

STATE OF INDIANA
ST. JOSEPH COUNTY CIRCUIT COURT

Amy Hadley,

Case No. __71C01-2312-MI-000867

Plaintiff,

v.

The City of South Bend, the South
Bend Police Department, St. Joseph
County, the St. Joseph Police
Department, and the Board of
Commissioners of the County of St.
Joseph,

Defendants.

COMPLAINT AND DEMAND FOR JURY TRIAL

Marie Miller
Attorney No. 34591-53
INSTITUTE FOR JUSTICE
3200 N. Central Ave., Suite 2160
Phoenix, AZ 85012
480-557-8300 (Phone)
480-557-8305 (Fax)
mmiller@ij.org

Counsel for Plaintiff

INTRODUCTION

1. This is a civil-rights lawsuit. Plaintiff Amy Hadley seeks just compensation for the intentional commandeering and destruction of her private property for public use, and for the demand of her particular services arising from the same, by the City of South Bend, the South Bend Police Department, St. Joseph County, the St. Joseph County Police Department, and the Board of Commissioners of the County of St. Joseph. She brings claims under the Indiana Constitution and the Constitution of the United States.

2. The relevant constitutional provisions ensure that governments in Indiana do not force some people alone to bear the public burdens which, in all fairness and justice, should be borne by the public as a whole. *See, e.g., Webb v. Baird*, 6 Ind. 13, 17 (1854); *Armstrong v. United States*, 364 U.S. 40, 49 (1960).

3. Amy Hadley is a medical assistant and mother who owns a house on East Calvert Street in South Bend, Indiana.

4. On June 10, 2022, law enforcement officers of the City of South Bend Police Department and St. Joseph County Police Department surrounded Amy's house after misidentifying it as the location where a fugitive was active on social media. Amy and her children had no connection to the fugitive other than the one created by an officer's error in tracking the fugitive's social-media activity.

5. When the police surrounded Amy's house, only her fifteen-year-old son and the family kitten were home. When Amy's son heard officers ordering anyone inside the house to exit with their hands up, he came out the front door with his hands

up in the air, leaving the front door open behind him. Officers immediately knew the boy was not the fugitive, and they did not suspect him of any crime, but they still placed him in two sets of handcuffs and transported him to a police station in a squad car.

6. Soon thereafter, Amy and her daughter arrived down the street from their home. They explained to police that they had never seen or heard of the man the officers said they were looking for. Amy and her daughter also explained that, with their security cameras at the house, they would have known if the fugitive or some other stranger were there. They insisted that nobody (other than their cat) was in the house now that Amy's son was no longer there.

7. Nevertheless, the officers raided and severely damaged Amy's home. They launched dozens of tear gas grenades into the house, destroyed the security cameras, shattered windows, punched holes in walls, ransacked furniture and closets, tore down a panel and fan in a bathroom, and left the home in complete disrepair. Family photos and childhood drawings, clothes, electronics, and furniture were destroyed. With shards of glass in the beds and tear gas filling the house, the home was uninhabitable for days, and Amy and her son slept in her car until the fumes dissipated enough to breathe inside the home.

8. The police commandeered Amy's property during the raid, deprived her and her family of the use of her house and other property for days, and left the property in violation of local ordinances. The police did at least \$16,000 in damage to Amy's home and other property.

9. Amy's homeowner's insurance covered only part of the damage caused by the government actors, leaving Amy with thousands of dollars' worth of damage to shoulder herself.

10. Amy repeatedly requested compensation from South Bend and St. Joseph County, including their police departments, to no avail.

11. When the government intentionally or foreseeably commandeers and destroys an innocent person's private property for a public use, the Fifth Amendment to the Constitution of the United States and Article 1, Sections 12 and 21 of the Indiana Constitution require that the government give just compensation for that damage.

12. Likewise, Article 1, Section 21 of the Indiana Constitution requires the government to pay just compensation when it demands a person's particular services.

13. So, while Amy does not challenge the validity of the warrant to search her home for the fugitive, she is entitled to just compensation for the officers' possession of her home and other property, the damage they inflicted on the property, and the home-owner service Amy was required to provide.

JURISDICTION AND VENUE

14. Plaintiff Amy Hadley brings this case under Article 1, Sections 12 and 21 of the Indiana Constitution, Ind. Code § 32-24-1-16, the Fifth and Fourteenth Amendments of the Constitution of the United States, and 42 U.S.C. § 1983.

15. St. Joseph County Circuit Court has jurisdiction under Ind. Code § 33-28-1-2.

16. Venue is proper in St. Joseph County Circuit Court under Rule 75(A) of the Indiana Rules of Trial Procedure.

PARTIES

17. Plaintiff Amy Hadley is an Indiana citizen.

18. Defendant City of South Bend is a municipal corporation in St. Joseph County, Indiana.

19. Defendant South Bend Police Department is an agency of the City of South Bend.

20. Defendant St. Joseph County is a municipal corporation in St. Joseph County, Indiana.

21. Defendant St. Joseph County Police Department is a creature of the Indiana Constitution, Ind. Const. art. 6, § 2, and state statute, Ind. Code § 36-8-10-4.

22. Defendant Board of Commissioners of the County of St. Joseph is the county executive for St. Joseph County. Ind. Code § 36-2-2-2.

FACTUAL ALLEGATIONS

23. Amy Hadley had owned her house on East Calvert Street in South Bend, Indiana, for about a year when the events underlying this case happened on June 10, 2022. Then as now, Amy lived with her daughter, Kayla Hadley (then 19 years old), and her son, Noah Hadley (then 15 years old).

24. On June 10, 2022, law enforcement officers from South Bend and St. Joseph County surrounded Amy's home.

25. The officers were looking for a fugitive named John Parnell Thomas, who was wanted on multiple warrants. But the officers had been led to Amy's house by a mistake in their investigation.

26. A St. Joseph County officer tried to track what he thought was the fugitive's Facebook account. The officer believed the fugitive had used or was actively using the internet at a certain IP address to access the Facebook account. The officer believed the IP address was associated with Amy's house on East Calvert Street. But there was an error in this chain of information.

27. The fugitive was not in fact at Amy's house. Nor did Amy or her children have any connection to the fugitive other than the one created by the officer's error.

28. Officers surveilled the house on the evening of June 9, 2022. They did not see the fugitive there.

29. Officers again surveilled the house on June 10, shortly after noon. They saw no one enter or exit the house. While officers were surveilling the house on this day, the officer who was trying to track the fugitive's Facebook account believed the fugitive logged into his Facebook account at Amy's house. Then the officer applied to the St. Joseph Superior Court for a warrant to search Amy's house for the fugitive. A judge issued a warrant to search the house for John Parnell Thomas.

30. About an hour after officers began surveilling the house on June 10, more officers surrounded Amy's home. Only the family kitten and Noah were inside. Noah was playing a video game. Officers directed orders at the house through a bullhorn: "Exit the front door with your hands up."

31. Confused and scared, Noah complied, walking out the front door with his hands up. Officers immediately acknowledged, “That’s not him”—“him” referring to the fugitive—“That’s a kid.” Still, officers aimed their guns at 15-year-old Noah as he walked toward them with his hands high in the air:



32. Noah asked officers what was going on and asked to call his mom.

33. Noah clearly posed no threat to the officers, who told Noah he was not suspected of a crime. Still, officers placed Noah in two sets of handcuffs and into the back of a caged squad car. They took him to a police station without allowing him to call his mom.

34. For about 40 more minutes, officers directed orders at the house through a bullhorn. During this time, officers saw nobody entering or exiting the house. Some officers asked each other how sure they were that the fugitive was inside the house. The officer who was trying to track the fugitive’s Facebook account believed that the fugitive was active on Facebook at Amy’s house during this time, after Noah had been

removed and while the officers were surrounding the house, sure nobody else was entering or exiting.

35. But nobody was inside the house other than the family cat, so the officers' loudspeaker orders merely announced to neighbors that Amy's house was the site of law-enforcement activity. One neighbor called Amy and told her about the commotion. Amy, in turn, relayed the message to Kayla, who was at work. Both headed home.

36. Amy soon arrived at the end of the block, followed by Kayla. They asked officers what was going on:



37. Officers told Amy and Kayla that they were looking for a dangerous suspect. Amy and Kayla asked who it was. The officer talking with them didn't know, so he conferred with another officer and then told Amy and Kayla that the wanted man is known as "J.B." or "JayBee." One officer showed Amy and Kayla a picture of

a grown man whom the officers said was the fugitive they were after. The officers said they believed he was inside Amy's home now and last night.

38. Amy and Kayla, flabbergasted, explained they had never seen or heard of the man. They added that they had security cameras in their house that allowed them to see people coming and going; they would have known if the man were there.

39. Kayla asked officers to please be careful, as the family's kitten was inside the house. But the officers had no reason to believe that the fugitive was holding the kitten or anyone else hostage inside the house. Nor had the officers engaged in a hot pursuit of the fugitive and watched him run into Amy's house. Indeed, the officers believed the fugitive was passing the time on Facebook.

40. Amy and Kayla insisted that the officers must have the wrong house. Officers did not see or hear the fugitive inside Amy's house. For more than an hour, the officers surveilled the house and directed orders at it without any indication the fugitive was inside (apart from inaccurate information that the fugitive was using the internet at the house to access Facebook). So, some or all of the officers believed the fugitive was holed up somewhere, using an electronic device to access Facebook. Regardless, officers soon fired tear gas grenades into the house. They started by launching a grenade into Kayla's upstairs room. The grenade shattered the window, filling Kayla's bed with shards of glass and flooding the room with noxious chemical irritants.

41. Officers launched more grenades through the home's other windows, totaling upwards of 30 cannisters of toxic fumes in the modest-sized house. The

cannisters left holes and dents in the walls, floors, and ceilings. Tear gas particles filled grooves in the floors, destroyed the X-Box Noah had been playing, ruined the family's beds, clothes, and other personal property. Nearly everything porous was destroyed.



42. On information and belief, South Bend Special Weapons and Tactics (SWAT) officers next deployed flash-bang grenades inside the house's front door. Officers in gas masks entered the house and continued their destructive search.

43. Among other things, officers destroyed Amy's security cameras, tossed furniture, tore window curtains down, broke a mirror and storage bins, ripped a bathroom fan fixture from the ceiling and a wood panel from the wall, removed drawers, and generally ransacked the whole house.



44. Officers searched every room, the refrigerator, oven, clothes washer and dryer, cupboards, drawers, vents, and closets. One officer crawled through the attic space. Another punched holes in the basement's exterior wall. The fugitive—never having been there—was not found.

45. St. Joseph County police officers conducted another intrusive search of the house:



46. The fugitive was not there, so officers again failed to find him. His absence confirmed to the officers that there was an error in their investigation.

47. As Amy and her family had told police, the fugitive was never in Amy's house.

48. Officers apprehended the fugitive elsewhere about four days later.

49. In total, at least 28 South Bend police officers were dispatched to the scene at Amy's house, some inflicting the damage, some forming a perimeter and preventing anyone other than police officers from approaching Amy's house.

50. On information and belief, at least five St. Joseph officers added to the number of South Bend officers.

51. Police took control of Amy's house and other property for hours, preventing Amy, her children, or anyone other than the officers from occupying, possessing, or using it.

52. Much of Amy's property that the officers possessed and used when searching for the fugitive was destroyed.

53. Police released Noah to Amy at the police station when she went there to pick him up after the raid on her house.

54. Even after police departed from Amy's home and allowed her to return, the house was so flooded with tear gas that Amy and Noah slept in a car in the driveway for a few nights. Kayla slept in other places until the fumes dissipated.

55. The officers used tactics intended to force anyone inside the house out, and the house was so filled with noxious fumes that—on information and belief—no

officers entered the house without wearing a gas mask when performing their searches.

56. Amy spent many days trying to clean and put the house back together as much as she could, herself.

57. In the days and weeks after the siege on her home, Amy made phone calls to the South Bend Police Department, St. Joseph County, and St. Joseph County Police Department, asking for information and compensation for the damage. The agencies directed Amy to each other, but she was given no documents or compensation. In short, Amy was given the runaround.

58. Amy's homeowners' insurance covered only part of the costs to repair the damage, leaving Amy with thousands of dollars' worth of damage to shoulder herself.

59. Amy again contacted South Bend and St. Joseph County, including their police departments, this time by letters asserting her claims to monetary compensation for the damage to her property. She specified that her claims are for the taking of her property, to which she is entitled just compensation under the federal and state constitutions. In each letter, she requested an answer by July 7, 2023.

60. Only South Bend responded, and it declined to acknowledge Amy's constitutional claims. Instead, it demanded the completion of an enclosed form for claims under the Indiana Tort Claims Act.

61. Amy replied to the City's letter with one of her own dated August 7, 2023. In that letter, she reiterated that her claims do not arise under the Indiana Tort Claims Act but rather under the state and federal constitutions. She also supplied more information about the underlying incident and preliminary estimates of the damage to her property. She asked for a response to her letter and stated that if she did not receive a response from the City by August 25, 2023 stating otherwise, she will take it to mean "that the City has decided not to reconsider its denial of [her] takings claims and as a refusal to provide just compensation."

62. The City did not respond to Amy's August 7 letter.

INJURIES TO PLAINTIFF

63. South Bend, the South Bend Police Department, St. Joseph County, St. Joseph County Police Department, and the Board of Commissioners of the County of St. Joseph caused at least \$16,000 of damage to Amy's property.

64. Defendants also cost Amy the use of her own home and other property during the search and for several days and nights thereafter.

65. Defendants also cost Amy her time and other resources cleaning up the mess the officers caused and left behind.

CLAIMS

Count 1

**Article 1, Sections 12 and 21 of the Indiana Constitution;
Ind. Code § 32-24-1-16:**

Private property taken without just compensation.

Brought by Amy against all Defendants.

66. Amy incorporates and realleges the allegations in paragraphs 1 through 65, above.

67. Article 1, Section 12 of the Indiana Constitution provides that “[a]ll courts shall be open; and every person, for injury done to him in his person, property, or reputation, shall have remedy by due course of law. Justice shall be administered freely, and without purchase; completely, and without denial; speedily, and without delay.”

68. When government agents intentionally commandeer, damage, or destroy private property to apprehend a fugitive, they have inflicted an injury on the owner in her property. Section 12 guarantees a remedy for that injury.

69. The officers’ commandeering of Amy’s property and the damage they did to her property were injuries done to her in her property, for which Section 12 guarantees a remedy by due course of law.

70. Article 1, Section 21 of the Indiana Constitution provides that “[n]o person’s property shall be taken by law, without just compensation; nor, except in case of the State, without such compensation first assessed and tendered.”

71. When the police intentionally destroy an innocent person’s property to apprehend a fugitive, that property has been permanently taken by law.

72. When the police intentionally commandeer an innocent person's home or other property to apprehend a fugitive, the home and other property has been taken by law while the police commandeer it.

73. Through their actions described above, Defendants violated Amy's rights under the Indiana Constitution by failing to provide just compensation for the taking of her property. Until such compensation is provided, Defendants' violation is ongoing.

Count 2

Article 1, Sections 12 and 21 of the Indiana Constitution: Services demanded without just compensation.

Brought by Amy against all Defendants.

74. Amy incorporates and realleges the allegations in paragraphs 1 through 65, above.

75. When government agents demand a person's particular services, they have inflicted an injury on the person. Section 12 guarantees a remedy for that injury.

76. The officers' demand for her services as the owner of the property they used was an injury done to her person, for which Section 12 guarantees a remedy by due course of law.

77. Article 1, Section 21 of the Indiana Constitution provides that "[n]o person's particular services shall be demanded, without just compensation."

78. This clause forbids the government from compelling a person to gratuitously provide particularized services in aid of a public goal, thus "effect[ively] impos[ing] a tax" on a person or class—"clearly in violation of the fundamental law,

which provides for a uniform and equal rate of assessment and taxation upon all the citizens.” *Webb v. Baird*, 6 Ind. 13, 17 (1854).

79. Article 1, Section 21 applies to action, by agents of any branch of government, that compels a person’s particular services for a public purpose. *See, e.g., Webb v. Baird*, 6 Ind. 13, 16 (1854); *Buchman v. State*, 59 Ind. 1 (1877).

80. When the police intentionally commandeer an innocent person’s home or other property to apprehend a fugitive, the homeowner has been demanded to provide a particular property-owner service to the government. The homeowner has been compelled to immediately and indeterminately relinquish her exclusive right to possess and to exclude persons from her home or other property, in aid of a public goal.

81. When police intentionally commandeer an innocent person’s home or other property to apprehend a fugitive and leave the property in disrepair that violates ordinances or standards of habitability, the homeowner has been demanded to provide a particularized service in bringing the property back into compliance with the law as a result of the police destruction.

82. These services are particularized to the homeowner, who has exclusive rights to possess, and to permit persons on or exclude persons from, her property.

83. Defendants, through their actions described above, violated Amy’s rights under the Indiana Constitution by failing to provide just compensation for her services. Until such compensation is provided, Defendants’ violation is ongoing.

Count 3

**28 U.S.C. § 1983; Fifth Amendment to the Constitution of the United States:
Taking of private property without just compensation.**

Brought by Amy against all Defendants.

84. Amy incorporates and realleges the allegations in paragraphs 1 through 65, above.

85. The Fifth Amendment to the Constitution of the United States provides that “private property [shall not] be taken for public use, without just compensation.”

86. This requirement has been incorporated against the states through the Fourteenth Amendment. *Chi., Burlington, & Quincy R.R. v. City of Chicago*, 166 U.S. 226 (1897).

87. The Takings Clause, including its Just Compensation provision, applies both to government action that directly appropriates private property for public use and to government action that intentionally or foreseeably destroys private property for public use. *Pumpelly v. Green Bay & Miss. Canal Co.*, 80 U.S. 166 (1871).

88. These provisions ensure that government does not force “some people alone to bear the public burdens which, in all fairness and justice, should be borne by the public as a whole.” *Armstrong v. United States*, 364 U.S. 40, 49 (1960).

89. Apprehending a dangerous fugitive is in the public interest, and “in all fairness and justice,” the cost of apprehending such fugitives should be borne by the public as a whole, not by an unlucky and innocent property owner whose property is put to a public use to serve the public’s interest.

90. The Defendants' officers intentionally or foreseeably commandeered and destroyed Amy's private property for the public purpose of apprehending a fugitive.

91. The Defendants, under color of law, failed to compensate Amy for both the temporary and permanent takings of her property.

92. This constitutional claim is brought under both 28 U.S.C. § 1983 and the incorporated Fifth Amendment itself, which is self-executing. *Knick v. Township of Scott*, 139 S. Ct. 2162, 2179 (2019).

PRAYER FOR RELIEF

Plaintiff Amy Hadley respectfully requests relief as follows:

- A. Compensatory damages to include costs of repairing and replacing Amy's damaged and destroyed property and compensating her for her services.
- B. An award of reasonable attorney's fees and costs under 28 U.S.C. § 1988 and Ind. Code §§ 32-24-1-14, -16 against all Defendants.
- C. All further legal and equitable relief as the Court deems just and proper.

Dated: December 15, 2023

Respectfully submitted:

/s/ Marie Miller

Marie Miller

Attorney No. 34591-53

INSTITUTE FOR JUSTICE

3200 N. Central Ave., Suite 2160

Phoenix, AZ 85012

480-557-8300 (Phone)

480-557-8305 (Fax)

mmiller@ij.org

Counsel for Plaintiff