

**IN THE COURT OF COMMON PLEAS
STARK COUNTY, OHIO**

<p>Dawn Jones-Harrington 1000 Market Ave., Ste. 320 Canton, Ohio 44707</p> <p style="text-align: center;">Plaintiff, vs.</p> <p>Detective Rocco Ross <i>In his personal capacity</i> Stark County Sheriff's Office 4500 Atlantic Blvd., N.E., Canton, Ohio 44705</p> <p style="text-align: center;">Defendant.</p>	<p>Case No. _____</p> <p>Judge _____</p> <p>Complaint with Jury Demand</p>
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I. Introduction

1. Plaintiff Dawn Jones-Harrington has served the community as a counselor at GlenOak High School for ten years and counting. On the morning of November 6, 2019, while she was asleep in her bedroom, officers from the Stark County Sheriff's Office, including Defendant Detective Rocco Ross, arrived at her home and began questioning her family about Daylin Daniels, a relative who was suspected of committing a robbery in a nearby neighborhood.
2. After Harrington's frightened daughter awoke her to speak with Detective Ross, a white man, Harrington, a black woman, told him that she had not seen Daniels, had no reason to believe Daniels was in her home, and, due to Ross's aggressive and hateful demeanor in interrogating her, which caused her to fear for her and her family's safety, advised that she would not consent to Ross's search of her home.
3. Harrington then shortly contacted other Stark County officers to confirm that she wanted to cooperate with the investigation and would consent to a search of her home once her family had been safely removed from the scene, and officers other than Ross could participate in the search.
4. Ross knew that Daniels had been located and detained as of 10:40 a.m. thanks to Harrington

having consented to a search of her home. But despite this knowledge, Ross—who apparently resented that his aggressive and hateful conduct caused Harrington to exercise her constitutional right to withhold consent to his search of her home until other officers could arrive at the scene—knowingly lied about Harrington to cause her to be prosecuted for obstructing justice under Ohio Revised Code 2921.32, a third-degree felony. Specifically, both in his official documentation of this incident and under oath at a preliminary hearing for the criminal prosecution of Daniels, Ross falsely stated that Harrington prevented officers from capturing Daniels by withholding her consent for the search until Ross returned to the home with a warrant.

5. When Ross’s lies were revealed at Harrington’s trial, presiding Judge Frank Forchione criticized his “very flawed investigation,” including his “mistiming on the search warrant,” and his having “misspoke” about Harrington under oath at the Daniels preliminary hearing. Accordingly, Judge Forchione dismissed the charge against Harrington in the middle of trial, observing that the case had “more holes than swiss cheese,” noting that he was so “disturb[ed]” and “tortur[ed]” by the State’s attempted prosecution that he could not “take it anymore,” and holding that “reasonable minds can only come to one conclusion”—that is, that Harrington was innocent.

6. If Ross had not lied to obstruct the fact that Harrington gave consent to search her home long before a warrant was ever obtained—the very house that was actually searched, *and where Daniels was actually found*—there could not possibly have been probable cause for a charge that Harrington had obstructed justice.

7. Because this prosecution was based on Ross’s intentional misrepresentation, Ross is liable to Harrington on a claim for malicious prosecution under Ohio law.

II. Parties, Jurisdiction, and Venue

8. Defendant Rocco Ross has worked as a police officer in Stark County, Ohio for twenty-two years. At all times relevant, Ross was employed by the Stark County Sheriff’s Office as a police

detective.

9. At all times relevant, Harrington was a resident of the City of Canton in Stark County.

10. The Court has original jurisdiction under R.C. 2305.01 because the amount in controversy exceeds \$25,000.00.

11. Venue is proper in this Court under Civ.R.3(C)(3) because Ross conducted the activities that gave rise to Harrington's claim for relief in Stark County, Ohio.

III. Facts

A. Once made aware of an ongoing investigation of criminal activity near her neighborhood, Harrington made every reasonable effort to cooperate with police, including by offering to call the suspect and consenting to a search of her home.

12. Early in the morning on November 6, 2019, Harrington, a guidance counselor at GlenOak High School, returned to her home located at 1937 40th Street N.E., in Canton, Ohio, after completing an administrative errand at the school.

13. After returning home, Harrington went directly to her bedroom to take a nap before she would need to return to school around 9:30 a.m. in connection with her duties as a counselor.

14. While Harrington was sleeping in her bedroom, Daylin Daniels, whom officers suspected of committing an aggravated robbery in a nearby neighborhood that morning, had parked his vehicle on the street outside of Harrington's home and snuck into Harrington's attic to hide from the police.

15. Harrington was neither aware that Daniels had parked his vehicle outside her home nor that Daniels had entered her attic.

16. Harrington's daughter eventually awoke Harrington once Stark County detectives, including Ross, began interrogating Harrington's daughter about Daniels' whereabouts in an extremely hostile manner.

17. When Harrington stepped outside to see what was going on, Ross repeatedly asked her

whether Daniels was in her home.

18. In response to Ross's questions about Daniels, Harrington told Ross that she did not believe that Daniels was in her home.

19. Harrington had no reason to believe that Daniels was in her home because she had previously instructed Daniels, who is a cousin of Harrington's children on their father's side of the family, that he was not permitted to enter her home without permission.

20. Since Harrington did not have any information concerning Daniels' whereabouts, but nonetheless wanted to assist in the investigation, Harrington offered Ross that she would call Daniels.

21. Harrington's efforts to locate Daniels were unsuccessful because Daniels did not answer Harrington's phone call.

22. After informing Ross that Daniels had not answered her call, Ross's hateful and aggressive demeanor escalated, causing Harrington to fear for her and her family's safety.

23. Though Harrington desired to continue cooperating with the investigation, she informed Ross that she would not consent to him searching her home and left her house that she would not be any later for work, from where she planned to contact police officers to let them know that she wanted to cooperate with their investigation, but did not feel comfortable having Ross lead the search.

24. As Harrington was arriving at work, she received a phone call from her daughter informing her that Ross continued to threaten her family members.

25. Shortly upon arriving at work, at 10:14 a.m., Harrington spoke with Stark County police officer Chad Smith, who was also a resource officer for GlenOak High School, described to him what was happening at her home, and communicated both her willingness to cooperate with the investigation as well as her concerns about Ross.

26. Smith informed Harrington that he would have Stark County Detective Kennedy contact her about the situation.

27. When Harrington spoke with Detective Kennedy, he promised to ensure the safe removal of Harrington's family from the home before any search was conducted.

28. Around 10:30 a.m., Harrington met Detective Kennedy at her home and promptly consented to a search of her home.

29. By 10:40 a.m., officers had captured Daniels in the attic based on the search conducted with Harrington's express consent, hours before any warrants were issued.

B. Despite his knowledge that Harrington had fully cooperated in the police investigation, Ross vindictively made material misrepresentations and omitted key facts from his documentation of this incident in an effort to ensure that Harrington was charged with a crime.

30. At 1:31 p.m., three hours after Harrington had consented to the very search that led to Daniels' capture, Ross—who apparently resented that his aggressive and hateful conduct caused Harrington to exercise her constitutional right to withhold consent to his search of her home until other officers could arrive at the scene—filed an affidavit for a search warrant in which he intentionally misrepresented that Harrington had refused to cooperate with the investigation by “den[ying] consent to search her residence for Daylin Daniels and clos[ing] the door before any further conversation could take place.” **Exhibit 1**, Affidavit of Rocco Ross, ¶ 15.

31. Ross further acknowledged in this affidavit that Harrington had already given officers consent to search her home for Daniels, who was captured pursuant to that consent search before he had obtained any warrants. **Ex. 1**, Ross Aff., ¶ 18–¶ 19.

32. In a police report dated November 7, 2019, Ross further misrepresented, intentionally, that Harrington had withheld consent to a search until Ross had obtained a warrant and was on his way to the Harrington home, fully aware that officers had captured Daniels three hours before he had obtained any such warrant. **Exhibit 2**, police report, p. 2.

33. Ross further omitted from his police report the material fact that Harrington had, in furtherance of the police investigation, called Daniels to help police locate him.

34. Because Harrington consented to a search of the very home where Daniels was actually found, no reasonable person could have ever formed a belief that Harrington was attempting to hide or conceal Daniels from officers, nor that she was otherwise interfering in the investigation.

C. Ross further ensured Harrington's prosecution by lying under oath at the Daniels preliminary hearing, intentionally misrepresenting that Harrington had prevented officers from capturing Daniels by withholding her consent to a search.

35. On November 14, 2019, Ross participated in a preliminary hearing concerning the criminal case against Daniels.

36. Despite that Ross knew that officers had captured Daniels by 10:40 a.m., precisely because Harrington had consented to a search of her home, Ross lied under oath that Harrington's withholding of consent prevented officers from locating Daniels.

37. Ross intentionally misrepresented that Harrington had prevented officers from locating and capturing Daniels by withholding consent for a search until Ross obtained a warrant, thereby causing Harrington's criminal prosecution for obstructing justice under R.C. 2921.32.

38. After causing Harrington's criminal indictment, Ross publicly arrested Harrington in front of the superintendent and the head principal of GlenOak High School and escorted her out the front door of the school.

39. Following her arrest, Harrington spent four days in jail, was not permitted to return to work until the resolution of the baseless criminal proceedings against her, was forced to undergo an investigation into her professional counseling credentials, and had her office and car searched for drugs by a K9 unit.

D. At the criminal trial, Ross admitted that he had lied about Harrington's conduct and further confirmed that there was no evidence that would have justified a belief that Harrington was guilty of obstructing justice.

40. The prosecutor admitted that its charge against Harrington was based on Ross's lie that Harrington had prevented officers from locating Daniels until after a search warrant was obtained, asserting that "[a]fter obtaining a search warrant Ms. Harrington returned to the home and signed a consent to search form." **Exhibit 3**, Bill of Particulars.

41. Ross admitted at trial that he lied under oath at the Daniels preliminary hearing when he testified that Daniels was not found until Ross had obtained a search warrant, despite his actual knowledge that officers had captured Daniels by 10:40 a.m., and were able to do so precisely because Harrington had consented to a search.

42. Ross also admitted at trial that he knew Harrington had returned to her home not because a warrant had been issued, but specifically to consent to a search of her home.

43. Ross further acknowledged at trial that no witness had provided any evidence that Harrington had assisted Daniels in any way or that Harrington knew Daniels was in her home.

44. After Ross's lies and misrepresentations were revealed at trial, the prosecutor attempted to justify the prosecution of Harrington by belatedly arguing that Daniels had told officers during his arrest that some unnamed persons told him to hide in the Harrington home, despite having no evidence to support such an accusation.

E. After Ross's lies were revealed at trial, the presiding Judge condemned his misconduct and dismissed the charges against Harrington, observing that the case "had more holes than swiss cheese."

45. In the middle of the trial, Judge Frank Forchione condemned Ross's conduct by stating, on the record, that:

[T]his is a very flawed investigation for a number of reasons, and this is terrible because somebody's career is at stake ... Why there weren't more things done, I don't know. I don't know why they didn't look at cell phone records, [Harrington's defense lawyer] is right, I don't

know. It makes me very uncomfortable as a judge to listen to this.

There's really, the initial point where they go out to talk to her and she doesn't want them to search the premises is within the law, she didn't do anything wrong there.

It's disturbing to me that [Ross] did not know that she was working with another officer from GlenOak High School so it could be done reasonably.

It seems reasonable to me that if they're coming into the house, there were two grandkids there, that it would be in some orderly fashion. So at that point she wasn't obstructing anything at that point.

I don't know why there's mistiming on the search warrant but it doesn't look good. I don't know why [Ross] misspoke at the prelim, that doesn't look good. I don't know why cell phones weren't checked. The bill of particulars were flawed. How long I can keep going here ...

Exhibit 4, trial transcript, 161:19–163:6.

46. After hearing the State's evidence, Judge Forchione accordingly dismissed the criminal charge against Harrington, noting, again on the record,

I've listened to this case all day ... I spoke this morning about how flawed I think the case was and I thought there were more holes than swiss cheese ...

[A]s I watch this, it's torturing me. You know, there's so many points that were made, especially this last one, she even tried to call to find him ... [T]he State has to prove its case, I've watched this, I can't take it anymore, you've been through a lot, at this point reasonable minds can only come to one conclusion and I'm granting your Rule 29 motion. That will be all.

Ex. 4, Tr., 237:22–239:10.

IV. Cause of Action

Count One: Malicious Prosecution Against Defendant Ross

47. Harrington incorporates the foregoing paragraphs as if fully rewritten here.
48. This Count is stated against Defendant Rocco Ross in his personal capacity.
49. Ross maliciously instituted, caused, and/or continued Harrington's criminal prosecution

despite the complete lack of evidence that Harrington had committed any act that could constitute obstructing justice, including by making material misrepresentations about her conduct in his written reports of the incident, lying about her conduct while testifying under oath, and engaging in a wanton and reckless refusal to conduct any investigation into the propriety of criminal charges against her.

50. There was no probable cause for the criminal prosecution against Harrington because Ross did not have, and no person could have had, a reasonable ground of suspicion supported by circumstances sufficiently strong in themselves to warrant a cautious man in the belief that Harrington was guilty of the crime of obstructing justice under R.C. 2921.32.

51. Harrington's person and/or property was seized during the course of the prior proceedings.

52. The prosecution was terminated in Harrington's favor on March 10, 2020, when, during the criminal trial, Judge Forchione directed a verdict in Harrington's favor and dismissed the case.

53. As a direct and proximate result of Ross's unlawful conduct, Harrington has suffered and will continue to suffer economic and non-economic damages for which Ross is liable, including without limitation mental and emotional pain and suffering, humiliation, embarrassment, and loss of reputation.

54. Ross acted with malicious purpose, in bad faith, and in a wanton or reckless manner by pursuing charges against Harrington, arresting her, lying under oath about her conduct, and causing the criminal prosecution against her.

55. Ross's conduct further reflects an outrageous and conscious disregard for Harrington's rights, which had a great probability of causing and did cause Harrington to suffer substantial damages, thereby rendering Ross liable for punitive damages.

V. Prayer for Relief

Wherefore, Plaintiff Dawn Jones-Harrington prays for judgment against Defendant Rocco

Ross in an amount in excess of \$25,000 together with attorneys' fees, costs, expenses, and any other relief to which she may be entitled or that the Court deems equitable and just.

VI. Jury Demand

Plaintiff demands a trial by jury on all issues within the Complaint.

Respectfully Submitted,

/s/ Peter Pattakos
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Request for Service

To the Clerk of Courts:

Please issue the Summons and Complaint and serve this Complaint to the Defendant at the addresses listed below, making return according to law.

Detective Rocco Ross
Stark County Sheriff's Office
4500 Atlantic Blvd., N.E.
Canton, Ohio 44705