

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT: WESTERN DISTRICT OF NEW YORK

CHRISTINE TOWNSEND

Plaintiff,

Index No. 1:15-cv-00704

-vs-

COMPLAINT

CITY OF BUFFALO, CITY OF BUFFALO POLICE DEPARTMENT, DANIEL DERENDA, COMMISSIONER OF THE CITY OF BUFFALO POLICE DEPARTMENT, OFFICER MARK VARA In His Official and Individual Capacity, and, OFFICER KELLY CRAIG, In Her Official and Individual Capacity.

Defendants.

JURY DEMAND

Trial by Jury on all issues is demanded

PRELIMINARY INTRODUCTION

1. This is an action brought pursuant to 42 U.S.C § 1983 as applicable to the Fourth and Fourteenth Amendments of the United States Constitution for the unlawful seizure, unlawful arrest, unlawful imprisonment, trespass, excessive force, battery, slander, malicious prosecution, negligence, and intentional infliction of emotional distress committed by the defendants against the Plaintiff surrounding the events that began at her residence on or about May 9th, 2014.

PARTIES

2. Plaintiff, Christine Townsend, resides at 59 Briggs Avenue, Buffalo, New York, 14207, which is located in the City of Buffalo, County of Erie, State of New York.
3. Upon information and belief, the CITY OF BUFFALO, is a municipal corporation duly organized and existing under and pursuant to the laws of the State of New York.
4. Upon information and belief, the City of Buffalo Police Department is under the direct control of the City of Buffalo in the State of New York.
5. Upon information and belief, Defendant Daniel Derenda is the Police Chief of the City of Buffalo Police Department.
6. Upon information and belief, the Defendants Officer Mark Vara and Kelly Craig are employed by the City of Buffalo Police Department and were acting in such capacity during the events that give rise to this lawsuit.

JURISDICTION

7. Plaintiff brings this action to recover damages for the violation of her civil rights under the Fourth Amendment to the United States Constitution, codified at 42 U.S.C. § 1983 and as bestowed upon the states and its citizens through the Due Process Clause by the Fourteenth Amendment of the United States Constitution.
8. Jurisdiction is invoked pursuant to 28 U.S.C. §§ 1331 and 1332 (federal question) and § 1343 (civil rights).
9. Declaratory, injunctive, and equitable relief is sought pursuant to 28 U.S.C. §§ 2201 and 2202.
10. Compensatory and Punitive damages are sought pursuant to 42 U.S.C. § 1983.
11. Costs and Attorney's fees may be awarded pursuant to 42 U.S.C. § 1988 and Fed. R. Civ. P. Rule 54.
12. Supplemental Jurisdiction for the related state claims is invoked pursuant to 28 U.S. Code § 1367(a), as the attached claims form part of the same case and controversy under Article III of the United States Constitution.
13. As mandated by the Supremacy Clause, in relations to actions brought pursuant to 42 U.S.C. § 1983, plaintiff does not have to comply with Municipal Law Section 50-e with regard to filing a Notice of Claim relating to Federal Causes of Action.

14. However, as related to the supplemental New York State Causes of action, on or about the 31st day of July, 2014, a Notice of Claim was served on behalf of the plaintiff upon the City of Buffalo, the City of Buffalo Police Department, and police officers Mark Vara and Kelly Craig, with each defense party being served, which Notice of Claim sets forth the name and post office address of Christine Townsend, the plaintiff, the name and post office address of her attorneys, the nature of the claim, the time when, the place where, and the manner in which the claim arose, together with the items of damages and injuries then known to exist, and the said Notice of Claim was served upon the above-referenced parties, within ninety (90) days of the date upon which the claim arose.

15. At least thirty (30) days have elapsed since the service of the notice of claim, as aforesaid, and the above-referenced defendants have failed and neglected to adjust or pay the said claim.

VENUE

16. This action properly lies in the Western District of New York, pursuant to 28 U.S.C. § 1343(3) because the federal claim arose in this judicial district and the defendants reside in and /or do business in Erie County.

FACTUAL BACKGROUND

17. On or about May 8th, 2014, at or about 11:00 pm, Plaintiff Christine Townsend placed a phone call to 911 from her residence relating to two loose pit bulls in her neighborhood. The dogs were on her porch, jumping at her window, and antagonizing and scaring her own smaller animals and child whom were inside the house.
18. After an extended period of time and no police response, Ms. Townsend called 911 again, primarily concerned that the loose dogs, who could have been vicious, were going to break through her window and attack her family, especially given that her own animals were reacting to the dogs by barking.
19. Roughly a half hour after the second call placed by the Plaintiff, a Buffalo Police vehicle with Officers Vara and Craig drove past her residence but did not stop, despite the fact that the dogs were still on her porch. Plaintiff then

reconnected with Police dispatch, at which time the same Police vehicle came back to Plaintiff's residence.

20. Officer Vara quickly began to swear at Plaintiff, and referred to the People of Riverside as "scumbags." By this time, maybe in relation to the Officers' screaming, the dogs had retreated and were no longer on Plaintiff's porch.
21. At this point, Officer Craig requested the Plaintiff to come outside and indicate which house the two loose dogs lived in. Plaintiff explained to the Officers that the two dogs lived in or about the address of 65 Briggs Avenue in Buffalo, New York.
22. The Officers consulted and then got back into their cars without addressing the situation or the owner of the dogs. Plaintiff directed their attention to that fact.
23. Both Officers then screamed and swore at the Plaintiff at this point; the sum and substance of the invective laden rant being a directive of ordering her back into her house. Plaintiff complied with the order.
24. Both Officers' then pulled Plaintiff from the interior of the house to the exterior, by opening her screen door and pulling her onto the porch.
25. Both Defendants Vara and Craig then pushed Plaintiff against her own house and handcuffed Plaintiff.
26. While walking the Plaintiff, now handcuffed, Defendant Vara then pushed Plaintiff to the ground with force. Plaintiff was left on the ground for several

minutes before Defendant Vara began to scream at Plaintiff to get up, which she could not do comfortably due to the pain in her ankle.

27. Defendant Vara then placed Plaintiff into a police vehicle. At this time, Plaintiff spoke to neighbors and witnesses through an open window to try and arrange child care for her nine-year-old daughter, the only other human who resides with Plaintiff and who had witnessed the majority of the shameful incident.
28. Defendant Vara also tampered with evidence, by shining a spotlight into a neighbor's cell phone while the neighbor was using said cell phone to capture the brutality being inflicted upon Plaintiff.
29. Plaintiff was ultimately thrown into a Police vehicle. Defendant Vara then trespassed into Plaintiff's house, took her drivers' license, and then mistreated Plaintiff's deaf dog in front of both Plaintiff's daughter and a concerned neighbor who also witnessed many of the deplorable acts that took place against the Plaintiff. While there, Defendant Vara slandered and defamed Plaintiff in front of Plaintiff's daughter.
30. Finally, Defendants' Craig and Vara transported Plaintiff around the corner of her residence to a Tim Horton's on Niagara Street and took turns berating Plaintiff.
31. Among other things, Defendant Vara stated that if it weren't for them, there would be people at Plaintiff's door trying to gang rape her, her mother, and her

daughter... and that Plaintiff should be thankful for the Police. Both Defendants' Craig and Scott also called Plaintiff a scumbag on numerous occasions.

32. Ultimately, Plaintiff was transported to the Erie County Holding Center, where she continued to be unlawfully detained. Defendants' Vara and Craig, accused Plaintiff of having an open warrant for her arrest... a statement that was untrue. Plaintiff has no prior criminal history in any way and is a gainfully employed registered nurse by trade.
33. Plaintiff was ultimately issued an appearance ticket with Defendant Vara charging Plaintiff by way of swearing out five criminal complaints against Plaintiff for three separate and distinct violations of disorderly conduct, as well as the crimes of resisting arrest and obstruction of governmental administration.
34. Plaintiff was then kicked out on the street by the Holding Center, without any money, injured and no means of transportation to get home.
35. Subsequently, all charges were properly dismissed by the Honorable Buffalo City Court Judge Joseph Fiorella.
36. Defendants performed all these acts, and others that will be subsequently discussed, while acting under the color of law, and in complete disregard to the civil rights afforded Plaintiff under the United States Constitution, as codified by 42 U.S.C. § 1983 and 42 U.S.C § 1985 (3) of the Federal Code.

**First Cause of Action for violations of the Fourth and Fourteenth
Amendment as per 42 U.S.C. § 1983 against City of Buffalo Police Officers
Mark Vara and Kelly Craig in their Official and Individual Capacities.**

37. Plaintiff, CHRISITINE TOWNSEND repeats and reiterates each and every foregoing allegation of this complaint with full force and effect as if set forth at length in this cause of action.
38. On May 9, 2015, at or about 1:00 am, the defendants came to Plaintiff's former residence and entered the residence without permission of the Plaintiff. They extracted Plaintiff from her residence without her permission, essentially kidnapping her, as they became irate that Plaintiff was not 120% complimentary of their policing techniques.
39. Defendant Vara then manhandled and ultimately threw Plaintiff to the ground, while she was handcuffed.
40. Said brutality caused Plaintiff a tear in her ankle, pain in Plaintiff's neck and back which has now become chronic in nature, and severe bruising and swelling, all of which is documented. Despite this, Defendant Vara dragged a practically immobile Plaintiff into his patrol vehicle while continuing to verbally berate her while causing her physical pain by manhandling her.
41. Defendant Vara then trespassed into Ms. Townsends' house, and took her driver's license without her consent, while mistreating and tormenting her dogs and child whom were in the residence at the time. This all took place in front of Plaintiff's neighbor.

42. Defendants' Vara and Craig course of conduct took place in front of Plaintiff's then nine-year-old daughter, Cassandra Pope, who remains scarred from witnessing the Defendants' brutality against her mother.
43. Defendants Vara and Craig continued to unlawfully seize and violate the Plaintiff's civil rights by stopping at a Tim Horton's on Niagara Street and referencing the likely gang rape of her and her daughter but for their services.
44. Defendants Vara and Carig then lodged malicious and meritless charges against the Plaintiff, all of which were dismissed as such.
45. In short, Defendants Vara and Craig, while acting in the scope of their employment and under the color of law, deprived Plaintiff as to the rights afforded to her under the US Constitution as codified by the Federal Code and transferred onto the States by the 14th Amendment, by physically abusing her, wrongfully arresting her while seizing/kidnapping Plaintiff from her residence against her will and in front of her child. They also verbally abused her in an unconscionable manner, while also unlawfully prosecuting her and maliciously abusing her. All acts caused the Plaintiff severe emotional distress.
46. Said actions fully disregarded the Constitutional rights of the Plaintiff to be free of unlawful and unreasonable seizures and the excessive force used thereof, under the Fourth and Fourteenth Amendments of the Constitution.