

IN THE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

DAVID STAUTIHAR,)	
)	
Plaintiff,)	
)	
v.)	No. 1:21-cv-02739
)	
OFFICER JOEY HANCOCK, in his)	
individual capacity,)	
)	JURY TRIAL DEMANDED
Defendant.)	

COMPLAINT FOR DAMAGES

Introductory Statement

1. While driving with a friend and his three-year-old daughter to the Indiana State Fair, David Stautihar was stopped by Officer Joey Hancock of the Fishers Police Department for an alleged traffic violation. During the course of the ensuing traffic stop, Officer Hancock proceeded to search Mr. Stautihar’s vehicle over the repeated objections of Mr. Stautihar. The search revealed no evidence of criminal activity and Mr. Stautihar was subsequently allowed to depart the scene without a traffic citation or even a written warning. Officer Hancock’s actions represent a gross violation of the Fourth Amendment: there was no reasonable suspicion or probable cause to initiate a traffic stop of Mr. Stautihar’s vehicle, nor was there reasonable suspicion or probable cause to search the vehicle over Mr. Stautihar’s objections. Mr. Stautihar is entitled to his damages, including punitive damages.

Jurisdiction, Venue, and Cause of Action

2. The Court has jurisdiction of this case pursuant to 28 U.S.C. § 1331.

3. Venue is proper in this district pursuant to 28 U.S.C. § 1391.
4. This action is brought pursuant to 42 U.S.C. § 1983 to redress the deprivation, under color of state law, of rights secured by the United States Constitution.

Parties

5. David Stautihar is an adult resident of Delaware County, Indiana.
6. Officer Joey Hancock is a police officer who was, at all relevant times, employed by the Fishers Police Department in Hamilton County, Indiana.

Factual Allegations

7. David Stautihar is an adult resident of Delaware County, Indiana. He is also a military veteran who served multiple tours in Iraq.
8. In the early afternoon of August 5, 2021, David Stautihar was driving his vehicle from his residence in Muncie, Indiana to Indianapolis in order to attend the Indiana State Fair. Also in the vehicle with Mr. Stautihar was a friend (who was riding in the passenger seat) and his three-year-old daughter (who was properly secured in a child seat in the rear seat of the vehicle).
9. In order to navigate from the Muncie area to Indianapolis, Mr. Stautihar was relying on an “app” on his smartphone called “Waze.” The Waze app is a popular navigational tool that relies on map data, travel times, and traffic information collected from users to provide up-to-date information to assist travelers on the road. Among other things, the Waze app collects a multitude of traffic-related incidents, including traffic jams, accidents, and police “traps,” and relays this information to users in order to alert users to road conditions or to reroute users to avoid the area altogether.
10. As Mr. Stautihar was travelling on I-69 southbound through Fishers, Indiana, the Waze

app alerted him to an upcoming police vehicle that was stationed in the median between the southbound and northbound lanes of I-69. Mr. Stautihar therefore checked his speedometer to ensure that he was not speeding and confirmed that he was not speeding. His vehicle was properly registered and he had not committed and was not committing any traffic violations whatsoever.

11. Nonetheless, when Mr. Stautihar passed the police vehicle stationed in the median of the interstate, the vehicle—which was not marked as a police vehicle but was clearly identifiable as such and was operated by Sgt. Greg Weesner of the Fishers Police Department—pulled out and immediately accelerated so that, within a matter of a few seconds, it was directly behind Mr. Stautihar’s vehicle.
12. The police vehicle operated by Sgt. Weesner followed directly behind Mr. Stautihar’s vehicle for a short period of time. This made Mr. Stautihar extremely nervous as he knew that he had not committed any traffic violations or other offenses and had no idea why Sgt. Weesner had chosen to follow him.
13. At one point, Sgt. Weesner took an exit ramp from I-69. Mr. Stautihar’s friend, who was riding in the passenger seat of the vehicle, turned partially around and observed that, while Sgt. Weesner took the exit ramp from I-69, he got right back on the entrance ramp in order to remain on I-69. Mr. Stautihar believes that, at or before this point, Sgt. Weesner radioed for another officer to continue following Mr. Stautihar for, shortly after Sgt. Weesner exited from I-69, another police vehicle—operated by Officer Joey Hancock of the Fishers Police Department—began following Mr. Stautihar.
14. Just as the vehicle operated by Sgt. Weesner had initially done, the vehicle operated by Officer Hancock rapidly accelerated until it was directly behind Mr. Stautihar. This rapid

acceleration made Mr. Stautihar extremely nervous as he had still done nothing wrong and, on top of this, he was concerned that Officer Hancock was driving close enough to his (Mr. Stautihar's) vehicle that the situation was not safe for the occupants of either vehicle.

15. Mr. Stautihar therefore turned on his right blinker and, shortly thereafter, moved from a middle lane of I-69 southbound to the right lane in an attempt to allow Officer Hancock to pass him.
16. Rather than passing Mr. Stautihar's vehicle, however, Officer Hancock followed Mr. Stautihar into the right lane and activated his emergency lights in order to initiate a traffic stop. Mr. Stautihar promptly pulled over to the side of the highway.
17. After the traffic stop was initiated, Officer Hancock approached Mr. Stautihar's vehicle. He inquired as to whether Mr. Stautihar had any weapons in the vehicle and may have inquired as to whether any drugs were in the vehicle as well. Mr. Stautihar informed him that he (Mr. Stautihar) had a legal firearm in the glove compartment. Officer Hancock asked Mr. Stautihar for permission to remove the firearm from the glove compartment and Mr. Stautihar allowed Officer Hancock to remove the firearm himself.
18. Officer Hancock then inquired as to whether anything else was in the vehicle that should not be there. He was informed, truthfully, that no such items were in the vehicle. Officer Hancock then asked to search the vehicle and Mr. Stautihar told him explicitly that he did not consent to a search.
19. Officer Hancock then directed both Mr. Stautihar and his friend to produce their driver's licenses. They did so. Mr. Stautihar also voluntarily produced his firearm license in order to demonstrate that he was allowed to be in possession of the firearm that Officer Hancock had seized.

20. Officer Hancock then returned to his police vehicle, presumably to radio dispatch to have Mr. Stautihar and his friend run through the police database as well as to deposit Mr. Stautihar's firearm for safekeeping during the traffic stop. Neither Mr. Stautihar nor his friend had any outstanding warrants and, on information and belief, Officer Hancock did not learn any information of concern during this process.
21. A short while later, Officer Hancock returned to the driver's side of Mr. Stautihar's vehicle. By this time, Sgt. Weesner had parked his police vehicle behind Officer Hancock's vehicle and joined the traffic stop. Mr. Stautihar believes that Sgt. Weesner arrived shortly after the traffic stop was initiated by Officer Hancock.
22. Officer Hancock then directed Mr. Stautihar to get out of the vehicle, informing Mr. Stautihar that it was necessary for him to get out of the car to allow Officer Hancock to provide a verbal warning to Mr. Stautihar about the traffic violation that Officer Hancock indicated he had witnessed.
23. Mr. Stautihar therefore left his vehicle and, around the same time, Sgt. Weesner instructed his friend to get out of the other side of the vehicle and his friend did so. Mr. Stautihar's three-year-old daughter remained in the back seat of the vehicle. Leaving his daughter alone in the vehicle while he was removed from the vehicle alongside a busy highway caused Mr. Stautihar a great deal of concern and anxiety.
24. Officer Hancock then performed a pat-down search of Mr. Stautihar and Sgt. Weesner performed a pat-down search of Mr. Stautihar's friend. Neither pat-down search revealed any evidence of criminal activity or any materials that otherwise were cause for concern.
25. Officer Hancock nonetheless asked Mr. Stautihar once again if he (Officer Hancock) could conduct a search of Mr. Stautihar's vehicle. Mr. Stautihar again informed him that he did

- not have permission to search the vehicle.
26. At this point, Officer Hancock indicated—for the very first time—that he smelled the odor of marijuana emanating from the vehicle, and further indicated that he was therefore going to search the vehicle over Mr. Stautihar’s objection.
 27. Officer Hancock’s statement that he smelled the odor of marijuana emanating from the vehicle was not true. There was no odor of marijuana emanating from the vehicle, nor was there any odor that could have been confused with the odor of marijuana emanating from the vehicle.
 28. No reasonable suspicion or probable cause existed for Officer Hancock to conduct a search of Mr. Stautihar’s vehicle.
 29. Mr. Stautihar expressed concern that the vehicle would be searched while his daughter was still inside the vehicle. However, he was informed that his daughter should remain in the vehicle as it was safer for her to be inside the vehicle than it was for her to be on the side of a busy interstate highway.
 30. Officer Hancock then proceeded to search Mr. Stautihar’s vehicle—including under the hood, the passenger compartment, and the trunk of the vehicle—while Sgt. Weesner remained with Mr. Stautihar and his friend. This search did not reveal any evidence of criminal activity or any materials that otherwise were cause for concern. It certainly did not reveal any marijuana, any drug paraphernalia, or any evidence that marijuana or drug paraphernalia had recently been in the vehicle. None of this was surprising to Mr. Stautihar: he, his friend, and his daughter were simply trying to visit the Indiana State Fair and were not engaged in any criminal activity whatsoever.
 31. At the end of Officer Hancock’s search of Mr. Stautihar’s vehicle, the officers informed

- Mr. Stautihar and his friend that they were free to leave. He did not provide Mr. Stautihar with a traffic citation or a written warning that he had committed a traffic infraction.
32. At some point during the course of the traffic stop—Mr. Stautihar does not recall precisely when—Officer Hancock informed Mr. Stautihar that he had initiated the traffic stop because Mr. Stautihar had not kept his right blinker, which he had activated to signal his intention to change lanes to allow Officer Hancock to pass, activated throughout the entirety of the lane change.
33. Mr. Stautihar believes that he kept his right blinker activated throughout the lane change.
34. In any event, Indiana law does not require that a motorist keep his blinker activated throughout a lane change: it requires only that the blinker be activated for a certain number of feet “*before* turning or changing lanes.” *See* Ind. Code § 9-21-8-25 (emphasis added). No local ordinance in effect in Fishers or Hamilton County requires a motorist to keep his blinker activated throughout a lane change.
35. Thus, no reasonable suspicion or probable cause existed for Officer Hancock to initiate a traffic stop of Mr. Stautihar’s vehicle.
36. As a result of the actions of Officer Hancock, Mr. Stautihar suffered emotional and other damages. He has been diagnosed with post-traumatic stress disorder as a result of his military service, which was exacerbated by the actions of Officer Hancock. He was also extremely worried for the well-being of his daughter throughout his interaction with Officer Hancock.
37. Officer Hancock’s actions were malicious and were taken with reckless indifference to Mr. Stautihar’s rights.
38. At all times Officer Hancock acted under color of state law.

Legal Claim

39. The actions of Officer Hancock violated Mr. Stautihar's rights under the Fourth Amendment to the United States Constitution.

Jury Trial Demand

40. Mr. Stautihar demands a trial by jury on all issues so triable.

Request for Relief

WHEREFORE, the plaintiff requests that this Court do the following:

1. Accept jurisdiction of this cause and set it for hearing.
2. Declare that the defendant violated the rights of the plaintiff for the reasons described above.
3. Award the plaintiff his damages, including nominal, compensatory, and punitive damages.
4. Award the plaintiff his costs and attorneys' fees pursuant to 42 U.S.C. § 1988.
5. Award all other proper relief.

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