

02-1230-CD
DAVID NEARHOG -vs- PAUL CHERRY

IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

DAVID NEARHOOD

Plaintiff

VS.

PAUL CHERRY

Defendant

*
*
*
*
*
*
*
*

CIVIL ACTION
MANDAMUS

NO. 2002-1236-cv

FILED

WRIT OF MANDAMUS

1. Pursuit to volume 26 W&P page 398

AUG 07 2002
0/31406 Wm
William A. Shaw
Prothonotary PO
1 cent 80-
to PFF.

"Mandamus" implies to superior power and is used to require action when there has been inaction on part of public officer charged with duty to act.

Southview Cemetery Ass'n v. Hailey, 34 S.E. 2d 863, 867, 199 Ga. 478.

2. Pursuit to volume 26 W&P page 398

"Mandamus" is not a legal as distinguished from an equitable remedy.

City of Electra v. Carnation Co. of Texas, Civ. App., 207 S.W. 2d 192, 195.

3. Pursuit to volume 26 W&P page 200, Compelling performance of clear legal duty

"Mandamus" compels performance of an act by one who has a duty to perform it. *State ex rel. Haley v. Groose, Mo.*, 873 S.W. 2d 221, 223.

4. Plaintiff DAVID NEARHOOD is an individual residing in Clearfield County, Pennsylvania.

5. Plaintiff did file a civil case No. 01-1715-CD in the CLEARFIELD COUNTY COURT OF COMMON PLEAS.

6. Within the case the attorneys for the defendants filed papers that resulted in criminal activities. As stated in the attached criminal complaint.

7. The civil case No. 01-1715-CD was removed to the UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA Civil Action No. 01-339-J.

8. Also within this case the attorneys for the defendants filed papers that resulted in criminal activities. As stated in the attached criminal complaint.

9. The plaintiff did file the necessary papers to bring this Private Criminal Complaint to court before MAGISTRATE MICHAEL A. RUDELLA, Kylertown, Pennsylvania.

10. DISTRICT ATTORNEY PAUL CHERRY disapproved the complaints stating:

- (1) Complaint is incomplete.
- (2) Allegations without proof of same do not give rise to criminal charge.

11. I called the District Attorney asking what is incomplete? He stated he had no evidence.

12. I told the District Attorney that MAGISTRATE RUDELLA told me to hold the evidence until asked for.

13. I plaintiff, forwarded the evidence to DISTRICT ATTORNEY PAUL CHERRY for review.

14. Notwithstanding plaintiff's compliance with the procedures and the non-request for evidence from DISTRICT ATTORNEY PAUL CHERRY the plaintiffs attempts for justice have failed and been refused.

15. Plaintiff has, pursuant to the procedures of a private criminal complaint and the suppling of evidence failed and been refused access to the courts.

16. Plaintiff wishes to have summons issued in connection with the complaints of which both are reissued.

17. Plaintiff has no other adequate remedy at law.

Wherefore, plaintiff demands entry of judgement against the defendant and the office of the District Attorney that plaintiffs complaint will be given the insurance of professional prosecution and for damages and costs.

David Nearhood

David Nearhood, Pro Per
R.R. #2 Box 160
Morrisdale PA, 16858

(814) 342-7464

DATE: 8-7-02

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: **CLEARFIELD**

Magisterial District Number:

46-3-03

District Justice Name: Hon.

MICHAEL A. RUDELLA
Address: **MOUNTAIN VIEW PLAZA**
P.O. BOX 210
KYLERTOWN, PA**16847-0000**Telephone: (**814 345-6789**)

Docket No.:

Date Filed:

OTN:

(Above to be completed by court personnel)

**PRIVATE
CRIMINAL COMPLAINT**

COMMONWEALTH OF PENNSYLVANIA

VS.

DEFENDANT:

NAME and ADDRESS

[Handwritten signature/initials over a rectangular box]

(Fill in defendant's name and address)

Notice: Under PA Rules of Criminal Procedure, your complaint may require approval by the District Attorney before it can be accepted by the magisterial district court. If the District Attorney disapproves your complaint, you may petition the court of common pleas for review of the District Attorney's decision.

Fill in as much information as you have.

Defendant's Race/Ethnicity <input type="checkbox"/> White <input type="checkbox"/> Asian <input type="checkbox"/> Black <input type="checkbox"/> Hispanic <input type="checkbox"/> Native American <input type="checkbox"/> Unknown	Defendant's Sex <input type="checkbox"/> Female <input type="checkbox"/> Male	Defendant's D.O.B.	Defendant's Social Security Number	Defendant's SID (State Identification Number)
Defendant's A.K.A. (also known as)		Defendant's Vehicle Information Plate Number _____ State _____ Registration Sticker(MM/YY) _____		Defendant's Driver's License Number State _____

I, David Nearhood

(Name of Complainant - Please Print or Type)

do hereby state: (check the appropriate box) works

1. I accuse the above named defendant who lives at the address set forth above
 I accuse the defendant whose name is unknown to me but who is described as _____

I accuse the defendant whose name and popular designation or nickname is unknown to me and whom I have therefore designated as John Doe

with violating the penal laws of the Commonwealth of Pennsylvania at RP#2 Box 160 Morrisdale, PA
(Place-Political Subdivision)

16858 & at U.S. District Court in Johnstown, PA.
 in Clearfield County on or about _____

Participants were: (if there were participants, place their names here, repeating the name of above defendant)

Officer Todd Lombardo, Morris-Cooper Police Department, law f. of Marshall, Denrehey, Warner, Coleman and Goggins, Paul D Krepp

2. The acts committed by the accused were:

(Set forth a summary of the facts sufficient to advise the defendant of the nature of the offense charged. A citation to the statute allegedly violated without more, is not sufficient. In a summary case, you must cite the specific section and subsection of the statute or ordinance allegedly violated)

Filed Certificate of Service stating that the information is certified true and correct. The Civil Division Number on the Order of Court is incorrect and untrue. The numbering in the outline form of the Motion for Enlargement of Time is incorrect and untrue. They stated they were being specific then excluded important information. This was filed with me and the U.S. District Court for the Western District of Pennsylvania. They excluded some of the Plaintiff's claim



**PRIVATE
CRIMINAL COMPLAINT**

Defendant's Name:

Docket Number:

all of which were against the peace and dignity of the Commonwealth of Pennsylvania and contrary to the Act of Assembly, or in violation of _____ and _____
 of the _____ (Section) _____ (Subsection)
 _____ (PA Statute)

3. I ask that process be issued and that the defendant be required to answer the charges I have made.
4. I verify that the facts set forth in this complaint are true and correct to the best of my knowledge or information and belief. This verification is made subject to the penalties of Section 4904 of the Crimes Code (18 PA. C.S. §4904) relating to unsworn falsification to authorities.

David L. Newkirk
 (Signature of Complainant)

District Attorney's Office Approved Disapproved because: _____

(Name of Attorney for Commonwealth - Please Print or Type)

(Signature of Attorney for Commonwealth)

(Date)

AND NOW, on this date 2/6/02, I certify that the complaint has been properly completed and verified.

4C-3-03

(Magisterial District)

M. M. Miller
 (Issuing Authority)

SEAL



District Court 46-3-03

P.O. Box 210 Kylertown, Pennsylvania 18847
Business Office (814) 345-5789 Fax (814) 345-6444

PRIVATE CRIMINAL COMPLAINT / AFFIDAVIT OF PROBABLE CAUSE

This form is to be completed anytime a citizen wants to file charges in an incident where no police investigation or where police investigated the incident and determined not to file criminal charges and the information on the in is received from a private citizen who wishes to proceed with criminal charges against the accused.

Date of Complaint: 2 - 6 - 02

Name of the Suspect(s): _____

Name of Accused: Next Page attached

Mailing Address: _____ City/State/Zip Code: _____

Telephone #: (Home) _____ (Work) _____

Offense: Next Page attached Date: _____ Time: _____

Location of Offense: Oak Grove, PA, & Johnstown, Municipality: Morris & Johnstown.

(Summarize the details of the incident, including the events, the facts, and the circumstances. Name the suspect and/or the accused. Identify any and all witnesses using name, address, and telephone number.)

Next Page attached

Look at highlighted areas in evidence

Private Criminal Complaint

Name of Accused: Officer Todd Lombardo & The Morris - Cooper Police department. By way of their Attorneys: Marshall, Dennehey, Warner, Coleman ~~and~~ and Goggin. All work signed by Paul D. Krepps, resident associate. The other known resident associates are: Candace K. Calhoun, John F. Doherty, Cheryl L. Esposito, Valerie S. Faeth, C. Peter Hilton, David F. Ryan, Tyler J. Smith. Resident Members: Scott G. Dunlap, P. Brennan Hart.

Address: 2900 USX Tower Morris - Cooper Police
Pittsburg, PA. 15219 P.O. Box 186
(412) 803-1140 Allport, PA. 16821
(814) 342-5621

Offenses: 18 § 5101. Obstructing administration of law or other governmental functions.
18 § 4904 Unsworn falsification to authorities
18 § 4902 Perjury
18 § 4902 materiality
18 § 4902.7. Falsity, elements of offense
The oath must be false.

§ 13.25.1 Combining Accused
13.25.2

advisable to charge with conspiracy to commit the crime. Act of March 10, 1905, P.L. 35, §§ 1 & 2, 19 PS §§ 1293 & 1294

§ 903 Criminal conspiracy
§ 5301 Official Oppression

crimen falsi - see Fed. R. Crim. Cog (a)(2).


District Court 46-3-03
P.O. Box 210 Kylertown, Pennsylvania 18847
Business Office (814) 345-6789 Fax (814) 345-6444

Your Honor,

Please forgive me for the poor copies. I sent this private criminal complaint to the D.A. through Michael A. Rudella the District Justice. Twice I sent it. The second time I had an AFFIDAVIT attached on the page after the list of charges. The copy I received back from the D.A.'s office does not include this important paper. So I am signing it again without the District Justice's completion.

Please do what is necessary for this to be acceptable. Thank you,

David L. Harkwood

This Affidavit was filled out on the original. But it is not among the copies of the D.A.'s office. So I am signing it again. The original should be at the D.A. office with Michael A. Rudella's signature on it. I am sure it was included with the original.

I verify that the facts set forth in this complaint are true and correct to the best of my knowledge, information or belief. This verification is made subject to the penalties of Section 4904 of the Crimes Code of Pennsylvania (18 PACS 4904) relating to unsworn falsification to authorities. I now ask that criminal charges or traffic charges be brought against the accused or suspect.

Date: _____

Signature of Complainant: _____

✓

David L. Harkwood

Sworn to and subscribed before me this _____ day of _____.

Date: _____ District Justice: _____

My Commission Expires the first Monday of _____

Seal

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DAVID NEARHOOD and JOSHUA
NEARHOOD,

Civil Division

Plaintiffs,

No.

vs.

OFFICER TODD LOMBARD, THE
MORRIS-COOPER POLICE DEPARTMENT,
TROOPER THOMAS GRANVILLE, and THE
PENNSYLVANIA STATE POLICE,

Defendants.

DEFENDANTS' MOTION FOR ENLARGEMENT OF TIME

AND NOW, come the Defendants, Todd Lombardo and The Morris-Cooper Police Department, by and through their counsel, PAUL D. KREPPS, ESQUIRE and MARSHALL, DENNEHEY, WARNER, COLEMAN & GOGGIN, and moves the Court for an enlargement of time in which to file a response to Plaintiffs' Complaint, averring and support thereof as follows:

1. Plaintiffs commenced the within action on or about October 12, 2001, in the Civil Division of the Court of Common Pleas of Clearfield County, Pennsylvania.

2. Plaintiffs proceeded *pro se*, and based their claims upon Defendants alleged violation of their rights as guaranteed by the United States Constitution.

3. Specifically, Plaintiffs claim violations of civil rights, due process, discrimination, conspiracy to deprive and conspiracy to insure a conviction.

3. The allegations of Plaintiffs' Complaint stem from his displeasure with the Morris-Cooper Police Department and the Pennsylvania State Police in that they did not complete and file the criminal charges he attempted to bring against his neighbors.

4. Although Plaintiffs' Complaint alleges various causes of action which are held baseless in the law, the Complaint nonetheless sounds in federal civil rights and was removed to this court pursuant to the procedures authorized by 28 U.S.C. §1441(a)(b).

4. Under both state and federal rules, Defendants would usually be afforded twenty days to respond to Plaintiff's Complaint.

5. Defendants request a reasonable enlargement of time in which to file a pleading or motion in response to Plaintiff's Complaint.

6. The present Complaint is frivolous and contains no claims under which there are legally recognized causes of action.

7. Thus, Defendants possess bonafide defenses to any and all claims contained therein.

8. Defendants request an enlargement of time in which to file a response to Plaintiffs' Complaint because undersigned counsel needs to meet with Officer Todd Lombardo and the Morris-Cooper Police Department to ascertain the background facts and develop a defense strategy.

9. Defendants intend to file a Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6).

10. Said motion will be supported by police incident reports, affidavits and other documents. Thus, the Rule 12 motion will be treated by the Court as a Rule 56 motion.

11. Defendants will seek dismissal of the Complaint in its entirety.

12. Defendants require more time than the allotted 20 days under the rules to prepare said motion.

13. Defendants therefore request an enlargement of time of ninety days to respond to Plaintiff's Complaint.

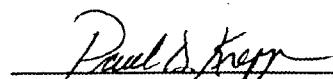
14. Plaintiff will not be prejudiced by a grant of a reasonable extension of time in which to file a response to the Complaint.

WHEREFORE, Defendants Todd Lombardo and the Morris-Cooper Police Department respectfully request this Honorable Court to enter an Order granting them additional time in which to file a Motion in response to Plaintiffs' Complaint.

Respectfully submitted,

MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN

By:


Paul D. Krepps, Esquire
**Counsel for Defendants, Todd Lombardo
and the Morris-Cooper Police
Department**
PA. I.D. #73038
2900 USX Tower
Pittsburgh, PA 15219
(412) 803-1140

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DAVID NEARHOOD and JOSHUA
NEARHOOD,

Civil Division

Plaintiffs,

No. 01-1715 CD)

vs.

No. 01-339-J

OFFICER TODD LOMBARDO, THE
MORRIS-COOPER POLICE DEPARTMENT,
TROOPER THOMAS GRANVILLE, and THE
PENNSYLVANIA STATE POLICE,

I believe is correct

Defendants.

ORDER OF COURT

AND NOW, to wit this _____ day of _____, 2001, upon
consideration of Defendants' Motion for Enlargement of Time, it is hereby ORDERED,
ADJUDGED and DECREED that said Motion filed on behalf of Defendants, Todd Lombardo
and the Morris-Cooper Police Department is GRANTED. Defendants shall file their appropriate
Motion in response to the Complaint on or before _____, 2001.

BY THE COURT

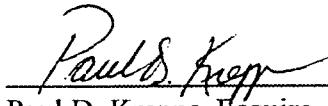
_____.J.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within **DEFENDANTS' MOTION FOR ENLARGEMENT OF TIME** was served upon all parties listed below, by first class United States Mail, postage prepaid, this 31 day of Oct, 2001, addressed as follows:

David Nearhood
R.R. #2, Box 160
Morrisdale, PA 16858
(pro se Plaintiff)

MARSHALL, DENNEHEY, WARNER
COLEMAN & GOGGIN


Paul D. Krepps, Esquire



OFFICE OF THE DISTRICT ATTORNEY

OF CLEARFIELD COUNTY
SUITE 210
230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830

PAUL E. CHERRY

District Attorney
Phone: (814)765-2641

WILLIAM A. SHAW, JR.

First Assistant
District Attorney

February 25, 2002

David Nearhood
RR #2, Box 160
Morrisdale, PA. 16858

Dear Mr. Nearhood;

Enclosed please find the Private Criminal Complaints completed by yourself naming Officer Lombardo and Trooper Granville as the Defendants. Please be advised the District Attorney has disapproved the complaints. The facts alleged in the complaints do not constitute a crime.

If you have any questions, please contact District Justice Michael A. Rudella's office or the Office of the District Attorney.

Very truly yours,

A handwritten signature in black ink that reads "Paul E. Cherry". The signature is fluid and cursive, with "Paul" and "E" being more stylized and "Cherry" being more clearly legible.

Paul E. Cherry, Esquire
District Attorney

PEC/cm
enclosure

cc: District Justice Michael Rudella

**IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY,
PENNSYLVANIA**
CIVIL DIVISION

DAVID NEARHOOD

Plaintiff

*
*
*
*
*
*
*
*
*
*
*
*

**CIVIL ACTION
MOTION FOR
REPLEADER**

NO. 2002-1230-C

Paul Cherry

Defendant

FILED

OCT 17 2002

**William A. Shaw
Prothonotary**

Pursuant to Pa.R.C.P. 1 section 35.23 this protest is due to the order that was stamped by John K. Reilly Jr. on sept.17,2002 to dismiss the PETITIONER'S WRIT OF MANDAMUS.

The order reads after argument the Petition was dismissed.

No notice was addressed to the writer of the writ that it was scheduled for Motion Court on Sept. 17,2002 at 2:00 PM according to a letter addressing Mr. Cherry.

No notice was sent addressjng me notifying me to appear for argument court or motion court.

Black's Law Dictionary-motion.1.A written or oral application requesting a

specified ruling or order.

I don't see any mention of argument there.

Black's Law Dictionary-mandamus.[Latain "we command"] A writ issued by a superior court to compel a lower court or a government officer to perform mandatory or purely ministerial duties correctly. Also termed writ of mandamus.

I don't see any mention of argument there.

section 197.03 Defending the Mandamus Action.

With respect to responsive pleadings, the rules merely provide that no counterclaim may be asserted.

Pa.R.C.P. No.1096.

If a defense is not properly pleaded, it is waived. Cabell v. City of Hazelton, 96 Pa. Commw. 129 (1986).

I do not believe that it was proper for Mr. Cherry to assert a defense in a Motions Court that turned into an Argument Court when relieved that I was not invited. Or even notified that there would be argument.

This causes his pleading to be waived. As in the above case.

Furthermore I am putting forth a Motion for a Repleader. Black's Law Dictionary defines as a Common-law pleading. An unsuccessful party's posttrial motion asking that the pleadings begin anew because the issue was joined on an immaterial point. The court never awards a repleader to the party who tendered the immaterial issue.

Denying me due process makes this argument court the point of immateriality.

The issue that is the point of law is if I have standing to issue this writ of mandamus. I have clearly showed that I do. Mr. Cherry has a duty to prosecute and is refusing to do it. It is clear that the defendants intended to write what they wrote as indicated by the Certificate of Service. It is clearly not true nor correct.

It is the duty of this court to issue this order to command this public officer to do his duty that he has been actively acting as a defense attorney which is contrary to his title as, prosecuting attorney.

46 Am Jur 2d 46 Am Jur 2d § 20 Violation of Procedural Rules. I believe is related in the case Sache v Gillette, 101 Minn 169, 112 NW 386. The procedural rules violated in my case are as explained in the above.

Furthermore this negligence and the continued denial of due process is an outrage . This will not stand. Take the appropriate actions immediately. GOD SAVE THE HONOR OF THIS COURT.



David Lee Nearhood

Please add this to the evidence.

These are not exact copies the defendants filed. They are not true copies. The one stamped Copy is the copy of what was received at the entitled court.

Also as in the Defendants Motion for Enlargement of Time this Petition for Removal of Civil Action also down plays the violations by stating they are being specific then deleting 3 important violations claimed.

(1.) Under Color of Law (2.) Petition for Redress of Grievance (3.) Negligence

The Complaint filed by the plaintiffs was not faxed but the copies attached show marks and data from a fax. My copies are very clear.

These motions are not legal. They should be voided. Please take notice of the areas I have highlighted. Please add the charge of fraud.

Thank You!

David L. Nearhood

WCT# 594
0
31

COPY
IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DAVID NEARHOOD and JOSHUA NEARHOOD,

Plaintiffs,

vs.

OFFICER TODD LOMBARDO, THE MORRIS-COOPER POLICE ~~DEPARTMENT~~, TROOPER THOMAS GRANVILLE, and THE PENNSYLVANIA STATE POLICE,

Defendants.

Civil Division

No. 01-339J

Q

PETITION FOR REMOVAL OF CIVIL ACTION

Defendants, Todd Lombardo and The Morris-Cooper Police Department, hereby petition for the removal of the above-captioned action from the Court of Common Pleas of Clearfield County, Pennsylvania, to the United States District Court for the Western District of Pennsylvania, representing as follows:

1. The above-captioned action was commenced by the filing of a Complaint in the civil division of the Court of Common Pleas of Clearfield County, Pennsylvania, on October 12, 2001 at No. 01-1715. (A true and correct copy of the Complaint is attached hereto as Exhibit "A").

2. The Defendants were served with the Complaint on or about October 17, 2001.

3. Plaintiffs' claims are based upon Defendants' alleged violation of rights as guaranteed by the United States Constitution, specifically Plaintiffs claim violation of

Civil Rights, 'Due Process', 'Discrimination', 'Conspiracy to Deprive' and 'Conspiracy to Insure a Conviction'?

4. This Court has original jurisdiction over Plaintiffs' claims pursuant to 28 U.S.C. §1331 and §1343, and the action is thereby removed to this Court pursuant to the procedures authorized by 28 U.S.C. §1441 (a)-(b).

5. Notice of removal has been provided this same day to the Plaintiff and to the Prothonotary of the Court of Common Pleas of Clearfield County, Pennsylvania.

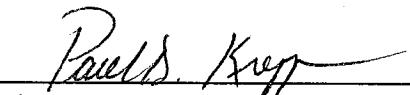
6. No other process, pleadings or Orders have been served upon the Defendants in this action.

WHEREFORE, Defendants, Todd Lombardo and The Morris-Cooper Police Department, respectfully request that this Honorable Court remove the above-captioned action pending in the Court of Common Pleas of Clearfield County, Pennsylvania at No. 01-1715 to the United States District Court for the Western District of Pennsylvania. (Johnstown).

Respectfully submitted,

MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN

By:


Paul D. Krepps, Esquire
PA. I.D. #73038
2900 USX Tower
Pittsburgh, PA 15219
(412) 803-1140

IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL

DAVID NEARHOOD
JOSHUA NEARHOOD

Plaintiffs

vs.

no. 01-1715-CO

OFFICER TODD LOMBARDO
MORRIS-COOPER POLICE
TROOPER THOMAS GRANVILLE
PENNSYLVANIA STATE POLICE

Defendants

Type of pleading:
COMPLAINT

Filed on behalf of Plaintiffs:
PRO PER

Filed by:
David Nearhood
RR# 2 Box 160
Morrисdale, PA 16858
Phone: (814) 342-7464

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

OCT 12 2001

Attest

Wm. H. Nearhood
Prothonotary



IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL

DAVID NEARHOOD
JOSHUA NEARHOOD

Plaintiffs

vs.

OFFICER TODD LOMBARDO
MORRIS-COOPER POLICE
TROOPER THOMAS GRANVILLE
PENNSYLVANIA STATE POLICE

Defendants

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within **twenty (20) days** after this complaint and notice are served by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint and for any lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator
Clearfield County Courthouse
North Second Street
Clearfield, PA 16830
(814) 765-2641

IN THE COURT OF COMMON PLEAS, CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL

**DAVID NEARHOOD
JOSHUA NEARHOOD**

Plaintiffs

vs.

**OFFICER TODD LOMBARDO
MORRIS-COOPER POLICE
TROOPER THOMAS GRANVILLE
PENNSYLVANIA STATE POLICE**

Defendants

COMPLAINT

1. Plaintiff DAVID NEARHOOD is an adult and father of JOSHUA NEARHOOD residing at R.R. #2, Box 160, Morrisdale, Clearfield County, PA, 16858.
2. Plaintiff JOSHUA NEARHOOD is a child of 4 years of age, son of DAVID NEARHOOD, residing at Tony Hill Rd., P.O. Box 136, Winburne, Clearfield County, PA, 16879.
3. Defendant TODD LOMBARDO is an adult and officer of law enforcement known to be last employed by Morris-Cooper Police, P.O. Box 186, Allport, Clearfield County, 16821.
4. MORRIS-COOPER POLICE is a department of law enforcement that resides at P.O. Box 186, Allport, Clearfield County, 16821.

5. Defendant THOMAS GRANVILLE is an adult and officer of law enforcement known to be last employed by Pennsylvania State Police, R. D. #2 Box 314, Woodland, Clearfield County, PA, 16881.

6. Defendant PENNSYLVANIA STATE POLICE a department of law enforcement that resides at R. D. #2 Box 314, Woodland, Clearfield County, PA, 16881.

7. On or about June 17, 2001 at approximately 5:00pm and 7:00pm at my residence we had two incidents with DILLON LEIGEY and his mother LORA LEIGEY.

8. I filed charges with Morris-Cooper Police officer TODD LOMBARDO.

9. On September 4, 2001 at approximately 10:00am we went to court at Magistrate Michael Rudella's office in Kylertown, Clearfield County, PA.

10. At the hearing I found out that my charges against DILLON LEIGEY for intentional child endangerment, assault, defiant trespassing, and against LORA LEIGEY for defiant trespassing were not completed and filed.

11. Trooper THOMAS GRANVILLE informed me at the hearing that he and Officer TODD LOMBARDO discussed the incidents and decided to file charges for the Leigey's only.

12. Therefore I am asking for disciplinary actions against Officer TODD LOMBARDO and the MORRIS-COOPER POLICE DEPARTMENT. And against Trooper THOMAS GRANVILLE and the PENNSYLVANIA STATE POLICE of the Woodland police barracks.

13. I am asking for damages estimated in the amount of \$100,000.00 in loss
wages for these conspiracies against me.

14. Also I am asking for punitive damages for myself and my son JOSHUA NEARHOOD for the violation of our civil rights: Under Color of Law, Due Process, Petition for Redress of Grievance, Discrimination. Also for Negligence, Conspiracy to Deprive, and Conspiracy to Insure a Conviction.

15. I am asking for the total amount of \$350,000.00 plus interest for DAVID NEARHOOD.

16. I am also asking for the amount of \$250,000.00 plus interest for my son JOSHUA NEARHOOD.

David L. Nearhood

VERIFICATION

Plaintiff verifies that the statements made in this Complaint are true and correct. Plaintiff understands that false statements herein are made subject to the penalties of 18 Pa. C.S. §4904, relating to unsworn falsification to authorities.

DATE: October 12, 2001



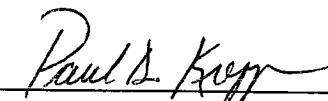
David Nearhood

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within **PETITION FOR REMOVAL OF CIVIL ACTION** was served upon all parties listed below, by first class United States Mail, postage prepaid, this 31 day of Oct -, 2001, addressed as follows:

David Nearhood
R.R. #2, Box 160
Morrisdale, PA 16858
(pro se Plaintiff)

MARSHALL, DENNEHEY, WARNER
COLEMAN & GOGGIN



Paul D. Krepps, Esquire

\12_A\LIAB\CWM\LLPG\19744\MBC\16260\00260

FILED 3cc
10/19/02 10:34 AM
OCT 17 2002 DEPT OF STATE
PLFF Neashood

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

DAVID NEARHOOD

:

VS

: NO. 02-1230-CD

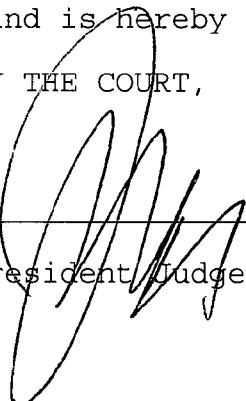
PAUL E. CHERRY

:

O R D E R

NOW, this 17th day of September, 2002, following argument into Petitioner's Writ of Mandamus, it is the ORDER of this Court that said Petition be and is hereby dismissed.

BY THE COURT,


President Judge

FILED

SEP 20 2002

William A. Shaw
Prothonotary

FILED

10/11/50
SEP 20 2002
2cc pgf
2cc def. f
DA
(1
Office)

William A. Shaw
Prothonotary