

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

13 CV 2746

James Howard

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

Jason Diaz (Officer) #12452  
Supervisor - Moses Reyes  
Officer - Umos

COMPLAINT

under the  
Civil Rights Act, 42 U.S.C. § 1983  
(Prisoner Complaint)

Jury Trial:  Yes  No  
(check one)

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

I. Parties in this complaint:

A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name James Howard  
ID # 349-13-01841  
Current Institution GMDC  
Address 15-15 Hazen Street  
East Elmhurst, N.Y. 11370

B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1 Name Jason Diaz Shield # 12452  
Where Currently Employed 23rd Precinct  
Address 162 East 102nd Street  
New York, N.Y. 10029

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SE OFFICE

Defendant No. 2 Name Moses Reyes Shield # NA  
Where Currently Employed 23rd Precinct  
Address 162 East 102nd St.  
New York, N.Y. 10029

Defendant No. 3 Name Umos Shield # N/A  
Where Currently Employed 23rd Precinct  
Address 162 East 102nd St.  
New York, N.Y. 10029

Defendant No. 4 Name \_\_\_\_\_ Shield # \_\_\_\_\_  
Where Currently Employed \_\_\_\_\_  
Address \_\_\_\_\_

Defendant No. 5 Name \_\_\_\_\_ Shield # \_\_\_\_\_  
Where Currently Employed \_\_\_\_\_  
Address \_\_\_\_\_

**II. Statement of Claim:**

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. In what institution did the events giving rise to your claim(s) occur?  
County of Manhattan.

B. Where in the institution did the events giving rise to your claim(s) occur?  
Northwest corner of 106th St. Frederick D. Roosevelt Drive.

C. What date and approximate time did the events giving rise to your claim(s) occur?  
January 29th 2013 12:40 am.

D. Facts: On the aforementioned date, and approximate time, I was walking down 106<sup>th</sup> Street and Roosevelt Drive, when an unmarked car came speeding toward me and suddenly stopped. The doors opened and Officer's Diaz, Umos, and Supervisor Reyes came charging toward me. Officer's Diaz and Umos attacked me from both sides, holding my arms while Supervisor Reyes repeatedly punched me about the face and body. The two officers then slammed me down face first on the ground, handcuffed me, squeezing the cuffs to the last notch, then proceeded to kick, punch and hit me all my body with some type of metal object. Supervisor Reyes then instructed the two officers to lift me up off ground. They then lifted me up, and proceeded to lift my handcuffed hands all the way up. I was lifted off my feet Officer Diaz then grabbed my left middle finger and began bending and trying to break it. Afterwards he punched me in the face and in the ribs repeatedly. Supervisor Reyes then began twisting my ankles and poked me in the eyes. They then used me like a battering ram, ramming my head in to the side door of the unmarked car. No one was around.

What happened to you?

Who did what?

Was anyone else involved?

Who else saw what happened?

**III. Injuries:**

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received. I sustained lacerations on my wrist, a incidental break to my left middle finger. Blood shot eye left eye lost of feeling in both wrists. Severe pain and weakness in both ankles. Swollen cheek bones, and a deep bruise in the bend of my left arm. A cut over my left eye and ear. I required physical therapy for my finger and pain killers for the pain to my face and lower body. I scheduled to see the eye doctor and bone doctor.

**IV. Exhaustion of Administrative Remedies:**

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?  
 Yes \_\_\_ No

If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

\_\_\_\_\_  
\_\_\_\_\_

B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

Yes \_\_\_ No \_\_\_ Do Not Know \_\_\_ Does Not Apply.

C. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claim(s)?

Yes \_\_\_ No \_\_\_ Do Not Know

If YES, which claim(s)? \_\_\_\_\_

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose?

Yes \_\_\_ No DNA

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes \_\_\_ No DNA

E. If you did file a grievance, about the events described in this complaint, where did you file the grievance?

DNA

1. Which claim(s) in this complaint did you grieve? DNA

2. What was the result, if any? DNA

3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process.

DNA

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here: I did not file a grievance because it did not happen in a correctional facility, and I am unaware if there is a grievance procedure for claims against officers in society.

2. If you did not file a grievance but informed any officials of your claim, state who you informed,

when and how, and their response, if any: I informed NYC civilian  
Complaint Review Board sometime in February. I ASKed  
my attorney to interview, he declined. I recently wrote  
them a gain informing them that I desire to be  
interviewed. I've received no response as of yet.

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

N/A

**Note:** You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

V. Relief:

State what you want the Court to do for you (including the amount of monetary compensation, if any, that you are seeking and the basis for such amount). I want the court to hear my case  
and render a judgement in my favor. I would like the court  
to award me monetary damages in the amount \$250,000.00  
The basis for this amount is due to the extent, as well as  
the severity of the injuries.

VI. Previous lawsuits:

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes \_\_\_ No

On these claims

B. If your answer to A is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another sheet of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff \_\_\_\_\_

Defendants \_\_\_\_\_

2. Court (if federal court, name the district; if state court, name the county) \_\_\_\_\_

3. Docket or Index number \_\_\_\_\_

4. Name of Judge assigned to your case \_\_\_\_\_

5. Approximate date of filing lawsuit \_\_\_\_\_

6. Is the case still pending? Yes \_\_\_ No \_\_\_

If NO, give the approximate date of disposition \_\_\_\_\_

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

On other claims

C. Have you filed other lawsuits in state or federal court otherwise relating to your imprisonment?

Yes \_\_\_ No

D. If your answer to C is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff \_\_\_\_\_

Defendants \_\_\_\_\_

2. Court (if federal court, name the district; if state court, name the county) \_\_\_\_\_

3. Docket or Index number \_\_\_\_\_

4. Name of Judge assigned to your case \_\_\_\_\_

5. Approximate date of filing lawsuit \_\_\_\_\_

6. Is the case still pending? Yes \_\_\_ No \_\_\_

If NO, give the approximate date of disposition \_\_\_\_\_

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) \_\_\_\_\_

\_\_\_\_\_

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

Signed this 27<sup>th</sup> day of March, 2013.

Signature of Plaintiff James Howard  
Inmate Number 349-13-01841  
Institution Address EMDC-C-73  
15-15 Hazen Street  
East Elmhurst, N.Y. 11370

**Note:** All plaintiffs named in the caption of the complaint must date and sign the complaint and provide their inmate numbers and addresses.

I declare under penalty of perjury that on this 29<sup>th</sup> day of March, 2013 I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff: James Howard