

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO

MARCUS SAPP)	
)	No. 26-497
Plaintiff,)	
)	
v.)	
)	
THE CITY OF CINCINNATI, Police)	
Detectives COLIN VAUGHN, JOHN)	
HORN, DOUGLAS LINDLE, JOHN)	
HEILE, CORY BONNER, FELDHAUS,)	JURY TRIAL DEMANDED
MATTHEW THOMPSON, BRIAN)	
TROTTA, BOB LISTON, J. BRIEDE,)	
WILLIAM KINNEY, EVAN EVANS,)	
CHIEF THOMAS STREICHER, and)	
UNKNOWN CURRENT AND FORMER)	
OFFICERS AND DETECTIVES OF THE)	
CINCINNATI POLICE DEPARTMENT,)	
)	
Defendants.)	

COMPLAINT

Now comes Plaintiff Marcus Sapp, by and through his attorneys, and hereby complains against Defendants CITY OF CINCINNATI, Police Officers COLIN VAUGHN, JOHN HORN, DOUGLAS LINDLE, JOHN HEILE, CORY BONNER, FELDHAUS, MATTHEW THOMPSON, BRIAN TROTTA, BOB LISTON, J. BRIEDE, WILLIAM KINNEY, EVAN EVANS, Chief of Police THOMAS STREICHER, and UNKNOWN CURRENT AND FORMER OFFICERS AND DETECTIVES OF THE CINCINNATI POLICE DEPARTMENT, and states as follows:

Introduction

1. Plaintiff Marcus Sapp was wrongfully convicted of the assault of Tyler Irvine and murder of Andrew Cunningham and spent some 13 years incarcerated as an innocent man before his conviction was vacated and, eventually, the charges were dismissed.

2. Mr. Sapp was later declared a “Wrongfully Imprisoned Individual” under Ohio law, exonerating him completely.

3. Tragically, Mr. Sapp’s wrongful conviction was no accident but instead the result of police misconduct—including the suppression of evidence of Sapp’s innocence—perpetuated by Officers from the Cincinnati Police Department (CPD) acting pursuant to the City’s deficient policies, practices, and customs.

4. Mr. Sapp brings this action pursuant to the United States Constitution and Ohio law to redress the Defendants’ tortious conduct and their violation of Plaintiff’s constitutional rights.

Jurisdiction and Venue

5. This Court has jurisdiction over Mr. Sapp’s federal claims pursuant to 28 U.S.C. § 1331, and over his state-law claims pursuant to 28 U.S.C. § 1367.

6. Venue is proper because, upon information and belief, nearly all of the individual defendants reside within this district, and nearly all of the events giving rise to the claims asserted herein occurred within this district.

Parties

7. Plaintiff Marcus Sapp is a 39-year-old resident of Cincinnati, Ohio. Sapp is a family man, spending time raising his daughter as he rebuilds his life in the wake of wrongful imprisonment.

8. Defendant City of Cincinnati (the City) is an Ohio municipal corporation that operates the Cincinnati Police Department (CPD or the Department). The City is liable for all torts committed by the Defendant Officers while employed by the City pursuant to the doctrine of *respondeat superior*. The City is additionally responsible for the policies and practices of the City and Department.

9. Defendants Colin Vaughn, Douglas Lindle, Cory Bonner, Evan Evans, John Horn, John Heile, Mathew Thompson, Brian Trotta, Bob Liston, J. Briede, Det. Feldhaus, William Kinney, and other unidentified members of the Cincinnati Police Department (the Defendant Officers) were at all times relevant to this Complaint law enforcement officers with the Cincinnati Police Department.

10. At all relevant times, Defendant Thomas Streicher was Chief of Police for the CPD and an official policymaker for the City.

11. At all times relevant, the Defendant Officers acted under color of law and within the scope of their employment for the City of Cincinnati and the Department. They are sued in their individual capacities.

Factual Allegations

The Murder of Andrew Cunningham and Assault of Tyler Irvine

12. Andrew Cunningham and Tyler Irvine operated a drug enterprise within their home at 3314 Cardiff Avenue in Oakley, Ohio.

13. Between roughly 8:00-9:00 p.m. on January 5, 2008, two men armed with assault rifles entered the home of Tyler Irvine and Andrew Cunningham.

14. When the men entered the home, Irvine was preparing to take a shower, causing dogs to bark.

15. Irvine exited the shower and peered down the stairs and came face-to-face with two armed men, both of whom were forcing Cunningham up the stairs.

16. When they reached the top of the stairs, one of the men (“Perpetrator 1”) hit Irvine in the face with the butt of a rifle, breaking Irvine’s nose.

17. The two assailants separated the victims, making demands to “give them everything.” Perpetrator 1 forced Cunningham into a bedroom, while the second person (“Perpetrator 2”) dragged Irvine into a separate bedroom.

18. When Perpetrator 2 turned his back, Irvine fled down the stairs, out of the house, and across the street to a neighbor’s house.

19. As he fled, Irvine heard gunshots come from inside the home.

20. Cincinnati Police Department officers arrived shortly after and found Cunningham lying at the bottom of the staircase, shot to death.

21. Officers also found a large amount of blood, casings from large-caliber ammunition, and bullet holes in the walls.

22. The perpetrators wore blue latex gloves during the commission of the offense and fragments of blue latex gloves were found and photographed.

23. These gloves had DNA and blood on them, but CPD failed to preserve this obviously important evidence.

24. During the initial investigation, investigators took hundreds of pictures of the crime scene—they were well aware of its layout.

25. Detectives also collected cellphones from both victims, which contained information about the perpetrators. The data and Cellebrite report from these phones has never been produced.

Initial Investigation by Cincinnati Police Department

26. Detectives Thompson, Lindle, Bonner, and Horn were all members of the Homicide Unit of the Cincinnati Police Department.

27. In that capacity, Detectives Thompson, Lindle, Bonner, Horn, and Vaughn worked together as a part of a team among the Defendant Officers to investigate the homicide.

28. As it concerns the Cunningham-Irvine crimes, Detective Lindle was the officer initially leading the investigation but worked hand-in-hand with Detectives Horn, Thompson, and Bonner in the operation. Though Sergeant Brian Trotta oversaw these officers he worked with them as well.

29. Additionally, Defendants William Kinney, Evan Evans, and Bonner participated in the investigation, particularly as it related to identifying suspects other than Mr. Sapp.

30. In the end, all of the Defendant Officers work together on various aspects of the investigation.

31. The day after the homicide-battery, Detectives Thompson and Lindle interviewed the surviving victim, Irvine.

32. Irvine told detectives that he grew marijuana and was involved in the drug trade and provided names of potential suspects.

33. Plaintiff Marcus Sapp was *not* included in that list of people.

34. During the interview, Irvine provided physical descriptions of the perpetrators to CPD officers.

35. Perpetrator 1 was described as being in his late twenties to early thirties, slightly shorter than 5'10, and darker-skinned.

36. Perpetrator 2 was described as being 5'10 or a little taller, light-skinned, with light-colored eyes, and younger than the first.

37. Irvine revealed that both perpetrators were wearing blue latex gloves.

38. Further, Irvine described Perpetrator 1 as running—including up and down the stairs—and did not describe a limp. Eyewitnesses who saw the perpetrators leave the locations, but were unable to identify them, also did not describe either perpetrator as limping or having an irregular gait.

39. Neither of these men was Marcus Sapp.

40. Marcus Sapp matched neither of these descriptions. As a six-foot-tall 21-year-old at the time of the incident, Marcus was too tall and too young to match the description of Perpetrator 1.

41. Marcus Sapp has very dark skin and dark eyes—characteristics that directly contradicted Irvine’s description of Perpetrator 2.

42. Sapp also could not have committed the crime. When the murder occurred, Mr. Sapp was recovering from a severe leg injury that left him physically disabled, in a leg brace, and unable to walk without a severe limp.

43. Sapp could not have alone run up and down stairs as the Perpetrators of the crime did.

44. No witnesses who saw the perpetrators leave the crime scene, including Irvine, described either perpetrator as limping or having an irregular gait consistent with Mr. Sapp’s medical limitations.

45. Irvine and other witnesses reported seeing a white sedan with rounded headlights fleeing the scene.

Defendants Identify Fernando Roland As a Suspect But Suppress Evidence About His Involvement

46. In the days following the murder, Defendant Officers amassed a wealth of evidence indicating that a man named Fernando Roland was one of the perpetrators.

47. Among other officers, Defendants Breide, Thompson, Kinney, Bonner, Evans, and Horn specifically focused on investigating Fernando Roland.

48. For example, Defendant Breide received a call from Cunningham’s brother-in-law, Mr. Robinson, who said he had information about the murder. When interviewed, he stated that a guy named “Nardo” (Fernando Roland’s nickname) was selling marijuana to Cunninham and urged the police to contact him.

49. Eleven days after the murder, Defendant Lindle showed Irvine a photo of Roland. When Irvine saw the photo, he stated, “that looks just like the first guy that came into my house,” and said the picture sent “shivers down [his] spine.”

50. Inexplicably, Irvine was shown another lineup with a different picture of Roland.

51. For a second time, Irvine identified Roland as Perpetrator 1 in a photo lineup.

52. The Defendant Officers continued to pursue Roland as a suspect. As part of their investigation, Defendants Lindle and Bonner learned that a confidential informant had implicated Roland in violent crimes, including threatening people with the same type of gun used in the Cunningham murder (an AK47).

53. Defendants Lindle and Bonner discussed Irvine’s identification of Roland as Perpetrator 1 over the phone, as confirming their suspicions, and as they attempted to identify Perpetrator 2.

54. Upon information and belief, the Defendants recorded this phone conversation but no audio recording of this call has ever been produced.

55. About a month later, Defendant Lindle interviewed another informant, M.W., who confirmed that Roland and one of his friends had committed the home invasion and murdered Cunningham.

56. During the interview, M.W. expressed his fear of testifying against Roland but was assured that would not be necessary, given Irvine's prior double identification.

57. Though Defendants recorded some of these interactions with M.S., the audio recording of the interview was not disclosed in the criminal proceedings against Mr. Sapp.

58. Roland's car also matched the description provided by multiple witnesses who saw a white sedan with rounded headlights fleeing the scene of the crime.

59. Despite the substantial evidence pointing towards Roland as one of the perpetrators, Defendants chose not to pursue him as a suspect.

60. In fact, the Defendants would suppress evidence that Roland had been twice identified by Irvine as a perpetrator.

Defendants Fabricate Evidence Against Plaintiff

61. The case went cold. Some two years passed and the Defendant Officers decided to focus on Plaintiff, Marcus Sapp, despite his innocence.

62. Among other things, the Defendant Officers utilized a jailhouse informant to fabricate an obviously unreliable account (falsely) implicating Sapp.

63. The informant, Quincy Jones, had been charged with two counts of murder and had become acquainted with Detective Horn during the arrest.

64. The Defendant Officers, led by Defendant Horn, provided information to Jones about the crime and had him fabricate those details as things he supposedly “heard” when that was simply not true.

65. Defendant Horn took contemporaneous notes of parts of his conversations with Jones but destroyed those notes.

66. Jones eventually agreed to falsely implicate Plaintiff Marcus in the Cunningham murder. The Officers knew—because they had supplied the information—that this account was false, and that Jones had other corrupt motives to falsely implicate Sapp but pressed on anyway.

67. Despite these obvious credibility issues, the investigating officers abandoned their investigation of Fernando Roland and moved forward with their investigation of Marcus Sapp.

68. In addition to hiding exculpatory evidence pointing to Roland, Defendants fabricated evidence purporting to implicate Sapp.

69. For example, Defendant Lindle presented a new photo lineup to Irvine.

70. As a departure from accepted and reasonable practice calling for one suspect per procedure, this lineup included Sapp and another potential suspect.

71. Still, Irvine did not identify Sapp or the other suspect from the array.

72. The Defendant Officers, and primarily Detective Lindle, then utilized unduly suggestive and unreliable tactics to suggesting Sapp was the perpetrator and to manufacture an identification.

73. Even though Irvine did not identify Sapp—and even though Irvine *had* identified Fernando Roland—the Defendant Officers conducted a live lineup that included Marcus Sapp nearly two years after the crime took place.

74. The live line-up was suggestive in multiple ways.

75. For example, Irvine had previously seen pictures of Mr. Sapp in the photo line-up, and Sapp was further emphasized by the questions asked during the administration of the lineup.

76. Mr. Sapp was the only participant asked to speak during the procedure, which, among other thing, directed Irvine's attention to Sapp and suggested he was the perpetrator.

77. Despite having previously identified a far more likely suspect (Roland), as a result of Defendants' suggestion and tactics, evidence was fabricated when Irvine misidentified Mr. Sapp from the line-up.

Mr. Sapp is Arrested, Charged, and Wrongfully Convicted

78. Before the statements made by Jones purporting to implicate Sapp in the murder and before the misidentification of Sapp by Irvine, there was no probable cause to believe Sapp committed the Cunningham murder or was involved in that incident.

79. After the statements made by Jones purporting to implicate Sapp in the murder and before the misidentification of Sapp by Irvine, there was no probable cause to believe Sapp committed the Cunningham murder or was involved in that incident.

80. Though there was no probable cause to believe Sapp committed the crime, Sapp was charged and arrested as a result of Defendants' fabrication of evidence (*e.g.*, a misidentification of him by Irvine and Jones' false claims) and only due to their respective suppression of material and exculpatory information that would have demonstrated the absence of probable cause.

81. Being innocent, Sapp demanded a trial.

82. At trial, the State of Ohio did not rely on any physical evidence linking Sapp to the crime. None existed.

83. The purportedly inculpatory evidence was the result of Defendants' misconduct, and most significantly centered on Irvine's misidentification. That misidentification carried great weight because, due to Defendants' suppression of exculpatory information, Sapp did not know, and the jury never learned, that Irvine had previously identified Roland as the perpetrator.

84. Defendants' suppression of the prior identification was material to Sapp's trial, and impacted the result of those proceedings, especially given that Defendants (falsely) claimed that Irvine had never identified anyone but Sapp.

85. Statements allegedly made by Jones purporting to implicate Sapp in the crime, which were fabricated by Defendants, were also material to the prosecution.

86. Before the trial concluded, the Defendants did not disclose their misconduct and suppressed a wealth of information, as more fully described above.

87. Mr. Sapp was (wrongfully) convicted of the Cunningham-Irvine murder robbery sentenced to an sentence of twenty-seven years to life without parole.

Mr. Sapp's Exoneration

88. Through 13 years of incarceration, Mr. Sapp maintained his innocence. Eventually, new exculpatory evidence was brought to light. This exculpatory information included the fact that Defendants had suppressed Irvine's initial identifications of Roland as the perpetrator and his exculpatory comments and failure to identify Sapp when initially shown his picture.

89. Individuals incarcerated with Quincy Jones came forward and revealed that Detective Horn had committed egregious misconduct in supplying information to alleged informants and saying something "isn't that what you heard?" or words to that effect.

90. Among other things, it was revealed that Defendants also suppressed evidence of an alternative suspect (Roland) and that would have impeached their informant (Jones), including but not limited to:

- Audio recording of calls between Defendants Lindle and Bonner discussing that a confidential informant told Bonner that Roland and his friends possessed and threatened people with an AK-47, and pertaining to another informant exculpating Sapp and implicating Roland.
- Information that, shortly after the murder, Roland was trying to sell an AK-47 that "had a body on it."

- Horn's interactions (including contemporaneous notes) concerning Quincy Jones.
- That Irvine had twice identified Roland as the perpetrator in a lineup.

91. Among other things, it was also revealed that—despite knowing its exculpatory value—Defendants destroyed favorable evidence, including but not limited to

- A photo or photos Roland used in the undisclosed identifications;
- Records of the investigation into Roland as an alternative suspect;
- Case files concerning drug trafficking and other potential charges against Irvine, which contained material information;
- The pieces of blue latex gloves found at the scene, which contained the perpetrators' DNA and blood;
- Hundreds of crime scene photos;
- One of the victim's cellphones; and
- Investigatory notes.

92. The disclosure of some of the material information listed above led to Mr. Sapp's conviction being vacated. Yet, Mr. Sapp remained subject to the same criminal charges as part of the ongoing prosecution against him for the Cuningham murder and Irvine robbery until the charges were finally dismissed.

93. In 2026, Mr. Sapp was declared a Wrongfully Imprisoned Person under Ohio law, exonerating him completely.

Mr. Sapp's Wrongful Conviction was Caused by Cincinnati's Practices

94. Mr. Sapp's wrongful conviction was caused by Cincinnati's widespread policies and customs.

95. The violation of Sapp's constitutional rights and resulting wrongful conviction were not mere accidents or anomalies but were the direct result of the official policies and/or customs of the City of Cincinnati.

96. At all times relevant here, Chief Thomas Streicher was a policymaker for the Cincinnati Police Department and Cincinnati.

97. Though unknown to Mr. Sapp and his defense counsel at the time of his conviction, Cincinnati Police Department officers were permitted to engage in misconduct that led to Mr. Sapp's wrongful conviction.

98. The City of Cincinnati failed to adopt adequate procedural safeguards concerning the suppression of material evidence, the fabrication of evidence, how to conduct constitutionally valid lineups, and other recurring law enforcement functions that violated Sapp's constitutional rights.

99. Had adequate rules been enacted, and had more training been afforded the sorts of constitutional violations here—including the egregious suppression of identification and other exculpatory evidence and the administration of suggestive live lineups—would have never occurred.

100. In addition, key crime scene evidence would often be destroyed or removed from case files, not turned over to the defense, and reports would be written that included lies and misstatements later used to secure convictions.

101. Cincinnati's pattern of destroying important (exculpatory) crime scene evidence continued for decades, including after the State of Ohio passed a DNA preservation law requiring evidence to be preserved for testing. Cincinnati, however, continued to destroy evidence even after this law, and it failed to train its officers to implement the preservation statute.

102. Upon information and belief, the City had specific notice of misconduct committed by some of the Defendant Officers here, including those who interacted with Jones and Irvine directly. The misconduct of some officers, including Defendant Horn, was well documented in the department's files.

103. However, despite being on notice of such behavior, the City chose to approve of, rather than discipline, their employees for the widespread misconduct in the Department. This misconduct led directly to Mr. Sapp's conviction.

104. Numerous violations of Mr. Sapp's constitutional rights by the Investigating Officers and Detective Defendants were approved of and ratified by the City Defendants and/or by the final policymaker, such that the actions of the individual Defendants constitute the official policy, practices, and/or customs of the City.

105. These acts of fabrication, suppression of evidence, and the use of an improperly suggestive lineup were committed pursuant to—or ratified by officials whose conduct reflected—long standing policies, practices, or customs that constituted the standard operating procedure of the City Defendants.

106. The City was on notice that suppressing exculpatory and impeachment evidence violated constitutional law, given a longstanding pattern of similar misconduct in numerous prior criminal cases, including repeated suppression and destruction of evidence spanning decades.

107. Despite this, the City knowingly failed to train adequately their law enforcement officers on their obligations under *Brady* and *Giglio*, allowing these violations to persist unchecked.

108. For example, in the prosecution of Derrick Jameson, multiple witness statements from police interviews were not disclosed, raising serious concerns about systemic failures to turn over exculpatory evidence, whether by police or prosecutors.

109. Likewise, Elwood Jones's 1995 conviction was vacated after it was disclosed that CPD officers had withheld thousands of pages of exculpatory evidence, including a document showing that the prosecution's theory contradicted the scientific evidence at the scene.

110. Similarly, Lamont Hunter was given the death penalty in a 2007 conviction that was later vacated in 2023, after it was revealed that—as here—photographs of the crime scene were not disclosed.

111. These are just examples of a pattern of conduct that the City itself has not fully disclosed to this day.

112. As a direct result of, and pursuant to, the Defendants' written and unwritten policies and practices, the absence of practices or procedures where they

are obviously needed, materially evidence was withheld and/or destroyed, and significant impeachment information about state witnesses was concealed, leading to Mr. Sapp's wrongful conviction.

Plaintiff's Profound Damages

113. Defendants' conduct caused Mr. Sapp extreme suffering and irreparable injury.

114. At twenty-one, in the prime of his life, Mr. Sapp was accused of, prosecuted for, and convicted of a horrific murder, despite no evidence linking him to the crime.

115. Mr. Sapp spent over 13 years of his life in prison, not knowing if he would ever be released. Every day, he woke up in prison, knowing he was there for a crime he did not commit, and facing the prospect that would be his reality for the rest of his life.

116. During those long years, Mr. Sapp life was torn apart. His freedom vanished, his family bonds unraveled, and his community connections dissolved. His hopes for a career and financial independence were stolen, and he was denied the chance to build a life, pursue joy, or experience even the most basic human milestones.

Legal Claims

**Count I: 42 U.S.C. § 1983—Due Process/Fair Trial
Fifth, Sixth and Fourteenth Amendments**

117. Plaintiff incorporates every paragraph in this Complaint as if fully set forth here.

118. The Defendant Officers acting individually and in conspiracy with each other, destroyed, failed to disclose, and otherwise withheld and/or suppressed exculpatory information and material from the Plaintiff, including but not limited to information pointing to alternative suspects, information pointing to Sapp's innocence, information that would have allowed Sapp to challenge the good faith of the Defendants' investigation, and contemporaneous evidence of misconduct. The exculpatory or impeaching value of this evidence was apparent to the Defendant Officers when it was suppressed.

119. The Defendant Officers acting individually and in conspiracy with each other, used improper and suggestive procedures to cause Plaintiff to be misidentified as the perpetrator, which was bolstered by their suppression of exculpatory information. Defendants' misconduct tainted the criminal proceedings, as the "identification" evidence was used against Sapp during pretrial proceedings and when it was offered against him at trial.

120. In addition, in the manner more fully set forth above, the Defendant Officers fabricated evidence, including an informant account by Quincy Jones, and other police documents. In addition to being used against Sapp during the criminal

proceedings, these fabrications tainted the criminal process as prosecutors and defense attorneys relied upon the documents that police had fabricated.

121. As a result of these violations, Plaintiff was deprived of his right to fair trial and was falsely convicted for a crime of which he was innocent.

122. Defendants were acting under color of law and within the scope of employment when they took these acts.

123. The City is liable because the violation of Plaintiff's rights described in this Count was caused by the policies, practices, customs, and/or the decisions of policymakers for these Defendants.

124. Plaintiff suffered actual damages, pain and suffering, lost wages, and other damages as a direct and proximate result.

**Count II: 42 U.S.C. § 1983—Fourth Amendment
(Unlawful Detention Without Probable Cause)**

125. Plaintiff incorporates every paragraph in this Complaint as if fully set forth here.

126. The Defendant Officers instigated and continued the prosecution of Plaintiff without probable cause.

127. As a result, Plaintiff was falsely charged and wrongfully convicted for a crime of which he was innocent.

128. The criminal proceedings terminated in Plaintiff's favor when the charges against him were finally dismissed.

129. These Defendants were acting under color of law and within the scope of employment when they took these acts.

130. The City is liable because the violation of Plaintiff's rights described in this Count was caused by the policies, practices, customs, and/or the decisions of policymakers for these Defendants.

131. Plaintiff suffered actual damages, pain and suffering, lost wages, and other damages as a direct and proximate result.

Count III: 42 U.S.C. § 1983—Destruction of Exculpatory Evidence

132. Plaintiff incorporates every paragraph in this Complaint as if fully set forth here.

133. The Defendant Officers suppressed, destroyed, or caused to be destroyed exculpatory and materially-favorable evidence, including but not limited to audio recordings of material phone conversations, photographs used in identification line-ups, investigative notes, crime scene evidence, and evidence bearing upon the credibility of the homicide investigation and its investigators, and extensive other evidence connecting Fernando Roland to the crime. This material exculpatory evidence was destroyed either recklessly or in bad faith.

134. As a result of these violations, Plaintiff was deprived of his right to fair trial and was falsely convicted for a crime of which he was innocent.

135. These Defendants were acting under color of law and within the scope of employment when they took these acts.

136. The City is liable because the violation of Plaintiff's rights described in this Count was caused by the policies, practices, customs, and/or the decisions of policymakers for these Defendants.

137. Plaintiff suffered actual damages, pain and suffering, lost wages, and other damages as a direct and proximate result.

Count III: 42 U.S.C. § 1983—Failure to Intervene

138. Plaintiff incorporates every paragraph in this Complaint as if fully set forth here.

139. In the manner described above, and during the constitutional violations described above, one or more Defendants stood by without intervening to prevent the violation of Mr. Sapp's constitutional rights, even though they had the duty and the opportunity to do so.

140. These Defendants had a duty and reasonable opportunity to prevent this harm to Sapp, but they failed to do so.

141. The misconduct described in this count was objectively unreasonable and was undertaken recklessly or intentionally with willful indifference to Mr. Sapp's constitutional rights.

142. As a result of Defendants' failure to intervene to prevent the violation of Sapp's constitutional rights, Mr. Sapp suffered loss of liberty, great mental anguish, humiliation, degradation, physical and emotional pain and suffering, and other grievous and continuing injuries and damages as set forth above.

143. Defendants' misconduct described in this count was undertaken pursuant to the policies, practices, and customs of the City Cincinnati as more fully described above.

Count IV: 42 U.S.C. § 1983—Conspiracy to Deprive Constitutional Rights

144. Plaintiff incorporates every paragraph in this Complaint as if fully set forth here.

145. The Defendant Officers reached an agreement among themselves to frame Mr. Sapp for murder, and thereby to deprive Mr. Sapp of his constitutional rights, as alleged above. This agreement was first reached when the investigating began implicating Mr. Sapp (rather than Roland) and remained in place throughout all periods of his detention, prosecution, and incarceration.

146. In addition, Defendants conspired to deprive Mr. Sapp of the exculpatory *Brady* material to which he is entitled and that would have led to his earlier exoneration.

147. In this manner, Defendants, acting in concert with each other and with other co-conspirators, known and unknown, conspired by concerted action to accomplish an unlawful purpose and/or a lawful purpose by unlawful means.

148. In furtherance of the conspiracy, each co-conspirator committed overt acts and was an otherwise willful participant in joint activity.

149. As a result of this illicit prior agreement, Mr. Sapp suffered loss of liberty, great mental anguish, humiliation, degradation, physical and emotional pain and suffering, and other grievous and continuing injuries and damages as set forth above.

150. The misconduct described in this count was objectively unreasonable and was undertaken recklessly or intentionally and with willful indifference to Mr. Sapp's constitutional rights.

151. Defendants' misconduct described in this count was undertaken pursuant to the policies, practices, and customs of the City of Cincinnati.

Count V: 42 U.S.C. § 1983—Unconstitutional Policies, Practices, and Customs of the City Cincinnati

152. Plaintiff incorporates every paragraph in this Complaint as if fully set forth here.

153. Mr. Sapp's injuries were caused by the policies, practices, and customs of the City of Cincinnati, as well as by the actions of policy-making officials for the City of Cincinnati.

154. At all times relevant and material to this action, and for a period of time before and after, the City of Cincinnati failed to promulgate proper or adequate rules, regulations, policies, and procedures governing identification line-ups, work with informants, preservation and production of investigative materials and evidence, and other recurring investigative functions performed by officers and agents of the CPD.

155. At all times relevant and material to this action, and for a period of time before and after, the City of Cincinnati failed to promulgate proper or adequate rules, regulations, policies, and procedures governing the collection, documentation, preservation, testing, and disclosure of evidence, including physical evidence, writing of police reports, taking of investigative notes, obtaining and retaining

witness statements and testimony, and the maintenance of investigative files and disclosure of those files in criminal proceedings by officers and agents of the City of Cincinnati.

156. The City of Cincinnati failed to adopt an adequate *Brady* policy and instead permitted a practice where its officers could suppress material information from criminal suspects during prosecutions.

157. In addition or alternatively, the City of Cincinnati failed to promulgate proper and adequate rules, regulations, policies, and procedures for training and supervision of officers and agents of the City with respect to conducting line-ups, working with informants, preserving investigatory materials, and disclosing those documents.

158. Officers and agents of the City of Cincinnati committed these failures to promulgate proper or adequate rules, regulations, policies, and procedures.

159. Had the officers and agents of the City of Cincinnati promulgated appropriate rules, regulations, policies, and procedures, then the violation of Mr. Sapp's constitutional rights would have been prevented.

160. In addition, at all times relevant and material to this action, and for a period of time before, the City of Cincinnati had notice of practices and customs by their respective officers and agents pursuant to which individuals suspected of criminal activity, like Mr. Sapp, were routinely deprived of exculpatory evidence, subjected to the fabrication of evidence, falsely charged, and prosecuted with that false evidence.

161. In addition, at all times relevant and material to this action, and for a period of time before, the City of Cincinnati had notice of practices and customs of their officers and agents that included one or more of the following: (1) officers did not record investigative information in police reports, did not maintain proper investigative files, (2) did not disclose investigative materials to criminal defendants; (3) officers fabricated false evidence implicating criminal defendants in criminal conduct; (4) officers failed to maintain and/or preserve evidence and/or destroyed evidence, including physical evidence; and/or (5) officers pursued wrongful convictions through profoundly flawed investigations.

162. These practices and customs, individually and/or together, were allowed to flourish because the leaders, supervisors, and policymakers of City of Cincinnati directly encouraged and were thereby the moving force behind the very type of misconduct at issue by failing to adequately train, supervise, and control their officers, agents, and employees on proper techniques and by failing to adequately punish and discipline prior instances of similar misconduct, thus directly encouraging future abuses like those affecting Mr. Sapp.

163. The above practices and customs, so well settled that they constituted *de facto* policies of the City of Cincinnati, were able to exist and thrive, individually and/or together, because policymakers with authority over the same exhibited deliberate indifference to the problem, thereby effectively ratifying it.

164. In addition, the misconduct described in this count was undertaken pursuant to the City of Cincinnati policies and practices in that the constitutional

violations committed against Sapp were committed with the knowledge or approval of persons with final policymaking authority for the City of Cincinnati and or were actually committed by persons with such final policymaking authority.

165. Indeed, being fully apprised of the circumstances for this lawsuit—and the misconduct that led to Mr. Sapp’s exoneration—the City has not taken any steps to audit, discipline, reprimand, or atone for these known violations of Mr. Sapp’s constitutional rights committed by its agents. The City, then, has both ratified the conduct and showed ongoing deliberate indifference to the violation of Mr. Sapp’s rights as a matter of municipal practice.

166. Mr. Sapp’s injuries were directly and proximately caused by officers, agents, and employees of the City of Cincinnati including but not limited to Defendants, who acted pursuant to one or more of the policies, practices, and customs set forth above in engaging in the misconduct described in this count.

Count VI: Ohio State Law—Malicious Prosecution

167. Plaintiff incorporates every paragraph in this Complaint as if fully set forth here.

168. The Defendant Officers instigated and continued the prosecution of Plaintiff without probable cause.

169. As a result of the malicious prosecution, Mr. Sapp was falsely convicted for a crime of which he was innocent.

170. The criminal proceedings terminated in Mr. Sapp’s favor when the charges were dismissed with prejudice.

171. These Defendants were acting under color of law and within the scope of employment when they took these acts.

172. Mr. Sapp suffered actual damages, pain and suffering, lost wages, and other damages as a direct and proximate result.

Count VII: Ohio State Law—Intentional Infliction of Emotional Distress

173. Plaintiff incorporates every paragraph in this Complaint as if fully set forth here.

174. The Defendant Officers, acting individually and in conspiracy among themselves and others, intentionally and/or recklessly engaged in extreme and outrageous conduct that caused Sapp severe emotional distress and bodily harm from that distress.

175. These Defendants were acting under color of law and within the scope of employment when they took these acts.

176. Mr. Sapp suffered actual damages, pain and suffering, lost wages, and other damages as a direct and proximate result.

Count VIII: Ohio State Law—Spoliation of Evidence

177. Plaintiff incorporates every paragraph in this Complaint as if fully set forth here.

178. The Defendant Officers recklessly or willfully destroyed evidence in a manner that disrupted Plaintiff's criminal proceedings, knowing that there was pending or probable litigation that would involve this evidence.

179. As a result of the absence of this evidence, Mr. Sapp was falsely convicted for a crime of which he was innocent.

180. Mr. Sapp suffered actual damages, pain and suffering, lost wages, and other damages as a direct and proximate result.

Count IX: Ohio State Law—Civil Conspiracy

181. Plaintiff incorporates every paragraph in this Complaint as if fully set forth here.

182. As described more fully above, the Defendant Officers, acting in concert with other co-conspirators, known and unknown, reached an agreement among themselves to frame Sapp for a crime he did not commit and conspired by concerted action to accomplish an unlawful purpose by unlawful means. In addition, these co-conspirators agreed among themselves to protect one another from liability for depriving Mr. Sapp of his rights.

183. In furtherance of the conspiracy, each of the co-conspirators committed overt acts and was otherwise a willful participant in joint activity.

184. The violations of Ohio law described in this complaint, including *inter alia*, the Defendants' unconstitutional prosecution of Sapp and Defendants' infliction of emotional distress upon Mr. Sapp, were accomplished by Defendants' conspiracy.

185. The misconduct described in this count was objectively unreasonable and was undertaken intentionally and with willful indifference to the Sapp's constitutional rights.

186. As a result of the Defendants' misconduct described in this count, Sapp suffered loss of liberty, great mental anguish, humiliation, degradation, physical and emotional pain and suffering, and other grievous and continuing injuries and damages.

Count X: Ohio State Law —Indemnification

187. Plaintiff incorporates every paragraph in this Complaint as if fully set forth here.

188. Additionally, and in the alternative, pursuant to Ohio Revised Code, § 1729.031, Defendant City of Cincinnati has a statutory duty to indemnify their current and/or former employees for any judgment entered against them personally in this action for their conduct taken while they were employed by Defendant City of Cincinnati.

WHEREFORE Plaintiff Marcus Sapp respectfully requests that this Court enter judgement in his favor and against Defendants CITY OF CINCINNATI, COLIN VAUGHN, JOHN HORN, DOUGLAS LINDLE, JOHN HEILE, CORY BONNER, DETECTIVE FELDHAUS, MATTHEW THOMPSON, BRIAN TROTTA, BOB LISTON, J. BRIEDE, WILLIAM KINNEY, EVAN EVANS, Chief of Police THOMAS STREICHER, and UNKNOWN CURRENT AND FORMER OFFICERS AND DETECTIVES OF THE CINCINNATI POLICE DEPARTMENT, awarding compensatory damages, costs, and attorneys' fees pursuant to 42 U.S.C. § 1988, along with punitive damages against each of the individual Defendants in their

individual capacities, pre and post-judgment interest, equitable relief against the City of Cincinnati, and any other relief the Court finds just and equitable.

JURY DEMAND

Plaintiff Marcus Sapp hereby demands a jury trial pursuant to Federal Rule of Civil Procedure 38(b) on all issues so triable.

DATED: May 19, 2026

Respectfully submitted,

/s/ David B. Owens

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