

ORIGINAL

CV18-0839

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CHEN, J.

BLOOM, M.J.

KYLE BIRCH 15-A-2425
Plaintiff,

CIVIL RIGHTS COMPLAINT
42 U.S.C. § 1983

[Insert full name of plaintiff/prisoner]

JURY DEMAND

YES XXX NO _____

-against-

DET. FRANK DANZ, N.Y.P.D. BADGE# 2198

DET. GENE PARKER, N.Y.P.D. BADGE# 4131

DET. PATRICK O'CONNOR, N.Y.P.D. BADGE# 2179

DET. JOHN ROMANO, N.Y.P.D. BADGE# 17031

CITY OF NEW YORK

Defendant(s).

FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.

★ FEB 05 2018 ★

BROOKLYN OFFICE

[Insert full name(s) of defendant(s). If you need additional space, please write "see attached" and insert a separate page with the full names of the additional defendants. The names listed above must be identical to those listed in Part I]

I. Parties: (In item A below, place your name in the first blank and provide your present address and telephone number. Do the same for additional plaintiffs, if any.)

A. Name of plaintiff KYLE BIRCH

If you are incarcerated, provide the name of the facility and address:

GOWANDA, CORRECTIONAL FACILITY, P.O. BOX 311

GOWANDA, NEW YORK 14070-0311

Prisoner ID Number: 15-A-2425

If you are not incarcerated, provide your current address:

Telephone Number: _____

B. List all defendants. You must provide the full names of each defendant and the addresses at which each defendant may be served. The defendants listed here must match the defendants named in the caption on page 1.

Defendant No. 1	<u>MR. FRANK DANZI</u> Full Name <u>DETECTIVE, N.Y.P.D. BADGE# 2198</u> Job Title <u>120 PRECINCT, 78 RICHMOND TERRACE</u> <u>ST. GEORGE, NEW YORK 10301</u> Address
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Defendant No. 2	<u>MS. GENE PARKER</u> Full Name <u>DETECTIVE, N.Y.P.D. BADGE# 4131</u> Job Title LAST KNOWN ADDRESS <u>120 PRECINCT, 78 RICHMOND TERRACE</u> <u>ST. GEORGE, NEW YORK 10301</u> Address
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Defendant No. 3	<u>MR. PATRICK O'CONNOR</u> Full Name <u>DETECTIVE, N.Y.P.D. BADGE# 2179</u> Job Title <u>120 PRECINCT, 78 RICHMOND TERRACE</u> <u>ST. GEORGE, NEW YORK 10301</u>
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Address

Defendant No. 4

MR. JOHN ROMANO

Full Name

DETECTIVE, N.Y.P.D. BADGE# 17031

Job Title

120 PRECINCT, 78 RICHMOND TERRACE

ST. GEORGE, NEW YORK 10301

Address

Defendant No. 5

Full Name

Job Title

Address

II. Statement of Claim:

(State briefly and concisely, the facts of your case. Include the date(s) of the event(s) alleged as well as the location where the events occurred. Include the names of each defendant and state how each person named was involved in the event you are claiming violated your rights. You need not give any legal arguments or cite to cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. You may use additional 8 ½ by 11 sheets of paper as necessary.)

Where did the events giving rise to your claim(s) occur? THE INCIDENT OCCURRED IN THE CITY OF NEW YORK, STATEN ISLAND, ON SOUTH STREET.

When did the events happen? (include approximate time and date) THIS HAPPENED ON AUGUST 20, 2014, AT 5:35am, AND CONTINUED UNTIL THE CHARGES WERE FINALLY DISMISSED IN 2017, AFTER THEY REALIZED THAT I WAS NOT THE INDIVIDUAL THAT COMMITTED THE BURGLARIES IN QUESTION.

ON AUGUST 20, 2014, WHILE WALKING IN STATEN ISLAND, NEW YORK I WAS CHASED BY POLICE OFFICER ROMANO AND SHORTLY AFTER ARRESTED BY OFFICER DANZI. I WAS THEN TAKEN TO THE 120TH POLICE STATION WHERE I WAS QUESTIONED BY OFFICER'S O'CONNOR AND PARKER, AFTER WHICH I WAS TAKEN TO RICHMOND COUNTY CRIMINAL COURT AND ARRAIGNED FOR NUMEROUS BURGLARIES ON AUGUST 21, 2014. I WAS LATER INDICTED ON AUGUST 26, 2014. ON APRIL 25, 2017 ALL CHARGES WERE DISMISSED BECAUSE I WAS NOT THE PERPETRATOR WHO COMMITTED THE CRIMES THAT THEY CHARGED ME FOR.

BECAUSE OF THIS I WAS FALSELY ARRESTED AND DETAINED BY THESE OFFICER'S FOR CRIMES THAT I DID NOT COMMIT AND WAS ILLEGALLY SEARCHED IN THE PROCESS. THESE OFFICER'S ARE SUPPOSE TO BE PROFESSIONALS, BUT YET THEY START CHASING ME WITHOUT FIRST ANNOUNCING WHO THEY ARE. IF THEY WOULD HAVE INITIALLY IDENTIFIED THEMSELVES I WOULD NOT HAVE RUN. SINCE THEY WERE ALL IN PLAIN CLOTHES, I DID NOT KNOW WHO THEY WERE, AND WHEN THEY RAN TOWARDS ME, I FEARED FOR MY SAFETY AND WELL BEING. SO I RAN AWAY FROM THEM.

THESE ACTS WERE CARRIED OUT BY THE DEFENDANTS UNDER THE COLOR OF STATE LAW, BECAUSE OF THEIR EMPLOYMENT WITH THE N.Y.P.D.

II.A. Injuries: If you are claiming injuries as a result of the events you are complaining about, describe your injuries and state what medical treatment you required. Was medical treatment received?

1. UNLAWFUL ARREST 2. UNLAWFUL IMPRISONMENT 3. DEPRIVATION OF RIGHTS UNDER 42 U.S.C. § 1981 AND § 1983. 4. MALICIOUS PROSECUTION. 5. VIOLATION OF THE EQUAL PROTECTION CLAUSE. 6. SEVERAL OTHER NEW YORK STATE AND UNITED STATES CONSTITUTIONAL RIGHTS. 7. EXCESSIVE USE OF PHYSICAL FORCE BY POLICE OFFICER'S.

III. Relief: State what relief you are seeking if you prevail on your complaint.

PETITIONER IS SEEKING COMPENSATORY DAMAGES IN THE AMOUNT OF \$500,000 DOLLARS. THE PETITIONER IS ALSO SEEKING PUNITIVE DAMAGES IN THE AMOUNT OF \$100,000 DOLLARS FROM EACH DEFENDANT. FURTHERMORE, THE PETITIONER IS ALSO SEEKING REIMBURSEMENT OF ANY COSTS AND FEES ASSOCIATED WITH THE FILING AND PROSECUTION OF THIS CLAIM.

I declare under penalty of perjury that on _____, I delivered this complaint to prison authorities at GOWANDA CORR. FACILITY to be mailed to the United States District Court for the Eastern District of New York.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 1/30/18

Kyle Birch
Signature of Plaintiff

KYLE BIRCH 15-A-2425
Name of Prison Facility or Address if not incarcerated

GOWANDA CORRECTIONAL FACILITY

P.O. BOX 311, SOUTH ROAD

GOWANDA, NEW YORK 14070-0311

Address

15-A-2425
Prisoner ID#