

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

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| JOSEPH BASKINS |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| V. |) | |
| |) | |
| PATRICK GILMORE, MICHAEL R. |) | |
| KELLY, MARC JAROCKI, Unknown |) | |
| Chicago Police Department Employees, |) | |
| and the CITY OF CHICAGO, |) | |
| |) | |
| Defendants. |) | |
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JURY TRIAL DEMANDED

COMPLAINT

COMES NOW Plaintiff, JOSEPH BASKINS, by and through his attorneys LOEVY & LOEVY, and complaining of Defendants PATRICK GILMORE, MICHAEL R. KELLY, MARC JAROCKI, Unknown Chicago Police Department Employees, and the CITY OF CHICAGO, states as follows:

INTRODUCTION

1. On what should have been one of the happiest days of his life, Plaintiff Joseph Baskins was instead subjected to a nightmare that would last three years.
2. On October 30, 2014, Baskins, his fiancée, and two friends went to the Chicago City Hall. They were there for Baskins to get married.
3. At City Hall, Baskins had the misfortune of crossing paths with three

intoxicated and aggressive Chicago police officers who were on duty. Baskins, his fiancée, and their friends shared an elevator with Officers Patrick Gilmore, Michael Kelly, and Marc Jarocki.

4. The Defendant Officers proceeded to subject Baskins, his fiancée, and their wedding guests to verbal harassment, including racial abuse. They then attacked Baskins without provocation.

5. In the altercation that followed, one officer drew his firearm, and had it taken from him in the melee.

6. Baskins and his friends fled for their lives. Hours later, they found themselves under arrest notwithstanding the fact that they had broken no laws.

7. Baskins was thereafter subjected to three years of false criminal charges. It was not until July 2017 that the State dismissed these charges in a manner indicative of Baskin's innocence.

JURISDICTION AND VENUE

8. This action is brought pursuant to 42 U.S.C. § 1983 and Illinois law to redress the Defendants' tortious conduct and their deprivation of Plaintiff's rights secured by the U.S. Constitution.

9. This Court has jurisdiction of the action pursuant to 28 U.S.C. §§ 1331 and 1367.

10. Venue is proper under 28 U.S.C. § 1391(b). Plaintiff resides in this judicial district; and the events giving rise to Plaintiff's claims asserted herein all occurred within this judicial district.

PARTIES

11. Joseph E. Baskins is a 31-year-old man. He is currently a resident of the state of Illinois. At the time of the attack, he was living in Indiana with his fiancée.

12. Mr. Baskins is currently employed in construction and as a plumber. He is the father of two children, and his partner is currently expecting.

13. Defendant Patrick Gilmore was a Sargent with the Chicago Police department employed by the City of Chicago. At all times relevant to the events described in this Complaint, Gilmore was acting under color of law and within the scope of his employment with the Chicago Police Department. He is no longer an active member of the CPD; he has taken disability.

14. Defendant Michael R. Kelly is an officer with the Chicago Police Department employed by the City of Chicago. At all times relevant to the events described in this Complaint, Kelly was acting under color of law and within the scope of his employment with the Chicago Police Department. Kelly is currently suspended pending the outcome of an internal affairs investigation of his conduct in connection with Joseph Baskins.

15. Defendant Marc Jarocki is or was an officer with the Chicago Police Department employed by the City of Chicago. At all times relevant to the events described in this Complaint, Jarocki was acting under color of law and within the scope of his employment with the Chicago Police Department. Jarocki is currently suspended pending the outcome of an internal affairs investigation of his conduct in

connection with Joseph Baskins.

16. Defendant(s) Unknown Chicago Police Department Employee(s) participated in the misconduct alleged in this complaint. At all times relevant to the events described in this Complaint, these Unknown Chicago Police Department Employees were acting under color of law and within the scope of their employment with the Chicago Police Department.

17. Defendant City of Chicago is an Illinois municipal corporation that is or was the employer of Defendant(s) Unidentified Chicago Police Department Employee(s). The City of Chicago is liable for all torts committed by the Unidentified Chicago Police Detective and Unidentified Chicago Police Officer Defendants while employed by the City of Chicago pursuant to the doctrine of respondeat superior. Defendant City of Chicago is additionally responsible for the policies and practices of the Chicago Police Department.

FACTS

The Would-be Wedding of Joseph Baskins

18. Plaintiff Joseph Baskins and his fiancée planned to travel to the Chicago City Hall with friends to get married on October 30, 2014.

19. They were joined by Baskins' cousin as well as his best friend, and his baby (hereinafter "Plaintiff's Wedding Party").

20. When Plaintiff's Wedding Party arrived at City Hall, they learned the office they needed to go to was closed for lunch.

21. They boarded the elevator to the parking garage. Three white men

boarded the elevator with Plaintiff's Wedding Party.

22. The men were later identified as CPD Officers Patrick Gilmore, Michael R. Kelly, and Marc Jarocki (hereinafter "Defendant Officers").

23. The Defendant Officers were in the building to meet with attorneys from the City of Chicago Law Department, Gail Reich and Kathryn Doi, regarding another civil rights lawsuit.

24. On information and belief, Defendant Officers had also spent time in a bar consuming alcohol.

25. On information and belief, a credit card receipt belonging to one of the Defendant Officers shows a charge at the "Cactus Bar" for eight beers and six vodkas the afternoon of October 30, 2014.

26. Defendant Officers consumed at least this much alcohol.

27. They were on duty at the time.

28. After boarding the elevator, one of the Defendant Officers said words to Baskins to the effect of "you are on the wrong elevator," and referred to a "black nigger squad," and made other racist statements.

29. Baskins asked the individual what he said, and another one of the Defendant Officers responded, "You heard what he said."

30. Once the elevator arrived at the garage, a tall officer punched Baskins in the mouth without provocation.

31. On information and belief, this individual was Defendant Patrick Gilmore.

32. Baskins defended himself, and Defendant Gilmore and he began to fist fight before going to the ground and grappling.

33. At some point during the encounter, Defendant Gilmore pulled a gun and pointed it at Baskins from behind.

34. Baskins next heard his friend scream words to the effect of, “it’s a gun! It’s a gun!” Baskins’ friend then kicked the gun away from Defendant Gilmore.

35. Baskins looked down and saw the gun. Fearing for the lives of his family and friends if his assailants recovered the gun, he picked it up along with the baby and ran.

The Defendant Officers’ False Version of Events

36. Defendant Gilmore and the other Defendant Officers claimed to authorities to have smelled marijuana upon encountering Plaintiff’s Wedding Party. In reality, no member of Plaintiff’s Wedding Party possessed marijuana or smelled like marijuana.

37. The Defendant Officers have claimed that they were attempting to arrest Baskins based on their belief he possessed marijuana.

38. The Defendant Officers then claimed that Baskins and his group were the aggressors, and initiated criminal action against Baskins as a means of covering up their actions.

The Aftermath

39. On information and belief, the Defendant Officers returned to meet with Reich and Doi immediately after their attack on Baskins.

40. On information and belief, either Reich or Doi offered the Defendant Officers gum to hide the smell of alcohol on their breath.

41. After getting away from his attackers, Baskins immediately placed the gun in his fiancée's car. She owned the car. Baskins' name was not on the registration.

42. Baskins and the remaining members of Plaintiff's Wedding Party took the CTA Red Line home. His fiancée drove her car with the baby separately. The gun remained in the glovebox of her car.

43. While they were still traveling home, a friend of the family called Baskins to ask about the fight after seeing his picture on the news.

44. Baskins arrived at the apartment first. His fiancée arrived between thirty and forty-five minutes after Baskins. When she arrived, she left the gun in her car.

45. Baskins decided to call a lawyer. After several phone calls, he was unable to find affordable representation.

46. Baskins then called his friend, Lee Long, who was an officer of the Dixmore Police Department.

47. Long told him to come to him the next day to surrender. In the meantime, long instructed Baskins to wrap the gun in a cloth and put it in a safe place.

48. Throughout the several hours of discussion and phone calls, Baskins's fiancée's car was parked outside on the street with the gun in her glovebox.

49. As soon as Baskins talked with Long, he went to wrap the gun in a sweater and two grocery bags. He placed it in the bushes outside of his home, away from him and out of sight of anyone else.

50. Shortly thereafter, Lake County, Indiana Sheriff's deputies arrived, screaming, "where's the gun," or words to that effect.

51. Baskins immediately told them where the gun was.

52. Baskins, his fiancée, and cousin were arrested without warrants by Lake County deputies, but Baskins's fiancée and cousin were released from the station.

The Prosecution of Joseph Baskins

53. Baskins was detained for two weeks in Lake County, Indiana with no bond on suspicion of aggravated robbery and aggravated assault on a police officer. He was never charged with either offense.

54. Baskins was questioned by Lake County law enforcement during this time.

55. Baskins was then transferred to Cook County. He spent the first two days being questioned at the 1st district station at 18th and State.

56. He was then charged with unlawful possession of a firearm by a felon. Bond was set at \$25,000.

57. Three years of criminal proceedings followed.

58. During that period of time, his relationship with his fiancée had ended and his current girlfriend was pregnant.

59. On June 26, 2017, Baskins appeared in court to request a trial date. Trial was set for September 18, 2017.

60. Shortly after, the State offered Baskins a plea agreement calling for him to spend one year in prison.

61. Because he was innocent, Baskins rejected this offer.

62. The following Thursday, July 6, the State dropped the charges against Baskins.

63. The State did so because the State could not prove that Baskins committed any criminal acts.

64. On information and belief, in the years following the attack, Defendant Gilmore has taken disability and left the CPD.

65. On information and belief, Defendant Gilmore has claimed he suffered brain damage during the incident.

66. On information and belief, he remembers acting in the course of his duty as a law enforcement official.

67. On information and belief, Defendant Gilmore claims not to remember the details of his pre-attack activities, including his time drinking with the other Defendant Officers at the "Cactus Bar."

68. On information and belief, Officer Jarocki is currently on administrative leave pending an investigation of his conduct in this matter.

69. On information and belief, Officer Kelly is currently on administrative leave pending an investigation of his conduct in this matter.

70. On information and belief, Attorneys Reich and Doi resigned their positions following a Chicago Inspector General investigation of their conduct related to this matter.

71. As a result of Defendants' actions, Joseph Baskins lost his fiancée, his home, and had years of his life ruined by the shadow of these false allegations.

COUNT I – 42 U.S.C. § 1983

Federal Malicious Prosecution

72. Plaintiff incorporates each paragraph of this Complaint as if fully restated here.

73. In the manner described above, Defendants, acting as investigators, individually, jointly, and in conspiracy with one another, as well as under color of law and within the scope of their employment, accused Plaintiff of criminal activity and exerted influence to initiate, continue, and perpetuate judicial proceedings against Plaintiff without any probable cause for doing so and in spite of the fact that they knew Plaintiff was innocent, in violation of his rights secured by the Fourth and Fourteenth Amendments of the United States Constitution.

74. In doing so, these Defendants caused Plaintiff to be subjected improperly to judicial proceedings for which there was no probable cause. These judicial proceedings were instituted and continued maliciously, resulting in injury.

75. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally, with malice, with reckless indifference to the rights of others, and in total disregard of the truth and Plaintiff's clear innocence.

76. As a result of Defendants' misconduct described in this Count, Plaintiff suffered loss of liberty, great mental anguish, humiliation, degradation, physical and emotional pain and suffering, and other grievous and continuing injuries and damages as set forth above.

COUNT II – 42 U.S.C. § 1983

Conspiracy to Deprive Constitutional Rights

77. Plaintiff incorporates each paragraph of this Complaint as if fully restated here.

78. After the attack on Baskins and his family, the Defendant Officers, acting in concert with other co-conspirators, known and unknown, reached an agreement among themselves to frame Plaintiff for a crime he did not commit and thereby to deprive him of his constitutional rights, all as described in the various paragraphs of this Complaint.

79. In furtherance of their conspiracy, each of these co-conspirators committed overt acts and were otherwise willful participants in joint activity.

80. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally, with malice, with reckless indifference to the rights of others, and in total disregard of the truth and Plaintiff's clear innocence.

81. Pursuant to the agreement described in this Count, Defendants did conceal, obscure, and destroy physical and documentary evidence relating to the attack on Baskins. This evidence concealed by Defendants includes, but is in no way limited to, the fact of Gilmore, Kelly and Jarocki's intoxication, and evidence of their

unprovoked assault of Joseph Baskins. On information and belief, Defendants failed to disclose security camera footage which would have proved Baskins' innocence.

82. The actions of Defendants described in this Count deprived Plaintiff of his constitutional rights, including, but not limited to, his right to due process.

83. As a result of Defendants misconduct described in this Count, Plaintiff suffered loss of liberty, great mental anguish, humiliation, degradation, physical and emotional pain and suffering, and other grievous and continuing injuries and damages as set forth above.

COUNT III – 42 U.S.C. § 1983

Violation of Plaintiff's Due Process Rights

84. As described above, during the constitutional violations described herein, one or more of the Defendants stood by without intervening to prevent the violation of Plaintiff's constitutional rights, even though they had the duty and the opportunity to do so.

85. Further, Defendants withheld, suppressed and fabricated evidence, thereby misleading and misdirecting the criminal prosecution of Plaintiff.

86. The Defendant Officers' misconduct resulted directly in the prolonged and unjust criminal prosecution of Plaintiff, thereby denying his constitutional rights. Absent this misconduct, the prosecution of Plaintiff could not and would not have been pursued.

87. As a result of the Defendants' misconduct, and failure to intervene to

prevent the violation of Plaintiff's constitutional rights, Plaintiff suffered pain and injury, as well as emotional distress. These Defendants had ample, reasonable opportunities as well as the duty to prevent this harm, but failed to do so.

88. The misconduct described in this Count was objectively unreasonable, and was undertaken and committed intentionally.

89. As a result of Defendants misconduct described in this Count, Plaintiff suffered loss of liberty, great mental anguish, humiliation, degradation, physical and emotional pain and suffering, and other grievous and continuing injuries and damages as set forth above.

COUNT IV – State Law Claim

Malicious Prosecution

90. Plaintiff incorporates each paragraph of this Complaint as if fully restated here.

91. In the manner described above, the Defendant Officers acting as investigators, individually, jointly, or in conspiracy with one another, as well as within the scope of their employment, accused Plaintiff of criminal activity and exerted influence to initiate and to continue and perpetuate judicial proceedings against Plaintiff without any probable cause for doing so and in spite of the fact that they knew Plaintiff was innocent.

92. In so doing, these Defendants caused Plaintiff to be subjected improperly to judicial proceedings for which there was no probable cause. These judicial proceedings were instituted and continued maliciously, resulting in injury.

93. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally, with malice, with reckless indifference to the rights of others, and in total disregard of the truth and Plaintiff's clear innocence.

94. As a result of the Defendants' misconduct described in this Count, Plaintiff suffered loss of liberty, great mental anguish, humiliation, degradation, physical and emotional pain and suffering, and other grievous and continuing injuries and damages as set forth above.

COUNT V – State Law Claim

Intentional Infliction of Emotional Distress

95. Plaintiff incorporates each paragraph of this Complaint as if fully restated here.

96. The actions, omissions, and conduct of the Defendant Officers as set forth above were extreme and outrageous. These actions were rooted in an abuse of power and authority and were undertaken with the intent to cause, or were in reckless disregard to the probability that their conduct would cause severe emotional distress to Plaintiff, as is more fully alleged above.

97. As a direct and proximate result of the Defendant Officers' actions, Plaintiff suffered and continues to suffer emotional distress and other grievous and continuing injuries and damages as set forth above.

COUNT VI – State Law Claim

Civil Conspiracy

98. Plaintiff incorporates each paragraph of this Complaint as if fully restated here.

99. As described more fully in the preceding paragraphs, the Defendant Officers, acting in concert with other co-conspirators, known and unknown, reached an agreement among themselves to frame Plaintiff for a crime he did not commit and conspired by concerted action to accomplish an unlawful purpose by an unlawful means. In addition, these co-conspirators agreed among themselves to protect one another from liability for depriving Plaintiff of these rights.

100. In furtherance of their conspiracy, each of these co-conspirators committed overt acts and were otherwise willful participants in joint activity.

101. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally, with malice, with reckless indifference to the rights of others, and in total disregard of the truth and Plaintiff's clear innocence.

102. As a result of the Defendants' misconduct described in this Count, Plaintiff suffered loss of liberty, great mental anguish, humiliation, degradation, physical and emotional pain and suffering, and other grievous and continuing injuries and damages as set forth above.

COUNT VII – State Law Claim

Respondeat Superior

103. Plaintiff incorporates each paragraph of this Complaint as if fully

restated here.

104. While committing the misconduct alleged in the preceding paragraphs, the Defendants were employees, members, and agents of the Chicago Police Department acting at all relevant times within the scope of their employment.

105. Defendant City of Chicago is liable as principal for all torts committed by its agents.

WHEREFORE, Plaintiff Joseph E. Baskins, respectfully requests that this Court enter a judgment in his favor and against Defendants Patrick Gilmore, Michael R. Kelly, Mark Jarocki and the City of Chicago, awarding compensatory damages, attorneys' fees and costs against each Defendant, punitive damages against each of the individual Defendants and any other relief this Court deems just and appropriate.

JURY DEMAND

Plaintiff, Joseph E. Baskins hereby demands a trial by jury pursuant to Federal Rule of Civil Procedure 38(b) on all issues so triable.

RESPECTFULLY SUBMITTED:

/s/ Josh Loevy
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