

IN THE CIRCUIT COURT OF CRAIGHEAD COUNTY, ARKANSAS
WESTERN DISTRICT
CIVIL DIVISION

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CLERK OF CIRCUIT COURT
CRAIGHEAD COUNTY ARKANSAS

**CLIFTON BURCHAM and all
other similar situated persons**

PLAINTIFFS

VS.

NO. CV-2016- 401 (JF)

**CRAIGHEAD COUNTY, ARKANSAS,
& CITY OF JONESBORO, ARKANSAS**

DEFENDANTS

COMPLAINT

Comes now the Plaintiff, Clifton Burcham, and all other similar situated persons, bring this action against the Defendants and states as follows:

1. Plaintiff, Clifton Burcham, and all other similar situated persons bring this action on their own behalf and as representative parties on behalf of all members of the class of persons similarly situated.
2. Plaintiff, Clifton Burcham, is a resident of Craighead County, Arkansas.
3. Defendant, Craighead County, Arkansas is a political subdivision of the State of Arkansas, and the County Judge is Ed Hill; that Defendant, City of Jonesboro, is a municipal corporation located in the Western District of Craighead County, Arkansas.
4. This action is brought by Plaintiff on behalf of himself and all other interested to protect against the enforcement of illegal exactions and is brought under Article 16, Section 13 of the Arkansas Constitution.
5. Plaintiffs and the class members were all arrested by police officers who were employed by the Defendants and charged with violation of A.C.A. § 12-11-110, more

commonly known as the “Drunken, insane, and disorderly (DID) statute.” This statute says:

A law enforcement officer shall arrest a drunken, insane, or disorderly person whom he or she finds at large and not in the care of a competent person.

6. That the Defendants, both the County of Craighead and the City of Jonesboro, would incarcerate the Plaintiffs, they would go before Craighead District Court Judge, and the judge would impose fines and costs, along with other punitive measures.

7. In accordance with A.C.A. § 5-4-201, this statute sets limitations on fines, and it only allows fines for felonies, misdemeanors, or violations.

8. That the DID statute does not allow for the imposition of any fines and costs. It is not a felony, a misdemeanor, or a violation. Therefore, any fine and/or cost levied against any of the Plaintiffs was illegal.

9. Defendants levied these charges with knowledge of and in violation of § 5-4-201 and § 12-11-110. In fact, the DID statute is not even in the criminal code, and Defendants knew this, and imposed these fines and costs on the Plaintiffs even with said knowledge.

10. Defendants knew or should have known that the fine and costs levied against Plaintiffs were improper and violated Arkansas law. These charges were illegal exactions and cause Plaintiffs and the class they represent to be aggrieved at their taxation as costs against them in Craighead County District Court.

11. Most all of the fine and costs levied against Plaintiffs have been collected by Defendants. Some or all of the fees have been distributed to the Defendants.

12. Plaintiffs believe that there are several members of the class of persons who were levied with the illegal fines and costs and exactions set forth above. Their number is sufficiently numerous as to make joinder of all members impracticable. The questions of law and fact involved in this case are common to the entire class of similar situated persons, and the claims of the Plaintiffs are typical of the claims of the entire class or similar situated persons. Plaintiffs assert that they will fairly and adequately protect the interests of the class. This case is automatically a class action under Article 16, Section 13 of the Arkansas Constitution. Alternatively, Plaintiffs are entitled to have this action certified as a class action under Rule 23 of the Arkansas Rules of Civil Procedure.

13. Plaintiffs and all members of the class are entitled to an order of this court mandating, enjoining, and directing the defendants to re-tax the fine and costs assessed against all of them, and in re-taxing, to correct the errors of the illegal assessment.

14. Plaintiffs and all members of the class are entitled to recover from all defendants all fines and court costs that the Plaintiffs were levied under the DID statute.

15. In the event that some other entity is holding or received any of the fine and/or costs, then these Defendants should be responsible for the entire amount because they were responsible for the illegal exactions.

16. Plaintiffs are entitled to recover their attorney fees, costs, and expenses of litigation in the matter from the Defendants.

WHEREFORE, Plaintiff and all other similar situated persons pray that this court declare the actions of the Defendants in levying and collecting fines and court costs for

violation of A.C.A. § 12-12-110 to be illegal exactions and illegal assessments of fines and court costs against the Plaintiffs and all class members; that the Court mandate, enjoin, and direct Defendants to re-tax the costs assessed against all class members, and to correct any errors of the illegal assessment; that all Defendants be ordered to account for any of such funds levied by, paid to, or collected by them; that all Defendants pay any such funds in the registry of the Court; that Plaintiffs and all class members have judgment against all Defendants for all illegal charges levies or paid; that Plaintiffs recover attorney fees, costs, and expenses of litigation; that Plaintiff be able to pursue this action on behalf of all individual's that have been charges and paid this illegal exaction or costs; and for any and all other proper legal and equitable relief.

CLIFTON BURCHAM, and all other
similarly situated persons,


Mark Rees

Attorney at Law

On behalf of Clifton Burcham, and all
other similar situated persons

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