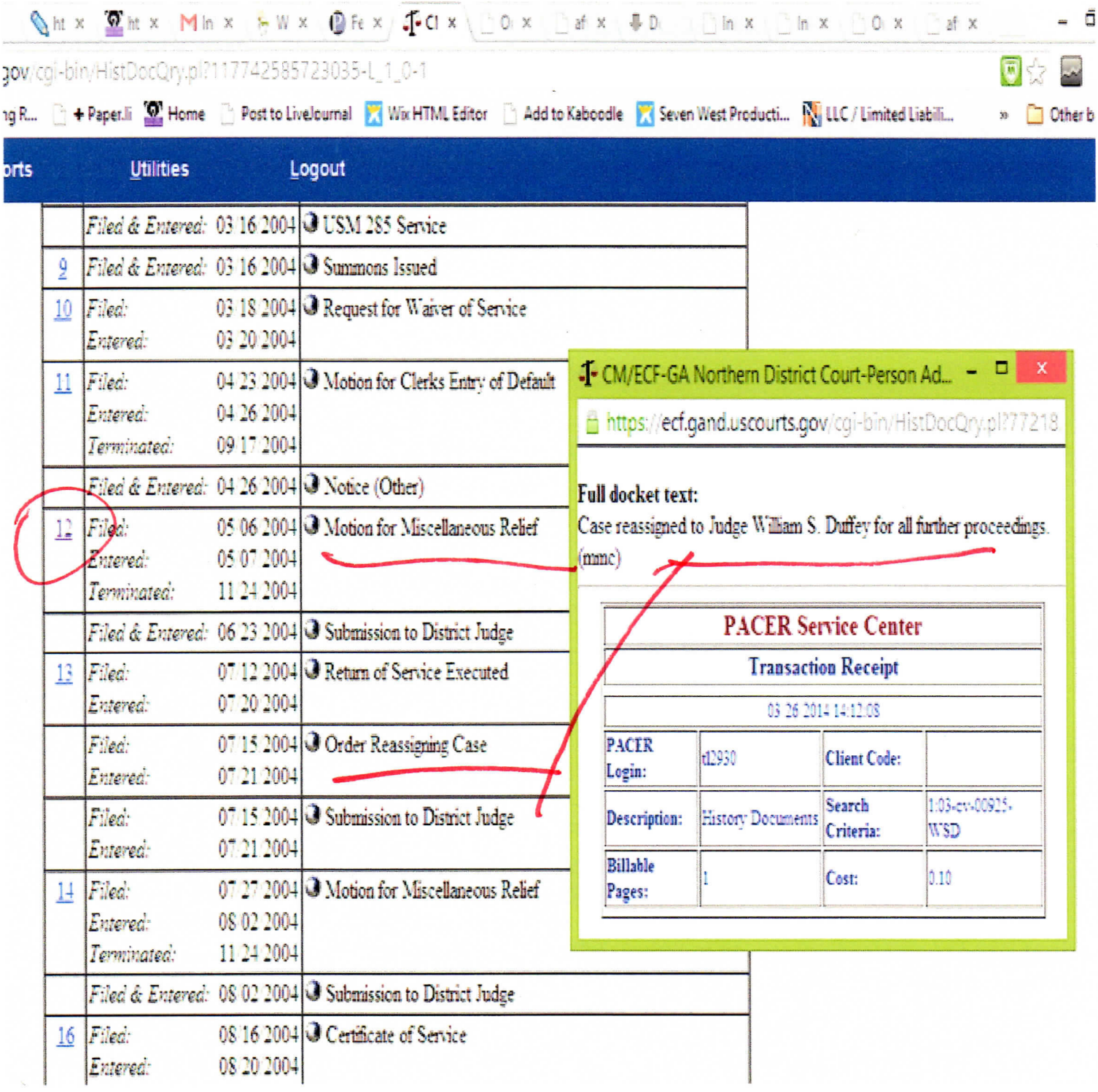
Without my signature, **Courts began a second Summons process and then made entry reflecting that Plaintiff initiated Re-Service and executed 2nd Summons while never acknowledging Clerks served Summons already**

07/12/2004	13	Return of Service Executed by Tiwanda Lovelace. Dekalb County Police Department served on 7/9/2004, answer due 7/29/2004.(cdg) (Entered: 07/20/2004)

Defendants did not file an Answer until August 19, 2004…

The Courts unfairly allowed Def. an additional (4) four months to Answer, although Court Order shows Clerks had duty to process service.

See Docket #17-ANSWER filed August 19, 2004



	Filed & Entered: 03/16/2004	USM 285 Service
9	Filed & Entered: 03/16/2004	Summons Issued
10	Filed: 03/18/2004 Entered: 03/20/2004	Request for Waiver of Service
11	Filed: 04/23/2004 Entered: 04/26/2004 Terminated: 09/17/2004	Motion for Clerks Entry of Default
	Filed & Entered: 04/26/2004	Notice (Other)
12	Filed: 05/06/2004 Entered: 05/07/2004 Terminated: 11/24/2004	Motion for Miscellaneous Relief
	Filed & Entered: 06/23/2004	Submission to District Judge
13	Filed: 07/12/2004 Entered: 07/20/2004	Return of Service Executed
	Filed: 07/15/2004 Entered: 07/21/2004	Order Reassigning Case
	Filed: 07/15/2004 Entered: 07/21/2004	Submission to District Judge
14	Filed: 07/27/2004 Entered: 08/02/2004 Terminated: 11/24/2004	Motion for Miscellaneous Relief
	Filed & Entered: 08/02/2004	Submission to District Judge
16	Filed: 08/16/2004 Entered: 08/20/2004	Certificate of Service

CM/ECF-GA Northern District Court-Person Ad...

https://ecf.gand.uscourts.gov/cgi-bin/HistDocQry.pl?77218

Full docket text:
Case reassigned to Judge William S. Duffey for all further proceedings. (nmc)

PACER Service Center

Transaction Receipt

03/26/2014 14:12:08

PACER Login:	tl2930	Client Code:	
Description:	History Documents	Search Criteria:	1:03-cv-00925-WSD
Billable Pages:	1	Cost:	0.10

(12) - Amended Motion for Summary Judgment was entered into court system on 05/06/2004 but listed as Motion for Miscellaneous Relief.

Courts switched Judges on 07/12/2004 (two months after receiving Motion for Summary Judgment) but Clerks never submitted Amended Motion for

DUPLICATE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

AUG [illegible] 2004

TIWANDA LOVELACE, *Pro Se*,

Plaintiff,

vs.

DEKALB COUNTY POLICE DEPARTMENT

Defendant.

Civil Action File No. 1:03-CV-0925-WSD

DEKALB COUNTY POLICE DEPARTMENT'S ANSWER

Purported Defendant DeKalb County Police Department specially appears to file its Answer as follows:

I. Affirmative Defenses

First Defense

There has been an insufficiency of process and insufficiency of service of process as to the Defendant.

Second Defense

Plaintiff's Complaint fails to state a claim or cause of action against Defendant upon which relief can be granted, and should be dismissed.

Third Defense

Plaintiff's claims are time-barred by the applicable statute of limitations.

Fourth Defense

Plaintiff's claims against the DeKalb County Police Department are barred because the claims were not presented to the County within twelve months of accrual as required by O.C.G.A. § 36-11-1.

Fifth Defense

Plaintiff's damages claims are barred because Plaintiff failed to mitigate damages.

Sixth Defense

The doctrine of sovereign immunity bars Plaintiff's claims against the DeKalb County Police Department.

Seventh Defense

Defendant has no official policies, procedures, customs, practices, or ordinances that form the basis of Plaintiff's Complaint, thus the Complaint fails to state a cause of action against Defendant under 42 U.S.C. § 1983.

Eighth Defense

To the extent that the Complaint is brought against an employee or officer of the DeKalb County Police Department in their official capacity, there are no official policies, procedures, customs, practices, or ordinances that form the basis of Plaintiff's Complaint, thus the Complaint fails to state a cause of action against any employee of the DeKalb County Police Department under 42 U.S.C. § 1983.

Ninth Defense

All acts performed by employees or officers of the DeKalb County Police Department forming the basis of Plaintiff's Complaint were taken in the good faith performance of their official duties; to the extent that the Complaint is brought against them in their personal capacity, they are entitled to qualified immunity from suit and liability.

Tenth Defense

To the extent Plaintiff asserts concurrent claims under 42 U.S.C. § 1981 and 42 U.S.C. § 1983, the claims should be dismissed because Plaintiff may not proceed concurrently and is not entitled to multiple recoveries of relief.

Eleventh Defense

Under the doctrine of governmental (or official) immunity, Plaintiff is not entitled to relief against Defendant with respect to his supplemental state law claims.

Twelfth Defense

Plaintiff has adequate remedies at state law that provide due process protected by the laws and constitutions of the United States and the State of Georgia to redress the deprivation of any right that she claims.

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

TIWANDA LOVELACE, *Pro Se*,

Plaintiff,

vs.

DEKALB COUNTY POLICE DEPARTMENT

Defendant.

Civil Action File No. 1:03-CV-0925-WSD

DEKALB COUNTY POLICE DEPARTMENT'S RESPONSE TO TIWANDA LOVELACE'S REQUESTS FOR ENTRY OF DEFAULT

Purported Defendant DeKalb County Police Department specially appears and files its response to the *pro se* Plaintiff's Requests for Entry of Default.

I. Background

On January 29, 2004, after making his findings in a frivolity review of an *in forma pauperis* petition, the Honorable Jack T. Camp's explicitly ordered Plaintiff Tiwanda Lovelace to serve copies on opposing counsel or the DeKalb County

62

Police Department "with every additional pleading or document." [1] Lovelace never served anyone with copies on anything she filed.

After the Judge Camp's Order was served on Lovelace, she filed, among other papers, the following:

Pacer #	Filing Date	Short Title of Document
11	4/23/04	**Request for Entry of Default**
12	5/6/04	**Request for Entry of Default**

The undersigned has already filed **DeKalb County Police Department's Motion to Strike Plaintiff's Papers Filed with Clerk** targeting these papers as being filed in contravention of Judge Camp's order.[2]

---

[1] Honorable Jack T. Camp's Order dated January 29, 2004, which stated on page 10, in part:

> Plaintiff must also serve upon Defendant or its counsel a copy of every additional pleading or other document which is filed with the Clerk of the Court, including with each document filed a certificate stating the date on which an accurate copy of that document was mailed to Defendant or its counsel. The Court shall disregard any documents which have not been properly filed with the Clerk, or which do not include a certificate of service.

[2] **DeKalb County Police Department's Motion to Strike Plaintiff's Papers Filed with Clerk**, and **DeKalb County Police Department's Brief in Support of Motion to Strike Plaintiff's Papers Filed with Clerk**, were filed with the clerk of the court on August 19, 2004.

II. The Requests are Meritless

A. Lovelace's *Request for Entry of Default Due to Defendants Failure to file Answer to Complaint and Request for Summary Judgment* (filed April 23, 2004)

Lovelace errantly believes that service of a waiver of service equates with service of process, and asked the Court for an entry of default based on this errant belief.

> The Defendants was [*sic*] sent Request for Waiver of Service that was to be returned by April 16, 2004 but have failed to submit to the District Court clerk's office as of April 20, 2004.[3]

The DeKalb County Law Department has not been served, nor is it an entity subject to a lawsuit.[4] Lovelace's request for entry of default should be denied.

Lovelace also requested summary judgment with her request for entry of default. Filing a request for summary judgment before the Defendant is personally served with process is premature, and such a request should be denied.

---

[3] Lovelace's **Request for Entry of Default Due to Defendants Failure to file Answer to Complaint and Request for Summary Judgment**, filed April 23, 2004, pages 1-2.

[4] *Reynolds v. DeKalb Co. Sheriff's Dept. and DeKalb Co. Police Dept.*, U.S.D.C., N.GA., Atlanta Div., C.A.F.N. 1:02-CV-3215-TWT, in the Order dated and filed on August 28, 2003. The Honorable Thomas w. Thrash ruled that "The DeKalb County Sheriff's Department and the DeKalb County Police Department are not legal entities subject to being sued."

64

B. Lovelace's *Request for Entry of Default Due to Defendants Failure to file Answer to Complaint and Request for Summary Judgment; Amended- to include Attachments supporting genuine issues for trial* (filed May 6, 2004)

Again, Lovelace errantly believes that service of a waiver of service equates with service of process, and she asked the Court for an entry of default based on this errant belief.

Lovelace purports to amend her Request for Summary Judgment in this Request. Without engaging the varied arguments and boundless leaps of reason in this *pro se* request, the request may be denied simply because it is untimely, as the DeKalb County Police Department has not been properly served.

II. Conclusion

Lovelace's requests should be denied because:

A. The Court lacks personal jurisdiction over DeKalb County Police Department,

B. The DeKalb County Police Department is not subject to suit,

C. The requests filed by Lovelace were never served upon the DeKalb County Police Department, and

D. Service of waiver of summons is not service of process.

After the case was conveniently reassigned to Judge William S. Duffey, suddenly Clerk Initials (kt) were *'handling'* ALL of the motions, pleadings and my filings (that laid mislabeled and dormant..)

08/16/2004	16	CERTIFICATE OF SERVICE of plaintiff's response to defendant's 2nd interrogatories, by Tiwanda Lovelace. (kt) (Entered: 08/20/2004)
08/17/2004	15	MOTION to Dismiss, with brief in support, by Dekalb County Police Department. (Attachments: # 1 Brief)(kt) (Entered: 08/20/2004)
08/19/2004	17	ANSWER to Complaint by Dekalb County Police Department. Discovery ends on 1/16/2005.(kt) (Entered: 08/20/2004)
08/19/2004	18	MOTION to Strike, with brief in support, Plaintiff's papers filed with the Clerk in accordance with this Court's 7 Order, by Dekalb County Police Department. (Attachments: # 1 Brief)(kt) (Entered: 08/20/2004)
08/27/2004	19	RESPONSE to 11 Motion for Clerk's Entry of Default, and 12 Amended Motion for Clerk's Entry of Default, filed by Dekalb County Police Department. (kt) (Entered: 08/31/2004)
09/02/2004	22	CERTIFICATE OF SERVICE REFLECTING RE-SERVICE OF DOCUMENTS, by Dekalb County Police Department. (kt) (Entered: 09/17/2004)
09/03/2004	20	MEMORANDUM in Opposition TO 15 MOTION to Dismiss, filed by Tiwanda Lovelace. (kt) (Entered: 09/14/2004)
09/13/2004	23	NOTICE Of Filing Response to defendants' 17 Answer to Complaint, by Tiwanda Lovelace. (kt) (Entered: 09/20/2004)
09/14/2004		Submission of 15 MOTION to Dismiss, to District Judge William S. Duffey Jr.. (kt) (Entered: 09/14/2004)
09/15/2004	21	REPLY BRIEF in support of 15 MOTION to Dismiss, filed by Dekalb County Police Department. (kt) (Entered: 09/17/2004)
09/17/2004		ORDER (by docket entry only) denying as moot 11 Motion for Clerks Entry of Default,

IN THE UNITED STATES COURT OF APPEALS

FILED

FOR THE ELEVENTH CIRCUIT U.S. COURT OF APPEALS

ELEVENTH CIRCUIT

AUGUST 3, 2005

No. 04-16688 THOMAS K. KAHN

CLERK

Non-Argument Calendar

D. C. Docket No. 03-00925-CV-WSD-1

TIWANDA LOVELACE,

Plaintiff-Appellant,

versus

DEKALB CENTRAL PROBATION,

Defendant,

DEKALB COUNTY POLICE DEPARTMENT,

Defendant-Appellee.

Appeal from the United States District Court

for the Northern District of Georgia

(August 3, 2005)

Before BLACK, PRYOR and KRAVITCH, Circuit Judges.

PER CURIAM: Tiwanda Lovelace appeals the district court's dismissal of her pro se civil rights action, brought pursuant to 42 U.S.C. 1983, for failure to state a claim, Fed.R.Civ.P. ("Rule") 12(b)(6). For the following reasons, we affirm.

I. Background Lovelace filed a § 1983 civil rights complaint against the Dekalb County Police Department ("Department"), claiming that her due process and equal protection rights were

violated when her probation status as a first offender under Georgia's First Offender Act was revoked without notice or a hearing based on her failure to pay restitution.1 She further alleged that the Department was negligent in its hiring and supervision of employees for posting incorrect information on the criminal justice information service.

The Department moved to dismiss the complaint on the ground that it is not a legal entity subject to suit, and the district court granted the motion. Lovelace now appeals.

II. Standard of Review We review de novo a dismissal pursuant to Rule 12(b)(6), applying the same standard as the district court did. Paradise Drivers, Inc. v. Upmal, 402 F.3d 1087, 1089 (11th Cir. 2005). We do not affirm the dismissal "unless it appears beyond doubt that the plaintiff can prove no set of facts in support of [her] claim." Id.

III. Discussion The only issue before us is whether the district court was correct to conclude that the Department is not a legal entity subject to suit under § 1983. The "capacity to sue or be sued shall be determined by the law of the state in which the district court is held...." Fed.R.Civ.P. 17(b). Therefore, Georgia law controls here.

The Georgia Supreme Court has explained that: "[i]n every suit there must be a legal entity as the real plaintiff and the real defendant. This state recognizes only three classes as legal entities, namely: (1) natural persons; (2) an artificial person (a corporation); and (3) such quasi-artificial persons as the law recognizes as being capable to sue." Georgia Insurers Insolvency Pool v. Elbert County, 368 S.E.2d 500, 502 (Ga. 1988) (quotation omitted).

We have observed that "[s]heriff's departments and police departments are not usually considered legal entities subject to suit...." Dean v. Barber, 951 F.2d 1210, 1214 (11th Cir. 1992) (dismissing claim against sheriff's department because department was not subject to suit under Alabama law). Other cases within this Circuit addressing this issue under Georgia law have reached the same conclusion.

See Bunyon v. Burke County, 285 F. Supp.2d 1310, 1328 (S.D. Ga. 2003) (dismissing claim against police department, reasoning it was not legal entity subject to suit), aff'd, - F.3d -, 2004 WL 1936471 (11th Cir. 2004); Shelby v. City of Atlanta, 578 F. Supp. 1368, 1370 (N.D. Ga. 1984) (concluding that the City of Atlanta police department is not a proper party defendant because the department is "merely the vehicle through which the City government fulfills its policing functions"). Lovelace fails to persuade us to depart from this precedent.

Accordingly, the district court properly dismissed the claims against the Department, and we AFFIRM.2 AFFIRMED.

1 Lovelace also named Dekalb County Central Probation ("Probation") as a defendant. Conducting the required review under the Prison Litigation Reform Act, 28 U.S.C. 1915 et seq, the district court dismissed the claims against Probation as frivolous, determining that the claims were barred by Eleventh Amendment immunity. At that stage, the court permitted the claims against the Department to proceed. We review a district court's dismissal for frivolity under 28 U.S.C. 1915(e)(2)(B)(I) for abuse of discretion. Bilal v. Driver, 251 F.3d 1346, 1348 (11th Cir.

2001). Under Georgia law, Probation is part of the Department of Corrections. O.C.G.A. § 42-8-43.1. Accordingly, the district court was correct to conclude that the claims against Probation were barred by the Eleventh Amendment. See Miller v. King, 384 F.3d 1248, 1260 (11th Cir. 2004) (holding that claims against the Department of Corrections were barred by immunity); Stevens v. Gay, 864 F.2d 113, 115 (11th Cir. 1989) (same).

2 The district court also concluded that the Department was not served properly. Because dismissal under Rule 12(b)(6) was proper, we need not address that issue.

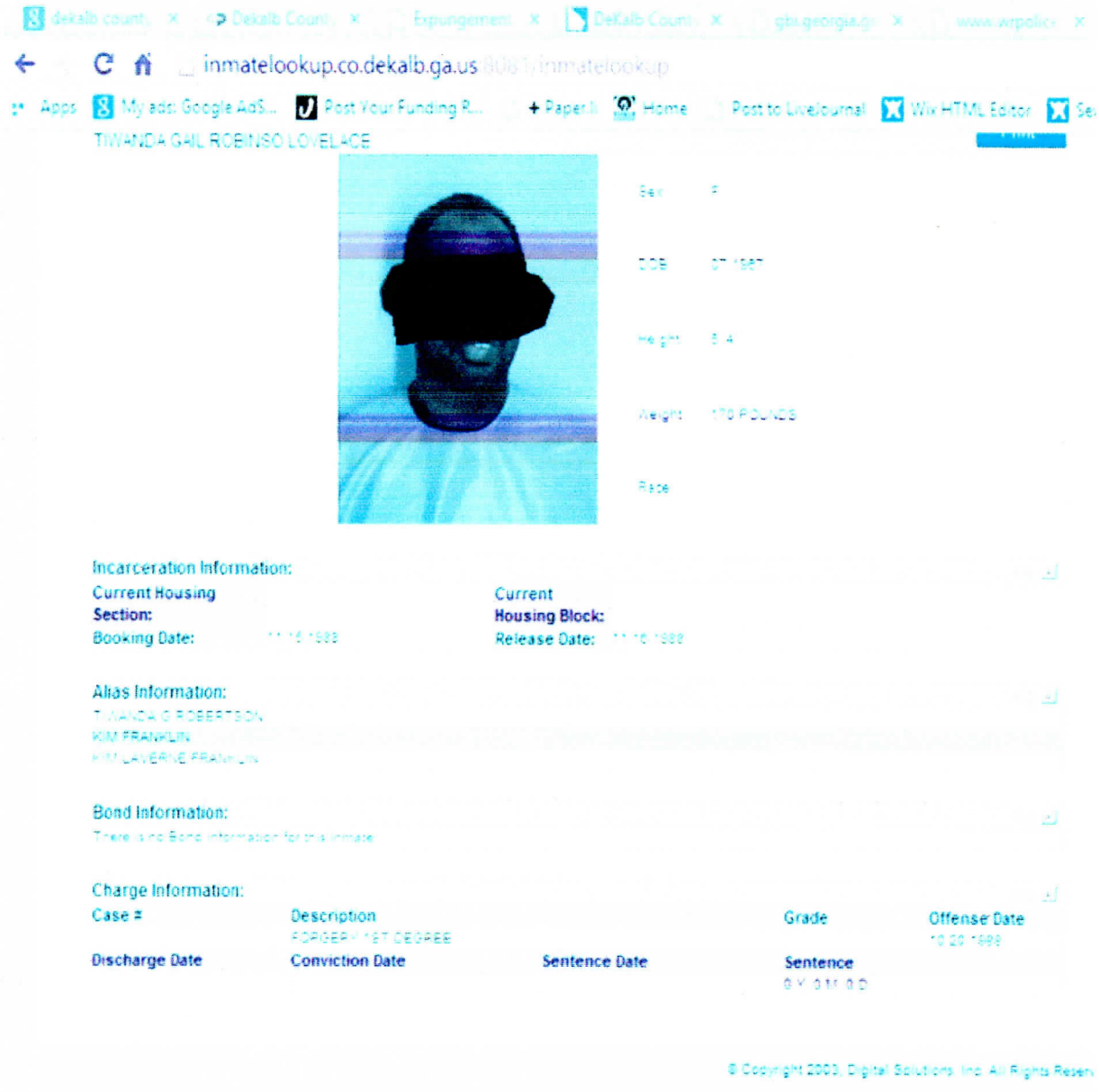
This document cites

- US Code - Title 28: Judiciary and Judicial Procedure - 28 USC 1915 - Sec. 1915. Proceedings in forma pauperis
- US Code - Title 42: The Public Health and Welfare - 42 USC 1983 - Sec. 1983. Civil action for deprivation of rights
- U.S. Court of Appeals for the Eleventh Circuit - Jamaal Ali Bilal, A.K.A. John L. Burton, Plaintiff-Appellant, v. Scott Driver, Defendant-Appellee., 251 F.3d 1346 (11th Cir. 2001)
- U.S. Court of Appeals for the Eleventh Circuit - Tracy Miller, Plaintiff-Appellant, United States of America, Intervenor, v. Ronald King, Defendant-Appellee, Wayne Garner, the State of Georgia, the Georgia Department of Corrections, Johnny Sikes, Defendants., 384 F.3d 1248 (11th Cir. 2004)
- U.S. Court of Appeals for the Eleventh Circuit - Paradise Divers, Inc., as Owner of the 30' Island Hopper M/V Paradise Diver Iv Bearing Hull Identification Number D929003, Her Engines, Tackle, Appurtenances, Etc., Petitioner, in a Cause for Exoneration From or Limitation of Liability, Plaintiff-Appellant, v. Kevin R. Upmal, Claimant-Appellee., 402 F.3d 1087 (11th Cir. 2005)

See all quotations

-

Recent background Search shows incorrect photo, trumped up charges



THIS IS NOT ME BUT THIS IS WHAT SHOWED UP RECENTLY ON 03/08/2014 as a criminal background search for Tiwanda Lovelace

Officials used illegally obtained warrant to take housing and employment for decades.

U.S. Department of Housing and Urban Development
Office of the Inspector General
300 Las Vegas Boulevard South, Suite 2914
Las Vegas, Nevada 89101
Office: (702) 366-2144 Fax (702) 388-5830

December 7, 2005

Mr. Carl Rowe
Executive Director
Clark County Housing Authority
5390 East Flamingo Road
Las Vegas, Nevada
89122

SUBJECTS: [redacted]

(3.) Tiwanda Lovelace (SSN: 381-80-7045) (DOB: 7-2-67)

Dear Mr. Rowe,

The U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG), is currently in the process of reviewing section 8 tenants / public housing tenants for active arrest warrants.

Contact with the listed police agencies [redacted] (Dekalb County, Georgia for Lovelace) disclosed that they are unable to extradite to the States of [redacted] and Georgia because of budgetary constraints. The arrest warrants for the above listed individuals are still valid and potentially violate the lease agreements with your housing agency. A copy of the arrest warrants/printouts are attached.

This information is being forwarded to your office for any administrative action that you deem appropriate. Please advise this office within 60 days from the date of this letter of the termination actions you propose to take. Please contact Special Agent Murray Stravers at (702) 366-2144 if you need additional information. Thank you for your assistance in this matter and we look forward to a continued positive working relationship with you and your staff.

Sincerely,

James Beaudette
Special Agent in Charge
HUD Office of Inspector General

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

TIWANDA LOVELACE, *Pro Se*,

Plaintiffs,

V.

DEKALB COUNTY POLICE DEPARTMENT, Et al,

Defendants.

CIVIL ACTION FILE

NO. 1-03-CV-0925 -WSD

Plaintiff's Memorandum In Opposition to Defendants Motion to Dismiss

Plaintiff's response to Defendants Motion to Dismiss and Motion to Strike;

I. Response to Defendants Motion to Strike

Tiwanda Lovelace, plaintiff was granted motion to proceed in forma pauperis by U.S. magistrate judge on April 4, 2003 in accordance with 28 U.S.C 1915.

The Honorable Jack T. Camp, in his order dated January 29, 2004, ordered:

> Upon receipt of completed forms, District Court Clerk shall transmit this envelope, along with the USM 285, summons, two (2) copies of the Notice of Lawsuit and Request for Waiver of Service of form, two (2)

12

copies of Plaintiff's initial disclosures, and two (2) copies of this Order to the U.S. Marshal Service for mailing to Defendant.

Plaintiff complied with Courts orders by submitting all requested documents in triplicate for service. Plaintiff continued to submit all Motions in triplicate to Clerk's office and Pacer reports acknowledged this compliance:

1. 02/17/2004 Received summons and USM for service upon defendant Dekalb County Police. (dfb) (Entered: 03/20/2004)

2. 03/16/2004 Summons issued for defendant Dekalb County Police (dfb) (Entered: 03/16/2004)

3. 0316/2004 Package prepared and forwarded to USM for service upon defendant Dekalb County Police. (dfb) (Entered 03/16/2004

Defendants referred to this order, in part, in it's Motion to Strike, and also admitted to receiving on March 19, 2004, first Notice of Lawsuit and Request for Waiver of Service of Summons; which, clearly made reference to 'enclosed Complaint' in first paragraph. Defendants authorized agent maintains that submissions were presented to Dekalb County Law Department; yet, response was not made until August 17, 2004.

II. Response to Motion to Dismiss; Jurisdiction, Suable Entity

Plaintiff contends that Defendants violated her federal protected rights; failed to provide adequate training, showed indifference to her constitutional rights by (among other things) ignoring request for corrections and provided no other recourse/resolution; ultimately, Defendants is the "moving force" behind each violation. When implementing its policy of conducting modifications of background records and providing notifications, Defendants also acts for the County in its capacity as the administrator, therefore, subject to liability under section 1983.

Title 42 U.S.C. 1983 has developed so as to provide remedy for the violation of federally-protected rights by 'public entities'. The Supreme Court issued its landmark decision of Monroe v. Pape, 365 U.S. 167, 81 S. Ct. 473, (1961); wherein, it was determined that the policy behind the statute was to afford a federal right in federal courts because…claims of citizens to the enjoyment of rights, privileges, and immunities guaranteed by the Fourteenth Amendment might be denied by states agencies. Also, in 1978 the Supreme Court in Monell v. NYC Department of Social Services, 436 U.S. 658, 98 S.Ct. 2018 (1978) decided governments could be "persons" as well under the language of 1983.

III. Conclusion

Plaintiff, respectfully request court considers Monroe in that it signaled the resurrection of Title 42 U.S.C 1983, and the role and influence of the federal courts in enforcing civil rights and liberties.

Plaintiff, request that the Court denies Defendant's Motions and considers that Lovelace filed initial Complaint and Affidavit to proceed in forma pauperis on March 13, 2003. Lovelace is not a licensed attorney and is following Courts Orders while attempting to correct an ongoing injustice which first occurred May 19, 1993: wherein federally protected rights were first violated.

Plaintiff request that she not be denied or barred from seeking justice and sanctuary of the judicial system.

Respectfully submitted this 29 day of August, 2004.

Signed: _____
Tiwanda Lovelace, *Pro se*
Address: P.O. Box 232091
Las Vegas, NV 89123
(702) 407-3034

75

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

TIWANDA LOVELACE, *Pro Se*,

Plaintiffs,

V.

DEKALB COUNTY POLICE DEPARTMENT, Et al,

Defendants.

CIVIL ACTION FILE

NO. 1-03-CV-0925

CERTIFICATE OF SERVICE

I certify that today I served the opposing party with a copy of

Plaintiff's Memorandum in Opposition to Defendants Motion to Dismiss

via Certified Mail in a correctly addressed envelope with postage.

This 29 day of August, 2004.

Signed: _____
Tiwanda Lovelace, *Pro se*
Address: P.O. Box 232091
Las Vegas, NV 89123
(702) 407-3034

Person served. Mark A. Thompson, Assistant County Attorney- 1300 Commerce Drive, 5th Floor Decatur, GA 30030 (404) 371-3011.

70

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

TIWANDA LOVELACE, *Pro Se*,

Plaintiffs,

V.

CIVIL ACTION FILE

NO. 1-03-CV-0925

DEKALB COUNTY POLICE DEPARTMENT, Et al,

Defendants.

ATTACHMENTS (1-2)

1. Copy of **SUMMONS IN CIVIL CASE** dated August 29, 2004 (1 pg), signed by clerks and dated March 16, 2004.

2. Copy of **PACER REPORT** which details case and clerks activities dated August 29, 2004 (5 pgs).

Although Lovelace was reporting to Michigan Probation AS DIRECTED by Courts, there were no efforts were made to contact and/or provide notice. See Below…

CCHA

WARRANT FOR ARREST OF PROBATIONER

STATE OF GEORGIA vs. LOVELACE, Tiwanda Gail } COUNTY OF Dekalb NO. 89CR2414

TO THE SHERIFF OF THE ABOVE NAMED COUNTY OR OTHER LAW ENFORCEMENT OFFICER OF THE STATE:

Under authority of the Georgia Statewide Probation Act you are hereby **commanded** to take the body of

Tiwanda Gail Lovelace

of the following address 19478 Grandville

Detroit, MI 48219

and safely keep her until she may be returned to this Court, there to answer to a charge of violation of the following conditions of probation:

To report and to pay court-ordered monies.

FILED
DEKALB CO. GA.
CRIMINAL DIV.
MAY 24 3 26 PM '93
CLERK OF SUPERIOR COURT
DEKALB COUNTY, GA

Probationer is charged with violation of said conditions, in willful disregard of a Court Order, specifically as follows:

Failure to report and to pay court-ordered monies as instructed. The Defendant is considered absconded from supervision; therefore, it is requested the sentenced be tolled upon the signature of the Judge.

Issued this 19th day of May 19 93

Sworn to and subscribed before me

This 19th day of May 19 93

Marcie Kahn
Notary Public
Notary Public, DeKalb County, Georgia
My Commission Expires April 2, 1996

Duane Timmons
Probation Supervisor Duane Timmons, P.O.#10
Central Dekalb Probation

Judge Linda W. Hunter

1st ORIGINAL
SHERIFF'S DEPARTMENT
Date: 5/24/93 Two (2) cc to: Adult Probation

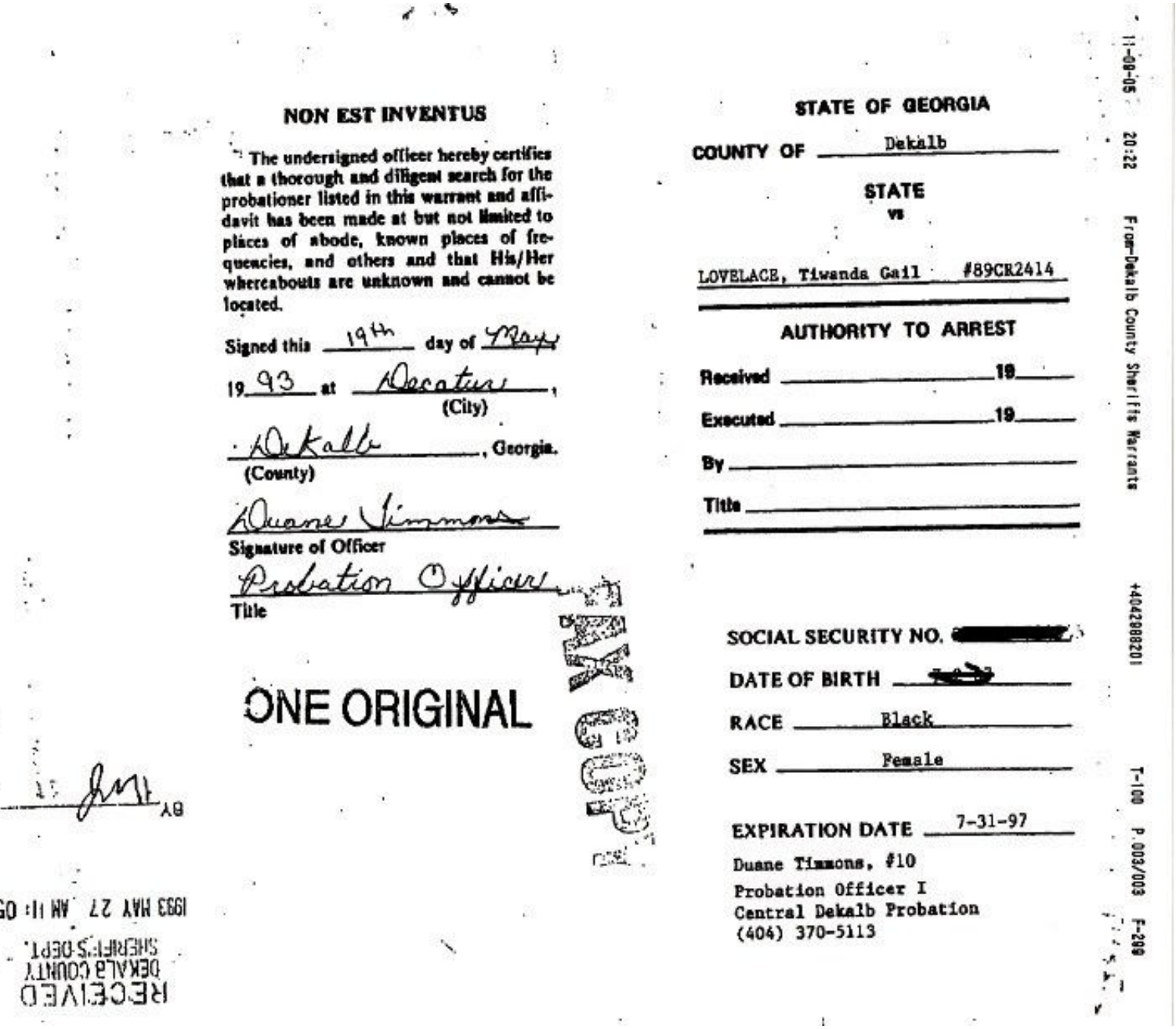
(SEAL)

STONE MOUNTAIN JUDICIAL CIRCUIT SUPERIOR COURT DEKALB COUNTY, GEORGIA

State of Georgia, DeKalb County P-15
The undersigned officer of said Superior Court certifies that this is a true and correct copy of the original document which is on file and of record in the Office of the Clerk of Superior Court. Witness my hand and seal of the Superior Court of DeKalb County Georgia.
24 day of May 93.
Deputy Clerk, DeKalb County Superior Court

ads Revised 11/87

Clearly, the Warrant has an expiration date of July 31, 1997 but this was used to take multiple jobs and even housing for almost (2) two decades. Although Lovelace was reporting to Michigan Probation, no efforts were made to contact and/or provide notice. That warrant says that 'thorough, diligent search was made to find probationer and whereabouts unknown' but this is a complete farce.



NON EST INVENTUS

The undersigned officer hereby certifies that a thorough and diligent search for the probationer listed in this warrant and affidavit has been made at but not limited to places of abode, known places of frequencies, and others and that His/Her whereabouts are unknown and cannot be located.

Signed this 19th day of May,
19 93 at Decatur, (City)
Dekalb, (County) Georgia.
Duane Timmons
Signature of Officer
Probation Officer
Title

ONE ORIGINAL

BY

1993 MAY 27 AM 11:05
DEKALB COUNTY
SHERIFF'S DEPT.
RECEIVED

STATE OF GEORGIA

COUNTY OF Dekalb

STATE
vs

LOVELACE, Tiwanda Gail #89CR2414

AUTHORITY TO ARREST

Received _____ 19____
Executed _____ 19____
By _____
Title _____

SOCIAL SECURITY NO. [redacted]
DATE OF BIRTH [redacted]
RACE Black
SEX Female

EXPIRATION DATE 7-31-97

Duane Timmons, #10
Probation Officer I
Central Dekalb Probation
(404) 370-5113

11-08-05 20:22 From-Dekalb County Sheriffs Warrants +4042888201 T-100 P.003/003 F-298

I believe the warrant was serving its purpose, to inflict damage, hinder and harm. I am sure that the fact that my father was convicted of murdering a police officer in 1969 and is serving a life sentence is not a coincidence.

Michigan Inter-State Case Report dated 08-2-1993

Confirms Lovelace Was Reporting Warrant was Illegally obtained, Malicious And Unwarranted

ICHIGAN DEPARTMENT OF CORRECTIONS
UREAU OF FIELD SERVICES

NTER-STATE CASE REPORT

PROBATION F-211289-1

CFR-128 6/84

DATE 8/2/93

ITTENTION	RE:	NO..	STATE
G. PETER CHATFIELD	TIWANDA LOVELANCE	3710898520	GEORGIA
EASON FOR REPORT		FROM	
CLOSING INTEREST		SYLVIA SMITH	

REMARKS:

Subject reported to this office 12/11/92, this case was accepted for supervision 12/22/92. Ms. Lovelace reported as directed to this office, she admitted to paying no fees to the County of Dekalb.

There is currently a warrnat for her arrest, that was issued by Georgia authorities, therefore, we are closing interest in this case.

JLA:SS:dw

Approved by: James L. Anderson, Supv.

TO	DATE
COMMENTS:	
BY:	SUPERVISOR OF INTERSTATE

Although Lovelace was reporting to Michigan Probation, no efforts were made to contact and/or provide notice. I was still reporting (3) three months, unaware that the warrant was issued on May 19, 1993. I was just told that I no longer was to report to Michigan Probation office. I obtained this letter well after.

Warrant Used to Take Section 8 Housing in Nevada

U.S. Department of Housing and Urban Development
Office of the Inspector General
300 Las Vegas Boulevard South, Suite 2914
Las Vegas, Nevada 89101
Office: (702) 366-2144 Fax (702) 388-5830

December 7, 2005

Mr. Carl Rowe
Executive Director
Clark County Housing Authority
5390 East Flamingo Road
Las Vegas, Nevada
89122

SUBJECTS: [redacted]

(3.) Tiwanda Lovelace [redacted]

Dear Mr. Rowe,

The U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG), is currently in the process of reviewing section 8 tenants / public housing tenants for active arrest warrants.

Contact with the listed police agencies [redacted] (Dekalb County, Georgia for Lovelace) disclosed that they are unable to extradite to the States of [redacted] and Georgia because of budgetary constraints. The arrest warrants for the above listed individuals are still valid and potentially violate the lease agreements with your housing agency. A copy of the arrest warrants/printouts are attached.

This information is being forwarded to your office for any administrative action that you deem appropriate. Please advise this office within 60 days from the date of this letter of the termination actions you propose to take. Please contact Special Agent Murray Stravers at (702) 366-2144 if you need additional information. Thank you for your assistance in this matter and we look forward to a continued positive working relationship with you and your staff.

Sincerely,

James Beaudette
Special Agent in Charge
HUD Office of Inspector General

Why did the police agency state that the warrants were valid in 2005 but unable to execute due to budgetary constraints but when I lived in Georgia 2003/2004 there were no efforts to arrest? I believe the warrant was serving its purpose, to inflict damage, hinder and harm. **I am sure that the fact that my father was convicted of murdering a police officer, Stanley Rapaski and Cass Czerwinski in 1969 and is serving a life sentence is not a coincidence.**