

**UNITED STATES DISTRICT COURT**  
DISTRICT OF NEW JERSEY

**CLARENCE CROSS,**  
*Plaintiff*

V.

**SUMMONS IN A CIVIL CASE**

**MICHAEL GALLEGOS,**  
*Defendant*

CASE NUMBER: **1:20-CV-03174-RMB-JS**

TO: *(Name and address of Defendant):*  
Patrolman Michael Gallegos  
2001 Egg Harbor Rd, Lindenwold, NJ 08021

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States Agency, or an office or employee of the United States described in Fed. R. civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

s/ WILLIAM T. WALSH  
CLERK



ISSUED ON 2020-03-24 14:07:29, Clerk  
USDC NJD

| <b>RETURN OF SERVICE</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |          |       |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|-------|
| Service of the Summons and complaint was made by me(I)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | DATE     |       |
| NAME OF SERVER ( <i>PRINT</i> )                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | TITLE    |       |
| <i>Check one box below to indicate appropriate method of service</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |          |       |
| <div style="margin-bottom: 10px;"> <input type="checkbox"/> Served personally upon the defendant. Place where served: _____<br/>           _____         </div> <div style="margin-bottom: 10px;"> <input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.         </div> <div style="margin-bottom: 10px;"> <input type="checkbox"/> Name of person with whom the summons and complaint were left: _____         </div> <div style="margin-bottom: 10px;"> <input type="checkbox"/> Returned unexecuted: _____<br/>           _____         </div> <div style="margin-bottom: 10px;"> <input type="checkbox"/> Other (specify) : _____<br/>           _____<br/>           _____         </div> |          |       |
| <b>STATEMENT OF SERVICE FEES</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |          |       |
| TRAVEL                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | SERVICES | TOTAL |
| <b>DECLARATION OF SERVER</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |          |       |
| <p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p><br><div style="display: flex; justify-content: space-between;"> <div style="width: 45%;">           Executed on _____<br/> <div style="text-align: center;">Date</div> </div> <div style="width: 50%;">           _____<br/> <div style="text-align: center;"><i>Signature of Server</i></div> <br/>           _____<br/> <div style="text-align: center;"><i>Address of Server</i></div> </div> </div>                                                                                                                                                                                               |          |       |

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY  
CAMDEN VICINAGE**

|                                                                                                                                                              |                                                         |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------|
| <b>CLARENCE CROSS,</b><br><br><b>Plaintiff,</b><br><br><b>vs.</b><br><br><b>PATROLMAN MICHAEL GALLEGOS,</b><br><b>Individually,</b><br><br><b>Defendant.</b> | <b>Civil Action No.</b><br><br><br><br><b>COMPLAINT</b> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------|

**I. PRELIMINARY STATEMENT**

1. Plaintiff brings this action under 42 U.S.C. §1983 seeking redress for the misconduct of Patrolman Michael Gallegos, who used improper and unconstitutional means to subject plaintiff Clarence Cross to unlawful arrest, unlawful detention, and malicious prosecution.

**II. JURISDICTION AND VENUE**

2. This action is brought pursuant to 42 U.S.C. §1983, and the Fourth and Fourteenth Amendments to the Constitution of the United States.
3. Jurisdiction of this Court is based upon 28 U.S.C. §§1331 and the aforementioned statutory provisions.
4. Venue is proper in this district under 28 U.S.C. § 1391(b) in that all claims arose in this district.

**III. PARTIES**

5. Plaintiff Clarence Cross is an adult citizen of Philadelphia, Pennsylvania.
6. Plaintiff Clarence Cross was at all times relevant to this action located in the District of New Jersey.

7. Defendant Patrolman Michael Gallegos, at all times relevant to this Complaint, was a police officer for the Lindenwold Police Department acting under color of state law.
8. Defendant Patrolman Michael Gallegos is being sued in his individual capacity.

#### **IV. FACTUAL ALLEGATIONS**

9. On or about March 24, 2018, at approximately 1:15am Plaintiff was the driver of a vehicle traveling on Blackwood-Clementon Road in Lindenwold which is located in Camden County New Jersey.
10. Plaintiff had just left Don Tequila's Bar and Grill in Lindenwold.
11. Immediately after pulling out of the parking lot at Don Tequila's Defendant Patrolman Michael Gallegos pulled out of a parking lot across the street and began to follow Plaintiff's vehicle.
12. Defendant Patrolman Michael Gallegos then pulled Plaintiff over less than half a mile from Don Tequila's Bar and Grill.
13. Defendant Patrolman Michael Gallegos falsely claimed that Plaintiff had crossed the center line twice during the .4 mile trip from Don Tequila's Bar and Grill to the intersection of Blackwood Clementon Road and Tomlinson Avenue.
14. Plaintiff, who immediately observed Defendant Patrolman Michael Gallegos pull out behind him and follow him closely, did not ever cross the center line.
15. Defendant Patrolman Michael Gallegos, having no probable cause to do so, ordered plaintiff to exit his vehicle and to undergo a field sobriety test even though Patrolman Michael Gallegos did not smell any alcohol on Plaintiff and even though Defendant Patrolman Michael Gallegos observed that Plaintiff was not slurring his words, had no problem walking or standing on his own, and that Plaintiff was calm and cooperative.

16. Plaintiff complied, exiting his vehicle.
17. Plaintiff performed and passed the field sobriety test without incident.
18. Having no probable cause, Patrolman Michael Gallegos placed Plaintiff under arrest for the sole charge of NJSA 39:4-50 Driving While Intoxicated and took Plaintiff into police custody.
19. At the police station Defendant Patrolman Michael Gallegos ordered Plaintiff to submit to a breathalyzer test.
20. Plaintiff, who was in police custody at the time, complied.
21. The aforesaid breath test results determined that Plaintiff's blood alcohol content was 0.00%.
22. Subsequently Plaintiff was released from custody after Defendant Patrolman Michael Gallegos served him with a Complaint-Summons for the sole charge of NJSA 39:4-50 Driving while intoxicated, even though probable cause did not exist to suspect, much less charge Plaintiff with said offense.
23. Plaintiff was not able to retrieve his car, however, because Defendant Patrolman Michael Gallegos had already had Plaintiff's car towed.

#### **FEDERAL CIVIL RIGHTS VIOLATIONS**

24. Plaintiff incorporates by reference paragraphs 1-24 of the instant Complaint.
25. As a direct and proximate result of Defendant's conduct, committed under color of state law, the plaintiff was deprived of the right to be free from unlawful arrest, unlawful detention, and malicious prosecution. As a result, the plaintiff suffered and continues to suffer harm in violation of his rights under the laws and Constitution of the United States, in particular, the Fourth and Fourteenth Amendments, and 42 U.S.C. §1983.



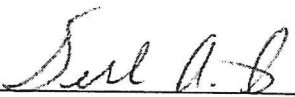
26. As a direct and proximate result of the acts of all defendants, the plaintiff sustained injuries, emotional harm, loss of liberty and financial losses, all to his detriment and harm.

WHEREFORE, the plaintiff requests the following relief:

- a. Compensatory damages as to all defendants, including but not limited to the \$1,500 legal fee charged by Plaintiff's attorney related to the aforesaid DWI prosecution, and the \$297.00 fee Plaintiff had to pay to get his car out of impound;
- b. Punitive damages as to all defendants;
- c. Reasonable attorney's fees and costs as to all defendants;
- d. Such other declaratory and further relief as appears reasonable and just; and
- e. A jury trial as to each defendant as to each count and as to compensatory and punitive damages.

#### DESIGNATION OF TRIAL COUNSEL

Plaintiff designates the undersigned as trial counsel.

  
Derek A. Steenson, Esquire  
1500 Walnut Street, #812  
Philadelphia, PA 19102  
(215) 253-8658  
Counsel for Plaintiff

03/24/20