

**IN THE CIRCUIT COURT OF HINDS COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT**

ANTHONY GERALD FOX

CLAIMANT

v.

CAUSE NO. 24-cv-188-AHW

STATE OF MISSISSIPPI

RESPONDENT

FIRST AMENDED COMPLAINT

1. Anthony Gerald Fox hereby, through counsel, files this First Amended Complaint petitioning the State of Mississippi for statutorily allowed compensation following the wrongful conviction and wrongful imprisonment he recently endured, as allowed by Miss. Code Ann. §§ 11-44-1 *et seq* and will show the following, *to wit*:

General Summation

2. Upon appeal of the criminal conviction of culpable negligent manslaughter, the Mississippi Court of Appeals found there was no evidence that Anthony Gerald Fox, a resident of Hinds County, Mississippi, committed a crime. The case was reversed and rendered, and Fox was shortly thereafter released from custody. He now seeks compensation from the State of Mississippi for this wrongful judgment and incarceration.

Parties and Jurisdiction

3. Under Miss. Code Ann. § 11-44-5, the respondent is the State of Mississippi *ex rel* its Attorney General, the Honorable Lynn Fitch. Jurisdiction is proper in the Circuit Court of the county of conviction, the Hinds County Circuit Court.

Statement of Facts

4. On January 13, 2019, Anthony Gerald Fox was a Jackson Police Officer. He and several other officers had been called in to help capture the suspect in the murder of a local pastor who was robbed and killed while opening his church. Fox was activated as a SWAT team member and was identifiable as a police officer.
5. During the investigation, Fox observed what he believed to be a hand-to-hand drug transaction between a pedestrian and driver of a parked vehicle. On approach, the driver of the vehicle, later to be identified as George Robinson, began reaching between the car seats. Fox ordered him to put his hands up, but Robinson continued reaching between the seats of the car. Fearing for the officers' safety, Fox and another officer took him out of the vehicle and to the ground. During the encounter, Robinson's head scraped the pavement. Fox summoned an ambulance to check on Robinson, which was Jackson Police Department policy for any observed injury.
6. Robinson declined to be taken to a hospital. He did not want to be examined by the medical staff. Fox finally got him to let one of the paramedics place a small bandage on the abrasion.
7. Robinson was cited with two misdemeanor charges and released. He then drove himself to a local hotel on Highway 80 in Jackson, the Mustang Inn, where he was staying with his girlfriend. The hotel's surveillance system recorded Robinson driving up, getting out of his car, and being let into the hotel room. It also recorded him coming out of the room and searching through the car he was driving. Robinson did not appear to suffer from any injury.
8. Over the next two to three hours, several people were recorded entering and exiting the motel room. His girlfriend reported to police that Robinson later began having seizures and posturing, and she called 911. An ambulance responded and transported him to the University of Mississippi Medical Center,

where he was found to have developed a subdural hematoma. Unfortunately, he passed away at the hospital a couple of days later.

9. No state law enforcement agency investigated this matter. The Jackson Police Department noted a conflict of interest. Other than initial interviews of certain witnesses, it did no investigation. The Mississippi Bureau of Investigation was not investigating officer-involved incidents of the Jackson Police Department at the time due to Mayor Chokwe Antar Lumumba's policy to identify officers involved in situations like this, which would negatively affect their investigation.
10. The mayor of Jackson asked the Hinds County District Attorney to investigate the matter. Then DA, Robert Schular Smith, asked the FBI to investigate the matter. The FBI was the only criminal investigation agency to investigate this matter from beginning to end. Their investigation, though limited to the scope of federal law, revealed that no crime was committed by the Jackson police officers, including Fox.

The Prosecution

11. The newly elected District Attorney, Jody Owens, somehow found evidence of a vicious assault; evidence later proven not to have existed. Based on that, a grand jury of the First Judicial District of the Hinds County Circuit Court indicted Anthony Gerald Fox on August 4, 2020, for Second Degree Murder, violating Miss. Code Ann. §97-3-19(1)(b)¹. The allegations of that indictment were shown to be wrong.
12. Trial was held in Hinds County Circuit Court, First Judicial District on August 4, 2022. The state produced two eyewitnesses. Both were inconsistent and biased. One witness was serving time in federal custody from an arrest Fox had assisted with, when he testified. The other witness had changed her account since the

¹ Two other Jackson Police Officers were also indicted by this grand jury for felonies related to this incident. Both of those officers were acquitted prior to Fox being tried.

previous trial of two other officers involved in this arrest. Both testimonial accounts conflicted with the medical evidence.

13. Multiple police officers testified there was no beating, especially as had been described in the indictment. Two Medical Examiners (one for the state and one for Fox), an Intervention Radiologist, and a Trauma Surgeon, each testified there was no way they could say Robinson's death was caused by Fox.
14. The indictment alleged that Fox had body-slammed Robinson and dropped him on his head. Each doctor testified that the description of the incident in the indictment conflicted greatly with the condition of the body noted during pre- and post-mortem examinations. Robinson did not have injuries consistent with the indictment.
15. Still, Fox was found guilty by a jury of the lesser included offense of Culpable Negligence Manslaughter. The trial Judge ordered Fox be immediately taken into custody by the Hinds County Sheriff's Department.
16. On August 17, 2022, Fox was sentenced to twenty years, with fifteen years suspended, five years to serve, and five years of probation. He was immediately taken into custody by the State of Mississippi Department of Corrections.
17. Fox timely filed post-trial motions, including a motion for new trial and for bond pending appeal, which were denied. He continued his appeal to the Mississippi Supreme Court which assigned the case to the Mississippi Court of Appeals.
18. On January 30, 2024, the Court of Appeals for the State of Mississippi reversed and rendered Fox's wrongful conviction. The order is attached as Exhibit 1.
19. Fox was freed on February 7, 2024, by mandate of the Court of Appeals. He had spent one year, six months, and four days wrongly imprisoned by the State of Mississippi.

Fox Presents an Actionable Claim Under §11-44-3

20. The Court of Appeals' ruling dismissed the accusatory instrument, as required by this statute.
21. Fox files this petition within the time allowed by this chapter; thus, it is not time barred.
22. Fox waived no appellate or post-conviction remedy that may have been otherwise available to benefit under this chapter. Fox's appeal was normal for a criminal conviction.

Fox Carries the Burden as Required by §11-44-7

23. Fox did not commit the crimes for which he was indicted, convicted, or sentenced.² He did not commit or suborn perjury, nor did he fabricate evidence to bring about his conviction.
24. As noted by the Court of Appeals without reweighing the evidence, "Given the testimony from the State's medical expert and the defense's three medical experts, we cannot find that the credible evidence supports a finding that Fox 'slammed,' 'stomped,' or otherwise took any action that demonstrated 'negligence of a degree so gross as to be tantamount to a wanton disregard of, or utter indifference to, the safety of [Robinson's] life.'" (Emphasis in original.) *Court of Appeals' Order*, ¶51. The Court said further, "Under the unique circumstances of this case, we find no credible evidence sufficient for a reasonable jury to find the elements of culpable negligence manslaughter beyond a reasonable doubt." *Id.* at ¶62. The Court of Appeals ruled, "A reasonable jury could conclude from the physical evidence, along with the eyewitness testimony of the police officers, that Robinson's injuries were the result of accident or misfortune." *Id.* at ¶86.

² As stated above, Fox was indicted for 2nd Degree Murder. The jury found him guilty of the lesser-included offense of Culpable Negligent Manslaughter.

Prayer for Relief

25. WHEREFORE, PREMISES CONSIDERED, Anthony Gerald Fox meets every applicable requirement of Miss. Code. Ann. §§ 11-44-1, *et seq*, and is entitled to compensation as allowed. He was incarcerated on August 17, 2022, and remained in the custody of the state until the day the Court of Appeals issued its mandate to release him on February 7, 2024. His incarceration was for one year, five months, and twenty-two days. He prays for a jury trial as necessary and to be awarded the maximum amount allowed by law. A separate award of attorney's fees and costs commensurate with Miss. Code Ann. § 11-44-7(2)(4) should also be granted.

SO SUBMITTED this the 25th day of March, 2024,

Anthony Gerald Fox

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His Attorney

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