

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Anthony Randal-Ashley Villebrun,

Plaintiff,

v.

Brandon Keith Nienaber, acting in his individual
capacity,

Defendant.

Case No.

Complaint

Jury Trial Demanded

Fed. R. Civ. P. 38(b)

For his Complaint, Plaintiff Anthony Randal-Ashley Villebrun states and alleges as follows:

PARTIES AND VENUE

1. Plaintiff Villebrun is a resident of Becker County, Minnesota.
2. Defendant Brandon Keith Nienaber is, upon information and belief, a citizen of Minnesota. Nienaber served as a White Earth Police Department (“WEPD”) officer on or about October 23, 2021. The WEPD is an agency of the White Earth Nation. Officers act in both Tribal and State capacities. Nienaber acted under color of state law at all material times. Nienaber is sued in his individual capacity.

JURISDICTION

3. Villebrun brings this action pursuant to 42 U.S.C. §§ 1983 and 1988, the Fourth and Fourteenth Amendments to the United States Constitution, and 28 U.S.C. §§ 1331 and 1343(a)(3). These statutory and constitutional provisions confer original jurisdiction of this Court over this matter.

4. The events giving rise to this action occurred in Minnesota. Venue is proper under 28 U.S.C. § 1391(b)(2).

FACTUAL ALLEGATIONS

5. On or about October 23, 2021, Villebrun was driving in the village of White Earth in Becker County, Minnesota.

6. Nienaber was on patrol as a member of the WEPD. Nienaber observed suspected traffic violations and attempted to stop Villebrun.

7. Villebrun failed to stop and drove away from the area.

8. Nienaber pursued Villebrun.

9. Villebrun stopped his vehicle in some woods and exited the car.

10. Nienaber pursued Villebrun on foot.

11. Nienaber commanded Villebrun to stop.

12. Villebrun stopped with his back to Nienaber in front of Nienaber's squad car.

13. Nienaber commanded Villebrun to get on his belly.

14. Villebrun went down to his knees and placed his hands together on the back of his head, surrendering to Nienaber.

15. Nienaber aimed his taser at Villebrun. At the time, Villebrun was on his knees with his back to Nienaber with his hands together behind his head.

16. Nienaber did not warn that force would be used against Villebrun.

17. Nienaber deployed his taser into Villebrun's back.

18. The taser deployment caused Villebrun substantial pain and aggravated a preexisting injury in his back. The later removal of the barb also caused pain.

19. Following the incident, Villebrun required medical evaluation and treatment.

20. Nienaber is a licensed peace officer of the State of Minnesota.

21. The WEPD is part of a Cooperative Law Enforcement Agreement with Becker County, Minnesota. That agreement authorizes officers to act under color of state law pursuant to Minnesota Statutes § 626.93. As part of the agreement, officers waive certain immunities and are required to comply with Minnesota peace officer licensing and requirements.

22. Nienaber was acting under authority and color of law of the State of Minnesota during the seizure of Villebrun.

23. Becker County Sheriff's Office deputies assisted with investigation and processing of the scene.

24. Following the incident, Villebrun was charged and convicted of a violation of Minnesota state law, Minnesota Statutes § 609.487, subdivision 3. That statute makes it a crime to flee a tribal officer who is licensed by the Minnesota Board of Peace Officer Standards and Training.

25. The criminal prosecution following the incident was undertaken in Becker County District Court and prosecuted by the Becker County Attorney's Office.

CAUSE OF ACTION

Count 1 – 42 U.S.C. § 1983 – Fourth Amendment Violation: Excessive Force

26. Villebrun realleges all allegations of this Complaint as if fully stated herein.

27. Nienaber acted under color of state law while performing the acts described herein.

28. Nienaber deprived Villebrun of his Fourth and Fourteenth Amendment rights through the actions described herein.

29. Nienaber used excessive force when he deployed his taser in a manner not permitted by law and in a manner that violated Villebrun's Fourth and Fourteenth Amendment rights. At the time, Villebrun had surrendered and did not pose any safety threat to Nienaber. Nienaber failed to issue a warning or use reasonable force upon Villebrun.

30. Nienaber's actions violated constitutional rights that were clearly established on or about October 23, 2021.

31. As a direct and proximate result of the acts of the defendant, Villebrun suffered injuries and other harms that entitle him to damages.

32. Nienaber subjected Villebrun to deprivation of his rights in a way that would render Nienaber liable for punitive damages.

33. The manner in which Nienaber deprived Villebrun of his rights supports an award of punitive damages, which are necessary to deter further improper conduct.

34. Villebrun is entitled to fully recover his costs, including reasonable attorneys' fees, under 42 U.S.C. § 1988.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Villebrun prays for judgment as follows:

1. That the Court find Nienaber liable for the claim asserted;

2. A money judgment against Nienaber for compensatory, punitive, and other damages, together with costs, including reasonable attorneys' fees under 42 U.S.C. § 1988 and prejudgment interest; and

3. For any other relief that this Court may deem just and equitable.

JURY DEMAND

Plaintiff demands a trial by jury on all issues triable pursuant to Rule 38 of the Federal Rules of Civil Procedure.

**LAW OFFICE OF ERIC A. RICE,
LLC**

Date: February 19, 2024

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