

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Index No. 15CV1762 (JBW)(RER)

THOMAS SAUNDERS,
Plaintiff,

-against-

FIRST AMENDED COMPLAINT

THE CITY OF NEW YORK,
POLICE OFFICER YWOEH ALRUBYAI,
AND "JANE AND JOHN DOE"
UNKNOWN NYPD OFFICERS

JURY TRIAL
DEMANDED

Defendants.

INTRODUCTION STATEMENT

1. This is a civil action seeking to redress violations of plaintiff's rights under the Constitution and laws of the United States for defendants' conduct in falsely arresting and imprisoning plaintiff, thereby, violating his first amendment rights.

JURISDICTION

2. This action is brought pursuant to 42 U.S.C.A. sections 1983 and 1988 and the Equal Protection clause to the United States Constitution.
3. This Court has jurisdiction pursuant to 28 U.S.C.A. Sections 1331 and 1343, since this claim arises under the Constitution and laws of the United States and since defendants acted under color of state law.

VENUE

4. Venue lies in this District pursuant to 28 U.S.C.A. section 1391(b) (2) since the events giving rise to the claim occurred in the Eastern District of New York.

PARTIES

5. Plaintiff Thomas Saunders is a resident of Brooklyn, New York. At the time of the event alleged, he resided in the city of Brooklyn in Kings County in the state of New York.
6. Defendant, Police Officer Ywoeh Alrubyai (NYPD) is a New York Police Officer who is being sued in his individual and official capacity.

FACTUAL ALLEGATIONS

7. On or about September 6th, 2012, at about 5:30 p.m., at the corner of Smith Street and Fulton Street, in Fulton Mall, Brooklyn, New York, Plaintiff was selling compact discs containing recorded music, with their covers clearly displaying the names of the artists, and the names and addresses of the manufacturers, thereby disclosing the origins of the recordings.
8. Plaintiff was approached by a person who told him that he was from Sony Music Recording Company. The said person looked at the compact discs and then called the police.
9. Upon arrival of the police, Police Officer Ywoeh Alrubyai, after observing the compact discs, arrested the Plaintiff, seized all of his compact discs, and charged him with N.Y Penal Law Section 275.35 (Failure to disclose the origin of a recording in the Second Degree) despite the fact that plaintiff had disclosed the origins of the recordings, and N.Y. Penal Law Section 240.20 (Disorderly Conduct).
10. The charges against the Plaintiff were false, intentional, reckless and in bad faith and the Defendants had knowledge of the lack of any legitimate cause or justification for the charges.
11. As a result of the conduct of the Defendants, the Plaintiff was held for over 24 hours before he was arraigned and released.
12. As a result of the conduct of the Defendants, Plaintiff had to attend court on numerous occasions to defend the charges filed against him.
13. On March 2, 2015, Plaintiff pled guilty to the charge of disorderly conduct.
14. As a direct and proximate result of the conduct of the Defendants, the Plaintiff had suffered, and continues to suffer mental and emotional distress, injury to health, well-being and feelings.

AS A FIRST CAUSE OF ACTION:

Denial of First Amendment Rights Against all Defendants

15. Plaintiff hereby restates paragraphs 1-14 of this Complaint, as though fully set forth below.
16. Defendant officers, including Police Officer Alrubyai violated the Plaintiff's rights under the First Amendment and 42 U.S.C.A. Section 1983 by preventing him from exercising his First Amendment Right.


17. At the time of the violation, the Plaintiff was engaging in a First Amendment activity. There was no imposition on reasonable time, place, and manner restriction on the activity that he was engaging in.

WHEREFORE, Plaintiff respectfully requests judgment against the Defendants as follows:

- a. On the First Cause of Action against all Defendants, compensatory and punitive damages in an amount to be determined at trial, and reasonable attorneys' fees and costs; and
- b. Such other and further relief as may be just and proper.

Dated: Brooklyn, New York
September 18, 2015

Respectfully submitted,



Da'Tekena Barango-Tariah, Esq. (DB 5592)
25 Bond Street, 2nd Floor
Brooklyn, New York 11201.
(718) 625 4200

