

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

LAZARUS FLEMING,)	
)	
Plaintiff,)	
)	
vs.)	14 CV 1543
)	
THE CITY OF CHICAGO, Illinois, a)	Judge
municipal corporation, and Chicago Police)	
Officers PATRICK GILMORE (#16158),)	Magistrate Judge
RICHARD SCHMIDT (#7422), and)	
MARC JAROCKI (#2778),)	
)	
Defendants.)	

COMPLAINT

Plaintiff, LAZARUS FLEMING, through his attorneys, The Hamilton Law Office, LLC, makes the following complaint against Defendants CITY OF CHICAGO (“Defendant CITY”) and Chicago Police Officers PATRICK GILMORE (#16158), RICHARD SCHMIDT (#7422), and MARC JAROCKI (#2778) (“Defendant OFFICERS”):

JURISDICTION AND VENUE

1. This is an action brought pursuant to 42 U.S.C. §1983 to address the deprivation, under color of law, of Plaintiff’s rights under the United States Constitution and Illinois common law.
2. This Court has jurisdiction of this case pursuant to 28 U.S.C. §§ 1331, 1343 and 1367.
3. Venue is proper under 28 U.S.C. §1391(b). All parties reside in this judicial district and the events pertaining to the claims made in this complaint occurred within this district.

PARTIES

4. Plaintiff is a nineteen-year-old resident of Chicago, Illinois.
5. Defendant OFFICERS, at all relevant times, are or were Chicago police officers, employed by Defendant CITY, acting under color of law, and within the scope of their employment.

6. Defendant CITY is a municipal corporation, duly incorporated under the laws of the State of Illinois, and is the employer and principal of Defendant OFFICERS.

FACTS

7. On March 8, 2013, Plaintiff was stopped on foot by Defendant OFFICERS at approximately 66th and Halsted Streets in Chicago, Illinois.

8. Defendant OFFICERS questioned Plaintiff about where he was going, whether he was armed, and whether he had any narcotics on him.

9. Defendant OFFICERS searched Plaintiff's person and found no weapons on his person.

10. As Defendant OFFICERS continued their interrogation, Plaintiff became afraid and ran away.

11. One Defendant OFFICER chased Plaintiff on foot, while the other two Defendant OFFICERS returned to the police vehicle and pursued Plaintiff in their vehicle.

12. At approximately 66th Street and Union Avenue, Defendant OFFICERS struck Plaintiff from behind with the front of their vehicle, causing Plaintiff to fall.

13. Defendant OFFICERS then ran over Plaintiff's right ankle fracturing Plaintiff's ankle.

14. The Defendant OFFICER who was on foot then jumped on top of Plaintiff and slammed Plaintiff's head against the ground.

15. Defendant OFFICERS then found a misdemeanor amount of marijuana on Plaintiff's person.

16. Defendant OFFICERS transported Plaintiff to the Seventh District police station.

17. While at the station, Plaintiff told Defendant OFFICERS that he was in pain and he requested medical treatment for his injuries.

18. Plaintiff was at the police station for several hours before he was taken to a hospital for medical treatment.

19. Plaintiff had to wear a cast and go to physical therapy to rehabilitate his ankle.

20. Plaintiff continues to have a limp as a result of his injuries.

COUNT I

(42 U.S.C. § 1983 – Excessive Force)

21. Each of the preceding paragraphs is incorporated as if fully restated here.
22. As described above, the intentional conduct of Defendant OFFICERS' toward Plaintiff was objectively unreasonable under the circumstances, and constituted excessive force under the Fourth Amendment to the United States Constitution.
23. Each Defendant OFFICER was aware of the misconduct of the other Defendant OFFICER, and each Defendant OFFICER had a reasonable opportunity to intervene to prevent harm to Plaintiff, but failed to do so.
24. As a direct and proximate result of Defendant OFFICERS' use of excessive force and Defendant OFFICERS' failure to intervene, Plaintiff suffered damages, including physical and emotional damages, which will be proven at trial.

WHEREFORE, Plaintiff prays for judgment against Defendant OFFICERS in a fair and just amount sufficient to compensate Plaintiff for the injuries he has suffered, plus a substantial sum in punitive damages, as well as costs, attorneys' fees, and such other relief as is just and equitable.

COUNT II

(Illinois Battery Claim)

25. Each of the preceding paragraphs is incorporated as if fully restated here.
26. As more fully described above, Defendant OFFICERS willfully and wantonly, and without justification, used an unreasonable amount of force upon Plaintiff.
27. As a direct and proximate result of this intentional misconduct, Plaintiff suffered physical and emotional harm.
28. At all relevant times, Defendant OFFICERS were acting as agents of Defendant CITY, and were acting within the scope of their employment as Chicago police OFFICERS. Defendant CITY, therefore, is liable as principal for all torts committed against Plaintiff by Defendant OFFICERS.

WHEREFORE, Plaintiff prays for judgment against Defendants in a fair and just amount sufficient to compensate Plaintiff for the injuries he has suffered, as well as such other relief as is just and equitable.

PLAINTIFF DEMANDS TRIAL BY JURY.

Respectfully Submitted,

LAZARUS FLEMING, Plaintiff

By: /s/ Torrey L. Hamilton
Attorney for Plaintiff

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