

JUDGE RAMOS

15 CV 02377

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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COREY DAVIS,

Plaintiff,

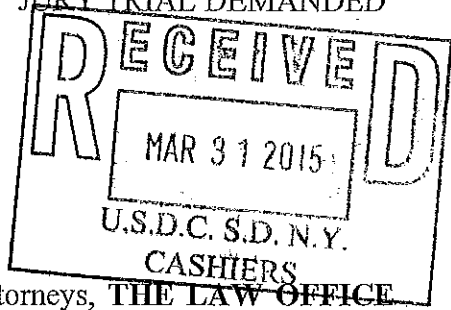
COMPLAINT

-against-

THE CITY OF NEW YORK, DETECTIVE EMENTO,
DEJESUS, SGT. JUAN ORTIZ, UNDERCOVER
OFFICER #0314, and JOHN DOES 1-3 #1-3,

Defendants.

JURY TRIAL DEMANDED



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Plaintiff, COREY DAVIS, by and through his attorneys,

OF EPSTEIN & CONROY, PLLC, complaining of the defendants herein, respectfully
shows the Court and alleges:

PRELIMINARY STATEMENT

1. This is a civil rights action in which the plaintiff seeks relief for the defendant's violation of his rights secured by the Civil Rights Act of 1871, 42 U.S.C. §§ 1981 and 1983; by the United States Constitution, including its Fourth and Fourteenth Amendments, and by the laws and Constitution of the State of New York. The plaintiff seeks damages, both compensatory and punitive, affirmative equitable relief, an award of costs and attorney's fees, and such other and further relief as this court deems just and equitable.

JURISDICTION AND VENUE

2. Jurisdiction of this Court is invoked under 28 U.S.C. § 1343 and 42 U.S.C. §§ 1981 and 1983.

3. The plaintiff further invokes this court's supplemental jurisdiction, pursuant to 28 U.S.C. § 1367, over any and all state law claims and as against all

parties that are so related to claims in this action within the original jurisdiction of this court that they form part of the same case or controversy.

4. Venue herein is proper for the United States District Court for the Southern District of New York under 28 U.S.C. § 1391 (a), (b) and (c).

PARTIES

5. Plaintiff COREY DAVIS is 24 years old and at all times hereinafter mentioned was and still is a citizen of the United States residing in the State of New York and the County of Kings.

6. Defendant THE CITY OF NEW YORK was and is a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York.

7. Defendant THE CITY OF NEW YORK is and was at all times relevant herein a municipal entity created and authorized under the laws of the State of New York. It is authorized to maintain a police department, which acts as its agent in the area of law enforcement and for which it is ultimately responsible. Defendant THE CITY OF NEW YORK assumes the risks incidental to the maintenance of a police force and the employment of police officers as said risk attaches to the public consumers of the services provided by the New York City Police Department.

8. Defendants DEJESUS, ORTIZ, UNDERCOVER 0314 (Hereafter referred to U/C 0314) AND JOHN DOES 1-3, are and were at all times relevant herein duly appointed and acting officers, servants, employees and agents of THE CITY OF NEW YORK and/or the New York City Police Department, a municipal agency of defendant THE CITY OF NEW YORK. Defendants DEJESUS, ORTIZ, U/C 0314 AND JOHN

DOES 1-3, are and were at all times relevant herein acting under color of state law in the course and scope of their duties and functions as officers, agents, servants, and employees of defendant THE CITY OF NEW YORK, were acting for, and on behalf of, and with the power and authority vested in them by THE CITY OF NEW YORK and the New York City Police Department, and were otherwise performing and engaging in conduct incidental to the performance of their lawful functions in the course of their duties. Defendants RAMOS and DOES 1-3 are sued individually.

STATEMENT OF FACTS

9. On or about January 2, 2015 in the County of New York, plaintiff COREY DAVIS was arrested by defendants DEJESUS, ORTIZ, U/C 0314 AND JOHN DOES 1-3, and charged with *inter alia* Criminal Sale of a Controlled Substance in the Fifth Degree NY Penal Law 220.31.

10. In a criminal complaint dated January 3, 2015, which was subsequently affirmed by Defendant DEJESUS, it is alleged that the Plaintiff DAVIS, engaged in a drug sale with UNDERCOVER 0314 in that he allegedly acted in concert with a named co-defendant-Qadeer Scott.

11. Plaintiff avers that at the time of the transaction he was not even with Qadeer Scott, and was instead down on the subway platform waiting for him. He further states that when the back-up narcotics team arrived he was then taken into custody despite his lack of involvement in any drug related transaction

12. On January 8, 2015 a grand jury convened in New York, New York in the Borough of Manhattan voted a “no true bill” after hearing testimony regarding the

allegations against the plaintiff. Thus, this matter was dismissed and sealed later that same day.

13. Upon information and belief Defendant U/C 0314, with the assistance of other members of his narcotics "team", including, but not limited to DEJESUS AND ORTIZ committed perjury when (s)he testified in a grand jury and therein claimed that the plaintiff was present and participated in a narcotics transaction. Furthermore, DEJESUS committed perjury in that he knew that the information was false on the criminal complaint, which he swore to on January 3, 2015. Finally all of the defendants, including but not limited to JOHN DOES 1-3, who testified in this matter in the grand jury committed perjury by offering false testimony therein. As a result of the intentional misconduct of the DEFENDANTS herein, plaintiff spent six (6) days in jail from the date of his arrest until the case was dismissed on January 8, 2015.

AS AND FOR A FIRST CAUSE OF ACTION
(Deprivation of federal civil rights under the United
States Constitution and 42 U.S.C §§ 1981 and 1983)

14. Plaintiff repeats and reiterates the allegations set forth in the foregoing paragraphs with the same force and effect as though fully stated herein.

15. By their conduct and actions in arresting, imprisoning, failing to intercede on behalf of COREY DAVIS and in failing to protect him from the unjustified and unconstitutional treatment he received at the hands of other defendants, defendant's DEJESUS, ORTIZ, U/C 0314 AND JOHN DOES 1-3, acting with animus, and under color of law and without lawful justification, intentionally, maliciously, and with deliberate indifference to or a reckless disregard for the natural and probable consequences of their acts, caused injury and damage in violation of the plaintiff's

constitutional rights as guaranteed under 42 U.S.C. §§ 1981 and 1983 and the United States Constitution, including its Fourth and Fourteenth Amendments.

16. As a result of the foregoing, plaintiff was deprived of his liberty, suffered specific bodily injury, pain and suffering, great humiliation, costs and expenses, and was otherwise damaged and injured.

AS AND FOR A SECOND CAUSE OF ACTION
(False arrest and false imprisonment)

17. Plaintiff repeats and reiterates the allegations set forth in the foregoing paragraphs with the same force and effect as though fully stated herein.

18. By the actions described above, defendants DEJESUS, ORTIZ, U/C 0314 AND JOHN DOES 1-3 falsely arrested or caused to be falsely arrested plaintiff without reasonable or probable cause, illegally and without a warrant, and without any right to do so. The acts and conduct of the defendants were the direct and proximate cause of injury and damage to the plaintiff and violated his statutory and common law rights as guaranteed by the laws and Constitution of the State of New York.

19. As a result of the foregoing, plaintiff was deprived of his liberty, suffered specific bodily injury, pain and suffering, great humiliation, costs and expenses, and was otherwise damaged and injured.

AS AND FOR A THIRD CAUSE OF ACTION
(Liability of Defendant the City of
New York for Constitutional Violations)

20. Plaintiff repeats and reiterates the allegations set forth in the foregoing paragraphs with the same force and effect as though fully stated herein.

21. At all times material to this complaint, defendant THE CITY OF NEW YORK, acting through its police department, and through defendants DEJESUS, ORTIZ, U/C 0314 AND JOHN DOES 1-3 had de facto policies, practices, customs and usages which were a direct and proximate cause of the unconstitutional conduct alleged herein.

22. At all times material to this complaint, defendant THE CITY OF NEW YORK, acting through its police department, and through defendants DEJESUS, ORTIZ, U/C 0314 AND JOHN DOES 1-3 policies, practices, customs and usages of failing to properly train, screen, supervise or discipline employees and police officers, and of failing to inform the individual defendants' supervisors of their need to train, screen, supervise or discipline said defendants¹. The policies, practices, customs, and usages were a direct and proximate cause of the unconstitutional conduct alleged herein.

23. As a result of the foregoing, plaintiff was deprived of his liberty, suffered specific bodily injury, pain and suffering, great humiliation, costs and expenses, and was otherwise damaged and injured.

AS AND FOR A FOURTH CAUSE OF ACTION
(Negligence)

24. Plaintiff repeats and reiterates the allegations set forth in the foregoing paragraphs with the same force and effect as though fully stated herein.

25. Defendants DEJESUS, ORTIZ, U/C 0314 AND JOHN DOES 1-3 negligently caused injuries, emotional distress and damage to the plaintiff. The acts and conduct of the defendants were the direct and proximate cause of injury to the plaintiff and violated his statutory and common law rights as guaranteed by the laws and Constitution of the State of New York.

26. As a result of the foregoing, plaintiff was deprived of his liberty, suffered specific bodily injury, pain and suffering, great humiliation, costs and expenses, and was otherwise damaged and injured.

AS AND FOR AN FIFTH CAUSE OF ACTION
(Negligent hiring, screening, retention, supervision and training)

27. Plaintiff repeats and reiterates the allegations set forth in the foregoing paragraphs with the same force and effect as though fully stated herein.

28. Defendant THE CITY OF NEW YORK negligently hired, screened, retained, supervised and trained defendants DEJESUS, ORTIZ, U/C 0314 and JOHN DOES 1-3. The acts and conduct of the defendants were the direct and proximate cause of injury to the plaintiff and violated his statutory and common law rights as guaranteed by the laws and Constitution of the State of New York.

29. As a result of the foregoing, plaintiff was deprived of his liberty, suffered specific bodily injury, pain and suffering, great humiliation, costs and expenses, and was otherwise damaged and injured.

AS AND FOR A SIXTH CAUSE OF ACTION
(Negligent infliction of emotional harm)

30. Plaintiff repeats and reiterates the allegations set forth in the foregoing paragraphs with the same force and effect as though fully stated herein.

31. Defendants DEJESUS, ORTIZ, U/C 0314 and JOHN DOES 1-3 negligently caused emotional distress and damage to the plaintiff. The acts and conduct of the defendants were the direct and proximate cause of emotional injury to the plaintiff and violated his statutory and common law rights as guaranteed by the laws and Constitution of the State of New York.

32. As a result of the foregoing, plaintiff was deprived of his liberty, suffered specific bodily injury, pain and suffering, great humiliation, costs and expenses, and was otherwise damaged and injured.

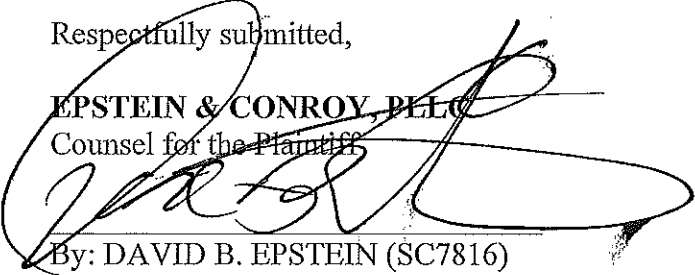
WHEREFORE, plaintiff demands the following relief jointly and severally against all of the defendants:

- a. Compensatory damages;
- b. Punitive damages;
- c. The convening and empaneling of a jury to consider the merits of the claims herein;
- d. Costs and interest and attorneys' fees;
- e. Such other further relief as this court may deem appropriate and equitable.

Dated: Brooklyn, New York
March 26, 2015

Respectfully submitted,

EPSTEIN & CONROY, PLLC
Counsel for the Plaintiff



By: DAVID B. EPSTEIN (SC7816)
335 Adams Street, Suite 2703
Brooklyn, NY 11201
(718) 852-6763