

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION**

JESUS GONZALEZ)	
)	
Plaintiff,)	CIVIL ACTION FILE NO.
)	
v.)	_____
)	
VILLAGE OF WEST)	
MILWAUKEE, WISCONSIN,)	
)	
CHARLES DONOVAN,)	
)	
PATRICK KRAFCHECK,)	
)	
CITY OF CHILTON,)	
WISCONSIN,)	
)	
and)	
)	
MICHAEL YOUNG,)	
)	
Defendants.)	

COMPLAINT

I. INTRODUCTION

1. This action, under 42 U.S.C. § 1983, seeks a declaratory judgment that the detention, search, and arrest by Defendants West Milwaukee, Donovan, and

Krafchek (the “West Milwaukee Defendants”) of Plaintiff for openly carrying a firearm within a retail store violates the Fourteenth Amendment to the Constitution of the United States. Plaintiff also seeks damages against the West Milwaukee Defendants for his illegal detention and arrest and for the illegal seizure and retention of his property. He also seeks a declaration that the West Milwaukee Defendants violated the federal Privacy Act by demanding that Plaintiff disclose his social security account number (“SSN”) as a condition of being released from jail and without notifying Plaintiff what uses would be made of his SSN and by what statutory or other authority it was requested. Finally, Plaintiff seeks an order for the West Milwaukee Defendants to expunge his SSN from their records. Regarding Defendants Chilton and Young (the “Chilton Defendants”), this is an action under 42 U.S.C. § 1983 for the illegal detention, search, and arrest of Plaintiff, and for the illegal seizure and retention of Plaintiff’s property.

II. JURISDICTION & VENUE

- 2 . This Court has jurisdiction under 28 U.S.C. § 1331 and 28 U.S.C. 1343.

3 . Venue is proper because Defendants all are located in this District and some are located in this Division, and Plaintiff resides in this District and in this Division.

III. PARTIES

4 . Plaintiff Jesus Gonzalez is a citizen of the United States and a resident of the State of Wisconsin.

5 . Defendant Village of West Milwaukee is a municipal corporation organized under the laws of the State of Wisconsin.

6 . Defendant Charles Donovan is an officer with the West Milwaukee Police Department.

7 . Defendant Patrick Krafcheck is an officer with the West Milwaukee Police Department.

8 . Defendant City of Chilton is a municipal corporation organized under the laws of the state of Wisconsin.

9 . Defendant Michael Young is an officer with the Chilton Police Department.

IV. FACTUAL BACKGROUND

10 . On May 14, 2008, Plaintiff was shopping in a Menards store in the Village of West Milwaukee. Plaintiff was openly carrying a firearm in a thigh holster.

11. Defendants Donovan and Krafcheck were on duty at the time as officers of the West Milwaukee Police Department and were dispatched to Menards on a report of a man openly carrying a handgun.
12. Upon arrival at Menards, the Menards manager who called 911 directed Defendants Donovan and Krafcheck to Plaintiff, who was in the parking lot loading his purchases into his truck.
13. Defendant Donovan approached Plaintiff and arrested Plaintiff for disorderly conduct for openly carrying a firearm in Menards.
14. At the time of the arrest, Defendant Donovan had no reason to believe that Plaintiff had engaged in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct under circumstances in which the conduct tends to cause or provoke a disturbance.
15. Defendant Krafcheck seized Plaintiff's firearm, case, and ammunition from Plaintiff's vehicle.
16. Defendant Krafcheck transported Plaintiff to jail. During Plaintiff's processing, Defendant Donovan requested Plaintiff's SSN.
17. When Plaintiff did not respond, Defendant Krafcheck told Plaintiff that if Plaintiff did not cooperate, he would be held in custody over the weekend,

whereupon Plaintiff informed Defendants that his social security card was in his wallet.

18. Defendants Krafcheck and Donovan retrieved Plaintiff's social security card and obtained his SSN.
19. Defendant Village of West Milwaukee retains Plaintiff's SSN in its records, and retained Plaintiff's property for 10 months before returning it upon order of the Milwaukee County Circuit Court and without formal charges ever being filed against Plaintiff.
20. Defendants Krafcheck and Donovan released Plaintiff on his own recognizance.
21. On April 10, 2009, Plaintiff was shopping in a Wal-mart store in the City of Chilton, Wisconsin while openly carrying a firearm.
22. As Plaintiff completed his purchases, Defendant Young approached Plaintiff with his firearm pointed at Plaintiff and asked Plaintiff if Plaintiff were a law enforcement officer.
23. When Plaintiff responded that he was not, Defendant Young waited for backup and then disarmed Plaintiff, handcuffed him, searched him, and transported

him to the Chilton Police Department, all against Plaintiff's will and without a warrant.

24. At the time of the seizure of Plaintiff's person, Defendant Young erroneously told Plaintiff that it is illegal to carry a firearm in Wisconsin.

25. At no time did Defendant Young have reasonable articulable suspicion or probable cause that Plaintiff had committed or was about to commit a crime, or that Plaintiff was presently dangerous.

26. After a total detention of approximately two hours, Defendant Young release Plaintiff without charges being recommended. Defendant Young did, however, retain Plaintiff's firearm, including magazine and ammunition, against Plaintiff's will and without a warrant and without probable cause to believe such property was contraband or evidence of a crime.

27. Upon information and belief, Defendant City of Chilton retains possession of Plaintiff's property.

Count 1 – Violations of Fourteenth Amendment

28. By detaining Plaintiff, seizing his property, and arresting him for disorderly conduct solely on account of Plaintiff's openly wearing a firearm, the West Milwaukee Defendants lacked probable cause or even reasonable articulable

suspicion to believe that Plaintiff had committed or was about to commit a crime, and therefore violated Plaintiff's 14th Amendment rights to be free from unreasonable searches and seizures.

29. By detaining Plaintiff, seizing his property, and arresting him solely on account of Plaintiff's openly wearing a firearm, and by retaining such property, the Chilton Defendants lacked probable cause or even reasonable articulable suspicion to believe that Plaintiff had committed or was about to commit a crime, and therefore violated Plaintiff's 14th Amendment rights to be free from unreasonable searches and seizures.

Count 2 – Violations of the Privacy Act

30. By demanding Plaintiff's SSN on pain of weekend-long incarceration, the West Milwaukee Defendants denied Plaintiff a right, benefit, or privilege on account of Plaintiff's refusal to disclose his SSN, in violation of Section 7(a) of the Privacy Act.
31. By requesting Plaintiff's SSN without disclosing to Plaintiff what uses would be made of his SSN nor by what statutory or other authority it was requested, the West Milwaukee Defendants violated Section 7(b) of the Privacy Act.

Prayer for Relief

Plaintiff demands the following relief:

32. A declaration that openly carrying a firearm in Wisconsin, without more, does not constitute the crime of disorderly conduct nor any other crime, and that Defendants violated Plaintiff's Fourteenth Amendment rights by searching and seizing his person and property without a warrant and without probable cause the Plaintiff had committed or was about to commit a crime.
33. A declaration that the West Milwaukee Defendants violated Sections 7(a) and 7(b) of the Privacy Act.
34. An Order requiring the West Milwaukee Defendants to expunge Plaintiff's SSN from their records.
35. An Order requiring the Chilton Defendants to return Plaintiff's seized property.
36. Damages in an amount to be determined at trial.
37. Attorney's fees and costs for bringing and maintaining this action.
38. A jury to try to this case.
39. Any other relief the Court deems proper.

JOHN R. MONROE,

/s/ John R. Monroe

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