

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JAMES BREEDEN,

PLAINTIFF,

COMPLAINT

-AGAINST-

18-CV-5048

NEW YORK CITY and POLICE OFFICER
CHRISTOPHER KELLEY, individually, and in his
capacity as a member of New York City Police Department

DEFENDANTS.

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PRELIMINARY STATEMENT

1. This is a civil action in which Plaintiff, Mr. James Breeden (“Mr. Breeden”), seeks relief for the violation of his rights secured by 42 USC 1983, the Fourth and Fourteenth Amendments to the United States Constitution.
2. The claims arise from an incident on or about September 9, 2015, in which an officer of the New York City Police Department (“NYPD”), acting under color of state law, intentionally and willfully subjected Mr. Breeden to the use of excessive force.
3. Plaintiff seeks monetary damages (special, compensatory and punitive) against Defendants and an award of costs and attorneys’ fees, and such other and further relief as the Court deems just and proper.

JURISDICTION

4. This action is brought pursuant to 28 USC 1331, 42 USC 1983, and the Fourth and Fourteenth Amendments to the United States Constitution.
5. Venue is laid within the United States District Court for the Eastern District of New York in that the events giving rise to the claim occurred within the boundaries of the Eastern District of New York.

PARTIES

6. Plaintiff, Mr. Breeden, is a citizen of the United States and at all times here relevant resided at 15504 Chicacoan Drive, Woodbridge, Virginia 22191.
7. New York City is a municipal corporation organized under the laws of the State of New York.
8. Police Officer Christopher Kelley (“PO Kelley”) at all times here relevant was a member of the NYPD, and is sued in his individual and professional capacity.
9. At all times mentioned, Defendants were acting under color of state law, under color of the statues, ordinances, regulations, policies, and customs and usages of the City of New York.

FACTUAL ALLEGATIONS

10. Mr. Breeden is 35 years old and lives in Woodbridge, Virginia.
11. On or about September 9, 2015, Mr. Breeden was visiting family in New York.
12. Mr. Breeden was staying with his cousin on St. Mark’s Avenue, Brooklyn.
13. At approximately 4:00 am, Mr. Breeden was walking back from a friend’s house to St. Mark’s Avenue.

14. Mr. Breeden had a bottle of liquor on his person, but was not drinking from it.
15. As Mr. Breeden was walking along Sumpter Street, an unmarked car passed him.
16. PO Kelley exited the car and ran towards Mr. Breeden, who was standing still.
17. Without warning, PO Kelley violently tackled Mr. Breeden, smashing Mr. Breeden's arm, hand, and knee against the ground.
18. As a result of being unreasonably and unnecessarily tackled to the ground by PO Kelley, Mr. Breeden suffered, *inter alia*, lacerations, bruising, and injury to his hand, arms and knees.
19. Mr. Breeden was handcuffed behind his back.
20. Mr. Breeden was taken to the 81st Precinct, where his arm was bandaged.
21. Mr. Breeden was then taken to Central Bookings, where he was also treated for his injuries.
22. Mr. Breeden was charged with Criminal Possession Of A Controlled Substance and Consumption of Alcohol In Public.
23. Mr. Breeden was granted an Adjournment in Contemplation of Dismissal.
24. Mr. Breeden went to Interfaith Medical Center the next day to receive treatment of his injuries.
25. Mr. Breeden continues to suffer physically and emotionally from the events of September 9, 2015, including fear, embarrassment, humiliation, emotional distress, frustration, anxiety, loss of liberty and physical pain.

FIRST CAUSE OF ACTION

(42 USC 1983 – Excessive Use of Force)

26. Plaintiff repeats and realleges each of the preceding allegations of this Complaint as if fully set forth herein.
27. Defendants have deprived Plaintiff of his civil, constitutional and statutory rights under color of law and are liable to Plaintiff under 42 USC 1983.
28. Defendants have deprived Plaintiff of his right to be free of unreasonable searches and seizures, pursuant to the Fourth and Fourteenth Amendments to the United States Constitution, in that Defendants used excessive and unreasonable force against Plaintiff.
29. Plaintiff has been damaged as a result of Defendants' actions in an amount believed to equal or exceed the jurisdictional limit of this Court

JURY DEMAND

30. Plaintiff demands a trial by jury.

WHEREFORE, Plaintiff respectfully requests that the Court enter a Judgment against Defendants together with costs and disbursements as follows:

In favor of Plaintiff in an amount to be determined by a jury, but at least equal or exceeding the jurisdictional limit of this court for each of Plaintiff's causes of action;

Awarding Plaintiff punitive damages in an amount to be determined by a jury;

Awarding Plaintiff reasonable attorneys' fees, costs and disbursements of this action;

And such other and further relief as the Court deems just and proper.

Dated: New York, New York
September 6, 2018

By: _____ /s/
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