

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ANTWON D. GOLATTE,)
Plaintiff,)
) No. _____
vs)
) Judge: _____
CITY OF CHICAGO, a municipal corporation,)
CHICAGO POLICE OFFICERS JAIME GAETA,) Magistrate Judge _____
STAR# 17317, HARRY MATHEOS, STAR#)
18599, MATT DERCOLA, STAR# 15740, JAMES)
WHIGHAM, STAR# 3462, KATHLEEN)
SCHMIDT, STAR #11387, and DOES 1 through)
100, in their individual capacity,) JURY DEMAND
Defendants.)

COMPLAINT

NOW COMES Plaintiff, **ANTWON D. GOLATTE**, by and through his attorneys, Danielle A. Pinkston, of the PINKSTON LAW GROUP and L. Chris Stewart, of STEWART, SEAY & FELTON complaining of Defendants, CITY OF CHICAGO, a municipal corporation, CHICAGO POLICE OFFICERS JAIME GAETA, STAR# 17317, HARRY MATHEOS, STAR# 18599, MATT DERCOLA, STAR# 15740, JAMES WHIGHAM, STAR# 3462, KATHLEEN SCHMIDT, STAR #11387, and DOES 1-100, stating as follows:

INTRODUCTION

1. This cause of action is to redress the deprivation of Plaintiff’s First, Fourth, Fifth, and Fourteenth Amendments to the United States Constitution that resulted in personal injuries, and request damages and prospective injunctive relief under 42 U.S.C.A. § 1983.

JURISDICTION

2. This court has jurisdiction to adjudicate Plaintiff's claims pursuant to 28 U.S.C.A. §§ 1331, 1343(1)(2)(3)(4), and 1367.
3. The acts or omissions giving rise to the Plaintiff's claims arose in County of Cook, and State of Illinois thus, pursuant to 28 U.S.C.A. § 1391(b)(2) venue is proper in the Northern District of Illinois, Eastern Division.

PARTIES

4. During all relevant times in this Complaint, Plaintiff, ANTWON D. GOLATTE was and is a United States citizen, residing in Cook County, Illinois.
5. Defendant CITY OF CHICAGO is a local government in Illinois created and existing by virtue of the laws of Illinois. The CITY OF CHICAGO Police Department is a Department of Chicago. Defendant CITY of CHICAGO employs personnel of its Police Department and is responsible for its lawful operations, administration, maintenance, training, supervising personnel employed, and otherwise controls the City of Chicago Police Department. Defendant has established policies and procedures for its Police Department regarding how to conduct traffic stops, the use of force, reporting Police Officer misconduct, and other relevant provisions. The acts and/or omissions alleged, were under color of authority, color of state law as well as under color of the statutes, ordinances, regulations, policies, practices, customs, and usages of the City of Chicago. Defendant, CITY OF CHICAGO is liable for the actions of its employees.
6. Defendant OFFICERS JAIME GAETA, STAR# 17317, HARRY MATHEOS, STAR# 18599, MATT DERCOLA, STAR# 15740, JAMES WHIGHAM, STAR# 3462, and KATHLEEN SCHMIDT, STAR #11387 were at all times described, employees of the

CITY OF CHICAGO'S Police Department and were acting within the course and scope of that employment. Each Defendant was the agent, employee, servant, partner, and/or co-conspirator of the other Defendants named in this Complaint. In doing the acts and/or omissions alleged, Defendants acted under color of law, and is sued in his or her individual capacity.

7. The true names and identities of Defendant CHICAGO POLICE OFFICERS DOES 1 through 100 ("DOES") are presently unknown to Plaintiff. Plaintiff uses the fictitious name DOES to designate these Defendants until their identities have been ascertained. At all times described, DOES was employees of the City Of Chicago's Police Department and were acting within the course and scope of that employment. Each Doe was the agent, employee, servant, partner, and/or co-conspirator of the other Defendants named in this Complaint. In doing the acts and/or omissions alleged, DOES acted under color of law, and are sued in his or her individual capacity.

FACTS

8. On February 7, 2015, at approximately 2:02 P.M. Plaintiff was traveling in his vehicle near 310 West 115th Street, Chicago, Illinois 60628 when Defendant Police Officers Jaime Gaeta and Harry Matheos notified Defendant Police Officers Matt Dercola and James Whigham by mobile phone, to conduct a traffic stop on Plaintiff.
9. Defendant Police Officers Jaime Gaeta and Harry Matheos arrived at the scene minutes later and the Officers without probable cause, or any other lawful basis seized Plaintiff for an excessive period.
10. In so doing, Defendants Gaeta, Matheos, Dercola, and Whingham were willful participants in joint activity with one another.

11. Plaintiff recognized Defendants Gaeta, Matheos, Dercola, from February 5, 2015, when they unconstitutionally searched and seized him by dumping his pizza onto the ground, made him stand barefoot in the snow, placed him in handcuffs, and searched his vehicle without his consent or a lawful basis.
12. On February 7, 2015, Plaintiff, fearful for his safety, called 911.
13. As a result, Defendant Officers began yelling, using profanity, threatening violence, and pointed their firearms at Plaintiff.
14. Plaintiff lowered his driver's side window in an attempt to communicate with Defendant Officers, to no avail.
15. Defendant Gaeta then stood on the running board Plaintiff's car, grabbed the inside of Plaintiff's driver side window, pulled, and shattered the glass.
16. At all times relevant, Plaintiff was completely unarmed, had not committed any crime, and posed absolutely no threat to the Defendant Officers, or anyone else.
17. Nevertheless, Defendants Gaeta and Matheos shot at Plaintiff at least five (5) times, injuring him.
18. Three of the bullets entered Plaintiff's side and pierced his stomach and rib cage, barely missing his lungs. To this day, bullet fragments remain trapped in Plaintiff's body near his vital organs.
19. Plaintiff was transported to Christ Hospital in Oak Lawn, Illinois after being shot, where he underwent lifesaving surgery.
20. Plaintiff, who had done absolutely nothing wrong, was neither arrested nor charged with a crime between February 7-10, 2015.
21. While in Christ Hospital, Plaintiff filed a complaint with the Independent Police Review

Authority (IPRA) against Defendants and on July 14, 2016, IPRA found that “Officer Gaeta’s and Matheos’ use of deadly force was therefore objectively unreasonable and a violation of policy.” A copy of the final report is attached as Exhibit A and incorporated by reference.

22. After realizing the severity of Plaintiff’s injuries, the Defendants each conspired to cover up the unconstitutional use of excessive force by Defendants Gaeta and Matheos.
23. In this manner, Defendants, acting in concert with each other, conspired and acted together to cover up and prevent disclosure of the misconduct alleged above by engaging in the following non-exhaustive conduct: completing false, misleading and incomplete official reports; giving of false statements regarding the circumstances of their detention of Plaintiff; providing false testimony at trial; and inventing false claims to justify the use of excessive force.
24. To protect their fellow officer, and pursuant to a code of silence, each Defendant initiated and/or continued the false and malicious prosecution of Plaintiff although they knew they lacked probable cause.
25. Defendants’ sole purpose in causing and continuing the false charges against Plaintiff was malicious in that it was done to cover up their wrongdoing.
26. Plaintiff was arrested and later incarcerated at the Cook County Jail, from February 14, 2015 until April 1, 2015.
27. On February 14, 2015, Plaintiff was ordered to be on home electronic monitoring with daily Sheriff Reporting at the Cook County Jail that was terminated on July 30, 2015.
28. Defendants’ allegations and the subsequent charges against Plaintiff for aggravated assault on four peace officers with a motor vehicle and criminal damages to government

property were false, had no reasonable basis, and lacked probable cause.

29. On January 20, 2017, the prosecution was terminated in Plaintiff's favor when he was found not guilty on all counts after a trial that lasted three (3) inconsecutive days.
30. Upon information and belief, the City of Chicago and Chicago Police Department failed to adequately investigate the shooting of Plaintiff or impose any discipline on any of the Defendant Officers until December 2016, almost two (2) years after the unlawful shooting.
31. Defendant City of Chicago and other supervisory officials within the City, including within the Police Department, encouraged, authorized, directed, condoned, and/or ratified the unconstitutional and unlawful conduct complained of in this Complaint.
32. As a direct and proximate result of one or more acts or omissions of the Defendants, alleged above, Plaintiff suffered damages including but not limited to pain and suffering, humiliation, mental anguish, emotional distress, loss of liberty, lost time, interference with a normal life, the violation of Plaintiff's rights, and financial loss.

COUNT I: Excessive Force (42 U.S.C.A. § 1983)
Against All Individually-Named Defendants

33. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as though fully set forth here.
34. The actions of the Defendant Officers constituted unreasonable, unjustifiable, and excessive force against Plaintiff, thus violating his rights under the Fourth Amendment to the Constitution of the United States and 42 U.S.C. §1983.
35. As a result, Defendants' misconduct directly and proximately caused Plaintiff to suffer injury including severe and excruciating pain; past and future anxiety, medical expenses pain and suffering shock, extreme emotional distress, and humiliation, lost

employment opportunities inconvenience, embarrassment, and mental anguish, deprivation of ordinary pleasures of life, loss of well-being, and equanimity, and his overall health, strength, and vitality have been greatly impaired.

WHEREFORE pursuant to 42 U.S.C.A. § 1983, Plaintiff demands judgment against the Defendants for:

- a. Compensatory damages in an amount to be proven at trial;
- b. Punitive and exemplary damages against each individual Defendant in an amount appropriate to punish each individual Defendant and deter others from engaging in similar misconduct;
- c. Costs of suit;
- d. Reasonable attorney's fees pursuant to 42 U.S.C.A. § 1988 and 28 U.S.C.A. § 2412 and as otherwise authorized by statute or law;
- e. Pre- and post-judgment interest as permitted by law; and
- f. Such other relief, including injunctive and/or declaratory relief, as the court may deem proper.

COUNT II: False Arrest (42 U.S.C.A. § 1983)
Against All Individually-Named Defendants

36. Plaintiff re-alleges and incorporates each of the foregoing paragraphs as though fully set forth here.

37. Defendants' misconduct violated Plaintiff' right to be free from unreasonable seizures as guaranteed by the Fourth Amendment and the Fourteenth Amendment of the Constitution of the United States.

38. As a result, Defendants' misconduct directly and proximately caused Plaintiff to suffer injury including severe and excruciating pain; past and future anxiety, medical

expenses pain and suffering shock, extreme emotional distress, and humiliation, lost employment opportunities inconvenience, embarrassment, and mental anguish, deprivation of ordinary pleasures of life, loss of well-being, and equanimity, and his overall health, strength, and vitality have been greatly impaired.

WHEREFORE pursuant to 42 U.S.C.A. § 1983, Plaintiff demands judgment against the Defendants for:

- a. Compensatory damages in an amount to be proven at trial;
- b. Punitive and exemplary damages against each individual in an amount appropriate to punish each individual Defendant and deter others from engaging in similar misconduct;
- c. Costs of suit;
- d. Reasonable attorney's fees pursuant to 42 U.S.C.A. § 1988 and 2412 and as otherwise authorized by statute or law;
- e. Pre- and post-judgment interest as permitted by law; and
- f. Such other relief, including injunctive and/or declaratory relief, as the court may deem proper.

COUNT III: Failure to Intervene (42 U.S.C.A. § 1983)
Against All Individually-Named Defendants

39. Plaintiff re-alleges and incorporates each of the foregoing paragraphs as though fully set forth herein.

40. Each Defendant knew the other Officers intended to falsely arrest and use excessive force against Plaintiff, had a reasonable opportunity to prevent the excessive force and false arrest, but failed to do so.

41. Defendants' misconduct was objectively unreasonable and was undertaken intentionally, with malice, willfulness, and reckless indifference to Plaintiff's rights.

42. Defendants' misconduct was undertaken pursuant to the policy, practice, and custom of the City of Chicago's Police Department.

43. As a result, Defendants' misconduct directly and proximately caused Plaintiff to suffer injury including severe and excruciating pain, past and future anxiety, medical expenses pain and suffering shock, extreme emotional distress, and humiliation, lost employment opportunities inconvenience, embarrassment, and mental anguish, deprivation of ordinary pleasures of life, loss of well-being, and equanimity, and his overall health, strength, and vitality have been greatly impaired.

WHEREFORE pursuant to 42 U.S.C.A. § 1983, Plaintiff demands judgment against the Defendants for:

- a. Compensatory damages in an amount to be proven at trial;
- b. Punitive and exemplary damages against each individual Defendant in an amount appropriate to punish each individual Defendant and deter others from engaging in similar misconduct;
- c. Costs of suit;
- d. Reasonable attorney's fees pursuant to 42 U.S.C.A. § 1988 and 28 U.S.C.A. § 2412 and as otherwise authorized by statute or law;
- e. Pre- and post-judgment interest as permitted by law; and
- f. Such other relief, including injunctive and/or declaratory relief, as the court may deem proper.

COUNT IV: Conspiracy to Deprive Constitutional Rights (42 U.S.C.A. § 1983)
Against All Individually-Named Defendants

44. Plaintiff re-alleges and incorporates each of the foregoing paragraphs as though fully set forth herein.
45. As described more fully above, Defendants reached an agreement amongst themselves to harm Plaintiff and punish him for a crime he did not commit, and to thereby deprive him of his Constitutional rights.
46. In so doing, Defendant Officers conspired by concerted action to accomplish an unlawful purpose by an unlawful means.
47. In furtherance of the conspiracy, each of the co-conspirators committed overt acts and was an otherwise willful participant in the joint activity.
48. As a result, Defendants' misconduct directly and proximately caused Plaintiff to suffer injury including severe and excruciating pain, past and future anxiety, medical expenses pain and suffering shock, extreme emotional distress, and humiliation, lost employment opportunities inconvenience, embarrassment, and mental anguish, deprivation of ordinary pleasures of life, loss of well-being, and equanimity, and his overall health, strength, and vitality have been greatly impaired.

WHEREFORE pursuant to 42 U.S.C.A. § 1983, Plaintiff demands judgment against the Defendants for:

- a. Compensatory damages in an amount to be proven at trial;
- b. Punitive and exemplary damages against each individual Defendant in an amount appropriate to punish each individual Defendant and deter others from engaging in similar misconduct;
- c. Costs of suit;

- d. Reasonable attorney's fees pursuant to 42 U.S.C.A. § 1988 and 28 U.S.C.A. § 2412, and as otherwise authorized by statute or law;
- e. Pre- and post-judgment interest as permitted by law; and
- f. Such other relief, including injunctive and/or declaratory relief, as the court may deem proper.

COUNT V: Monell Policy Claim
Against Defendant City of Chicago

49. Plaintiff re-alleges and incorporates each of the foregoing paragraphs as though fully set forth herein.
50. The Individual Defendants' excessive use of force, false arrest, failure to intervene, and conspiracy to deprive Plaintiff of his Constitutional rights, were all undertaken under pursuant to the policy, practice, and custom of Defendant City of Chicago's Police Department.
51. In establishing its procedures, Defendant City of Chicago has a duty under the Fourth and Fourteenth Amendments to the Constitution of the United States to refrain from enforcing or continuing in effect policies and procedures that create a substantial likelihood that persons, such as Plaintiff, would be subjected to by Defendant City of Chicago's Police Officers' misconduct.
52. Likewise, Defendant City of Chicago has a duty to refrain from enforcing or continuing in effect policies and procedures that cause persons, such as Plaintiff, to be treated with reckless indifference by its agents, servants and employees.
53. At all times material to this complaint the Defendant City of Chicago and its Police Department, Superintendents, LP.R.A., I.A.D., Personnel Division and/or Police Board

had interrelated defacto policies, practices, and customs that were the moving force of the misconduct described in this Complaint.

54. Defendants' misconduct was undertaken pursuant to one or more interrelated defacto policies, practices and/or customs of the City of Chicago, its Police Department, Police Board, I.P.R.A., I.A.D., Personnel Division, and/or Superintendents are guilty of one or more of the following wrongfully acts or omissions:

- a. failing to properly hire, train, supervise Police Officers;
- b. failing to properly train and supervise Chicago Police Officers with regard to discharging their weapons at civilians;
- c. refusing to supervise, reprimand, discipline, transfer, monitor, counsel and/or otherwise control Police Officers who engage in misconduct contrary to the laws, rules and regulations, thus condoning the use of excessive force; thereby leading City Of Chicago Police Officers to believe their actions will never be scrutinized and in that way, directly encouraging future abuses such as those affecting Plaintiff; specifically, City Of Chicago Police Officers accused of excessive force can be confident that the Independent Police Review Authority will not adequately investigate those accusations and will refuse to recommend discipline even where the Officer has engaged in excessive force;
- d. failing to retrain and/or otherwise control Police Officers who engage in wrongful excessive force and/or unjustified shootings against civilians;
- e. failing to establish appropriate policies and procedures to address and correct the repeated use of excessive force by Police Officers in traffic stops;
- f. inadequately and/or failing to independently and adequately investigate

complaints or allegations of excessive force and of other types of misconduct by fellow Police Officers, including the use of excessive force against civilians to protect fellow officers from disciplinary, criminal and civil actions in violation of civilian rights and privileges;

- g. covering up the criminal and/or wrongful activities of fellow Police Officers, by falsely reporting, falsely or improperly investigating, committing perjury and being dishonest in violation of the rights and privileges of civilians including Plaintiff;
- h. tacitly approving of law enforcement officers using their power and position to interfere with other citizens' rights, including the right to be free of interference with their right of association with their right to be free in their bodily integrity, and security in their persons;
- i. allowing the continuance in force and effect of policies and procedures which resulted in the use of outrageous and excessive force against civilians, including Plaintiff;
- j. as a matter of both policy and practice, the City of Chicago Police Department facilitates the very type of misconduct at issue here by failing to protect civilians from reckless indifference of defendant city's agents, servants, and employees in its Police Department;
- k. failing to, as a matter of express policy of Defendant City Of Chicago to retain any records which are more than five years old documenting allegations of excessive force against police officers, thereby preventing Defendant City Of

Chicago from ascertaining any patterns of abuse which might develop over the course of a police officer's career;

1. allowing the policy, practice, and custom of a "police code of silence" resulting in police officers refusing to report instances of police misconduct of which they are aware, including the unjustified discharge of an officer's weapon, despite their obligation under police regulations to do so, and also includes police officers either remaining silent or giving false and misleading information during official investigations in order to protect themselves or fellow officers from internal discipline, civil liability, or criminal charges, in cases where they and their fellow officers have used excessive force and/or engaged in unjustified shootings of civilians;
55. The defacto policies including the "police code of silence" are interrelated and exacerbate the effects of each other and said interrelated policies, practices and customs, as set forth above, both individually and together, were maintained and implemented with deliberate indifference, and encouraged the subject Defendant officers to conduct the aforesaid acts against Plaintiff and therefore acted as the moving force and were, separately and together, direct and proximate causes of the injuries to Plaintiff.
56. The defacto policies including the "police code of silence" were carried out with a conscious disregard for the rights and safety of Plaintiff, thereby justifying the award of exemplary and punitive damages against each of the individual defendants in an amount to be determined according to proof at trial.
57. As a result of this unreasonable use of force, Defendants' misconduct directly and

proximately caused Plaintiff to suffer injury including severe and excruciating pain, past and future anxiety, medical expenses pain and suffering shock, extreme emotional distress, and humiliation, lost employment opportunities inconvenience, embarrassment, and mental anguish, deprivation of ordinary pleasures of life, loss of well-being, and equanimity, and his overall health, strength, and vitality have been greatly impaired.

WHEREFORE pursuant to 42 U.S.C.A. § 1983, Plaintiff demands judgment against the Defendant for:

- a. Compensatory damages in an amount to be proven at trial;
- b. Punitive and exemplary damages against each individual Defendant in an amount appropriate to punish each individual Defendant and deter others from engaging in similar misconduct;
- c. Costs of suit;
- d. Reasonable attorney's fees pursuant to 42 U.S.C.A. § 1988 and 28 U.S.C.A. § 2412, and as otherwise authorized by statute or law;
- e. Pre- and post-judgment interest as permitted by law; and
- f. Such other relief, including injunctive and/or declaratory relief, as the court may deem proper.

COUNT VI: Malicious Prosecution (State Claim)
Against All Defendants

58. Plaintiff re-alleges and incorporates each of the foregoing paragraphs, as though fully set forth herein.

59. By the actions detailed above, Defendant Officers knowingly sought to and did in fact maliciously prosecute Plaintiff on false charges for which they knew there was no probable cause.

60. Defendant City Of Chicago is sued in this Court pursuant to the doctrine of *respondeat superior*, in that Defendant Officers performed the actions complained of while on duty and/or in the employ of Defendant City Of Chicago, and while acting within the scope of this employment.

61. As a direct and proximate result of the malicious prosecution, Plaintiff was damaged, including the value of his lost liberty, exposure to public scandal and disgrace, damage to his reputation, mental and emotional suffering, humiliation, embarrassment, and anguish.

WHEREFORE pursuant to 42 U.S.C.A. § 1983, Plaintiff demands judgment against the Defendants for:

- a. Compensatory damages against each Defendant in an amount to be proven at trial;
- b. Leave to amend the complaint at the close of discovery to request punitive and exemplary damages against each individual Defendant in an amount appropriate to punish each individual Defendant and deter others from engaging in similar misconduct;
- c. Costs of suit;
- d. Reasonable attorney's fees pursuant statute and as otherwise authorized by statute or law;
- e. Pre- and post-judgment interest as permitted by law; and

Such other relief, including injunctive and/or declaratory relief, as the court may deem proper.

COUNT VII: 745 ILCS 10/9-102 – Indemnification
Against Defendant City of Chicago

62. Plaintiff re-alleges and incorporates each of the foregoing paragraphs, as though fully set forth herein

63. Defendant City of Chicago is the employer of the Defendant Officers.

64. The individually-named defendants committed the acts alleged above under color of law and in the scope of their employment as employees of the City of Chicago.

WHEREFORE the Plaintiff demands that, should any individually-named defendants be found liable on one or more of the claims set forth above, pursuant to 745 ILCS 10/9-102, the Defendant City of Chicago be found liable for any judgment Plaintiff obtains, as well as attorney's fees and costs awarded.

Respectfully submitted,

/s/ Danielle A. Pinkston

Danielle A. Pinkston

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