

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
Kenneth Betts

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2016 JAN 12 AM 9:28

15-cv-3883(JPO)

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

Amended (pursuant to FRCP,
Rule 15(a)(1)(B)
COMPLAINT

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

-against-

Ivan Rodriguez

Kelthlyn Frederick
Glenda Wajer

Sergeant Ricardo Morrison
The City of New York

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.)

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 1/12/16

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 Kenneth Betts
ID # #14R0087
Current Institution Orleans Correctional Facility
Address 3531 Gaines Basin Road
Albion, New York 14411

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 Detective Ivan Rodriguez 7574
Where Currently Employed NYC Police Dept. Manhattan North
Address One Police Plaza, NY, NY 10038

Defendant No. 2 Name Detective Kelthlyn Frederick Shield # #5989
Where Currently Employed NYC Plolice , Manhattan North
Address One Police Plaza
New York, New York 10038

Defendant No. 3 Name Detective Glenda Wajer Shield # 7574
Where Currently Employed NYC Police, Manhattan North
Address One Police Plaza
New York, New York 10038

Defendant No. 4 Name Sgt. Ricardo Morrison Shield # Unknown
Where Currently Employed NYC Police Dept. Manhattan North
Address One Police Plaza
New York, New York 10038

Defendant No. 5 Name The City of New York Shield # N/A
Where Currently Employed Municipality
Address City Hall
New York, New York 10007

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?
N/A

B. Where in the institution did the events giving rise to your claim(s) occur?
N/A

C. What date and approximate time did the events giving rise to your claim(s) occur?
On December 7th, 2012, in a.m. of that day in the City
of New York.

D. Facts: On the afternoon of December 7th, 2012, plaintiff

Who happened to you?

was approached by two persons in front of the Saint Nicolas Apartment Building 277/West 127th Street. When they

Who did what?

approached him they did not identify themselves as Police Officers, they simply, "Put your hands up". Not knowing

Was anyone else involved?

who they were, plaintiff feared for his own safety, he ran away, hoping to put a safe distance between himself

Who else saw what happened?

and these strangers. As he turned his back to flee, he was tackled by two other persons who after he was pinned to ground, two more men approached and each were pulling an arm his back while hitting in the face with their

pistols. Even at this point, defendants had not identified [continue on attached page 3A]

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. Plaintiff's arm, back and head were injured when he was assaulted by the above-named defendants. Further, plaintiff's shoulder and arm popped out of the socket and as a results, he sustained serious and prolonged injuries in he has developed a severe deficit in his right arm. He is use his right arm and hand. It is so severe that he virtually is a person with one arm. He cannot write with his right he has had to learn to write with his left hand. His injury is a permanent disability as a results of defendants' actions.

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 X

people that were being transported to the precinct. Paramedics were waiting at the precinct where the Police told him that they would not allow him medical attention until he volunteered for a scrip search.

He was taken to a cell fro the strip search where he was to take off his clothes. When he had his socks and pants off a Police Officer said "hurry the fuck up" and after he he said, it, a Police Officer ran and started to punch him in his face and stomach with hard force. He was hit around twenty times in the face. His lips and gums were split and bleeding, along with welts all over his head.

After defendants beet him up, they sprayed his face with mace, took his clothes and left him on the ground naked in the cell. Later they gave him his clothes back and put him on a strecher and they proceeded to take him to the Harlem Hospital. When plaintiff arrived at Harlem Hospital, he was taken to an examination room where he was questioned by the police. A nurse came into the room and asked what was wrong with him. He told her that his right shoulder/arm were in extreme pain and this occurred when he was being beaten and manhandled by the defendants that he heard something pop when he was tacklèd to the ground. He followed that with telling her that his face and skull were throbbing and that he had visual lacerations from the punches thrown from the defendants. After forty five minutes, he was taken for x-rays, where He was told they couldn't figure out what with his shoulder. Plaintiff was prescribed pain medicine by the doctor but never received it because he was taken to the Court building. He was told by the Doctor that

that he needed to come back for follow-up appointments but he was never allowed due to his incarceration.

When he went to the Court building, the captain on duty asked exactly what happened to him. The police officer that brought him in told the captain, that " he slipped and fell getting into the van. The captain looked at plaintiff's face and asked him, was he sure this is what happened?" and he said: Yes because when he was on his way to the Court Building, the Police Officers in the squad car told him that if he has any type of injury, he would be sent back to the precinct where they will have "FUN" with him. Plaintiff told the Captain that he slipped and fell getting to the van out of fear for his safety and well being. He was held for four hours before he appeared in front of Judge. Plaintiff's physical injuries were such that his attorney at the arraignment in NYC Criminal Court in the early morning of December 8th, 2012, sought and received permission from the Court to take pictures via cellphone of his injuries. The attorney proceeded to take pictures of his whole head, the inside of his mouth, his right shoulder, right arm, right and left wrists and his upper torso.

Soon thereafter he was remanded by the Judge, then, taken to the Manhattan Detention Center at 125 White Street, New York, New York.

During his time there, his body was in extreme pain due to the lack of timely medical care and treatment. When he was eventually seen by the medical staff, they immediately gave him pain medication and asked him why he was not given this at the Harlem Hospital. At the Manhattan Detention Center,

Plaintiff had to attend sick call everyday to see what was wrong with his arm, which they ended up giving him a sling to wear on his right arm on the first day [visit to the clinic] and nothing else through the rest of his sick call visits.

When he finally was seen by an orthopedic specialist he checked his right arm and concluded that he needed physical therapy and more x-rays and they were done at Bellevue Hospital. When he arrived at Bellevue hospital they took x-rays and requested that he get a MRI. He received the x-rays and MRI over the course of a year and it took them that time to prescribe him medicine for his severe migraine headaches which he never had until the day that he was unmercifully beaten and assaulted. When he saw the neurologist, she ordered a MRI for this head and then prescribed him migraine medication.

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 ____

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 ____

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 ____

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

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

2. What was the result, if any? _____

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. _____

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

Because this matter arose due to action taken by the City of New York and New York City Police Officers during an illegal stop, search and arrest and did not occur in a jail or prison, but rather as he was walking on the Street in is Harlem neighborhood violating no law, he was profiled and assaulted the defendants

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:

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies. Plaintiff filed a formal complaint with the New York City Police Department's Internal Affairs Unit.

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). Plaintiff wants the Court to determine that the named and individual defendants herein did in fact violate his civil rights under color of Law and in violation of his constitutional and federal statutory law.

The Defendant City of New York actively promoted a Policy of unlawful profiling of blacks and other minority men and allowed and encouraged unwarranted stopping and frisking.

Compensatory damages for each named defendant \$200,000.00 and punitive damages at 250,000.00 each named defendant.

Compensatory damages for defendant city of New York is \$500,000.00 and punitive damages of \$1,000,000.00

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 X

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 X

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 4 day of January, 2016

Signature of Plaintiff Kenneth Betts
Inmate Number 14R0087
Institution Address 3531 Gaines Basin Road
Albion, New York 14411

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 4th day of January, 2016, 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: Kenneth Betts

themselves as Police Officers. Nothing on their person would indicate that they were Police Officers. They were dressed in regular civilian clothes and no badges were displayed. As plaintiff was pleading and begging them not to force his arms behind his back, his right shoulder and elbow popped out of its socket, then, he experienced excruciating pain; the defendants then carried him through the streets yelling and screaming. After he was put in handcuffs, unable to defend himself from the onslaught of punches being thrown, he yelled "oww, my---please stop, I have H.I.V." As soon as plaintiff said that he had HIV, the assault stopped for about 10 seconds. In that ten seconds since plaintiff made his statement, defendants put on gloves before continuing to assault him. Defendants pulled him up by the handcuffs, which sent pain shooting through his right shoulder and arm. After he was hauled off of the ground, they walked him with his hands handcuffed behind his back and lifted straight up so his upper torso was parallel with the ground. When he got to the van a defendant pulled downward on the handcuffs, allowing his body to go back to a normal upright position. The defendant then told him to step up into the vehicle. When his left foot was planted on the step and he was bringing his right foot onto the step, when he was slammed to the ground, on his back. Defendants closed the side entrance to the van and told him to "stop fucking playing", to which he responded "are you serious". Then, defendants picked him up as he was screaming in pain about his arm and pushed him into the back of a police transport van where he fell into other

[From Page as 3A]

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Kenneth Betts
#14R0047
Orleans Correctional Facility
3531 Gaines Basin Road
Albion, New York 14411-9199

January 4, 2016

Clerk
Pro Se Intake Unit
United States District Court
Southern District of New York
The Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, New York 10009-1312

Re: Kenneth Betts v. Rodriquez, et. al.
15-cv-3836(JPO)

Dear Sir or Madam:

Pursuant to FRCP, Rule 15(a) (1)(B), I have amended my 1983 complaint, therefore I submitting to the Court attention one original and two copies of the complaint for filing and docketing.

I have not submitted a new application for informa pauperis seeking poor person status since the Court has already granted me that with the original filing.

I have served a copy of the amended complaint on the defendants. The original defendants remain the same and all of them have been served with summons and complaint by the U.S. Marshals Service. However, I have add the City of New York as a new defendant to this Complaint.

Will be necessary for the Defendant City of New York to be served an independent Summons and Complaint relative to this matter? If so, please send me the appropriate 'Service of Process by the U.S. Marshal Service forms.

Thanks for your assistance with this matter.

Very truly yours,


Kenneth Betts

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UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF NEW YORK

_____ x

KENNETH BETTS

PROOF OF SERVICE
- CV -

Plaintiff,

-v-

RODRIQUEZ, et al.

Defendant s

_____ x

I, KENNETH BETTS, do declare that on this date, January
4th, 2016, I have caused to be served a copy of amended 1983 Complaint dated Monday,
January 4, 2016, addressed to this Court and on the party listed below as the attorney for the
defendants herein by placing it in the Legal Mail Box under the custody and control of DOCCS
officials at Orleans Correctional Facility to be delivered to the U.S.

ADDRESS TO:

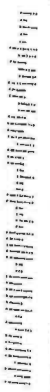
Alexander Noble, Esq.,
Assistant Corporation Counsel
The City of New York
Law Department
100 Church Street
New York, New York 10007

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

Executed on January 4th, 2016

Kenneth Betts

ORLEANS CORRECTIONAL
3531 GAINES BASIN ROAD
ALBION, NEW YORK 14411
Kenneth Betts, #19K0097



CORRECTIONAL



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