

①

Federal District Court  
Southern District of New York  
HERMAN CRESSO  
Plaintiff

2nd Amended  
Complaint

All the Defendants in  
First Complaint,

16 Civ 0708

Defendants  
(~~the~~ Team) District Attorney's  
Office Assigned to Docket #  
and Subsequent 1562/v indictment  
that work on case from initial  
accusatory instrument; D. District  
Attorney & Assistants District Attorney's

Defendants  
The Commanding Officers  
in Charge Proper Training of  
Detectives 10 Precinct Warrant Squad

Defendant

Reinstatement of onservice  
Detective Det. McHair  
10 Precinct Warrant Squad,  
Defendant

Cyress Vance  
District Attorney  
State of New York  
Defendant.

U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
DOCKET  
12-7-18

1 of

## COMPLAINT:

This is a complaint against  
the foregoing defendants,

The complaint against the District  
Attorney Supervisor, prior to choosing to  
indict the supervisor screened case  
and adhere with fellow (A.D.A) Assistant  
District Attorney to omittance of evidence  
that were enough to dismiss the complaint in  
its entirety for there wouldn't be enough  
probable cause to arrest. In doing so  
they knew that plaintiff had a history  
of pleading guilty - prior to trial on  
'cop-out', deal presented by District  
Attorney's or Judge's; This lead  
the A.D.A. Supervisor, that evidence

(2)  
with held would secure that plaintiff  
MAY plea guilty if he was to be  
held incarcerated for long period of  
time and would eventually lead to  
plea of Guilty.

The first A.D. A.S. knew that  
he could not try case so he  
submitted to another District Attorney  
without omitted evidence, in hopes that  
someone else would take case - The  
Second team was aware that there  
had been evidence omitted however, not  
as to what was the evidence, however,  
they withheld some of the Rosario/Brady  
material and perhaps let it be known  
that some of the Brady/Rosario material  
would be handed to Judge and or Court Clerk

(3)  
this Brady/Rosario material was  
never given to Judge for issuance of  
arrest warrant and omitted to Grand  
Jury for it was suffice to prove that  
plaintiff wasn't the individual that committed  
the allege crime of burglary in 2nd degree  
The first A. D. A. S, and A. D. A. and  
the Municipality were made liable  
by their falsification of evidence in  
withholding crucial evidence - and violation  
of Federal, state, United States Constitutional  
Rights of plaintiff Herman Reed PO  
The Second Team of District Attorney  
are guilty for not curing act of first  
D.A. office in dismissing complaint  
and moving on with complaint  
either because they were not



Properly train and/or Supervised <sup>(4)</sup>  
in manner to violate our rights  
of Federal, State, United States  
Civil Rights, Human Rights, to  
Directly and Deliberately hold someone  
who is innocent of crime and deny  
that citizen of his inalienable right  
to be free from unconstitutional, Human  
Rights to be free from illegal acts  
by violation of A. D. A office District  
Attorney Supervisors and/or assistants  
to commit illegal acts to insure  
a legal act of obtaining a conviction  
thus violating the sworn oath of  
office bestowed upon them by their  
respective oath of office. Thus, All  
District Attorney's, Supervisors and Assistant

District Attorney's Are guilty (5)  
for not training or supervising  
the District Attorney Personnel whom  
worked initially on pre indictment case  
1562/11 AND Seeking to Team # 2  
District Attorney's whom worked  
on testifying Marshalling evidence to  
obtain indictment, and directly deliberately  
withhold evidence that prolong his  
stay in Jail, and continued to  
Prosecute Plaintiff on less than  
probable cause - Conspiring to obtain  
Knew DNA under false grounds  
that it would hold plaintiff in  
Jail when that DNA evidence was  
suffice to prove his innocence. This  
first DNA was suffice to prove more

his innocence than his guilt if <sup>(1)</sup>  
was to say least equivocal but more  
favorable to plaintiff as they A.D.A.  
choose to obtain known testing  
of DNA that D.A. office could  
control,

The Supervisors of A.D.A.  
are all guilty for not monitoring and  
for supervising the actions of their  
subordinates in charge of the team.

that was in charge of both 1 and  
2 on indictment 1562/11 and prior  
for their lack of training or  
their direct and deliberate acts in  
violation of Federal State United  
States, Civil Rights, Human Rights  
Constitutional Federally enacted LAWS

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that are secured to all Citizens  
of these United States and the  
Republic for which it stands our  
NATION under God!

The Supervisor is guilty for  
improperly training and supervising  
and admonishing the lack of  
impropriety by their subornants with  
knowledge of their malicious abuse  
of process and abusive actions in  
attempting to justify a wrong  
by attempting to gain a conviction  
on false testimony omission of  
evidence Rosario/Brady material or  
any material that proves the citizen  
his Constitutional Rights

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The District Attorneys Actions of seeking 2nd DNA, of which was unnecessary proves the acts by D.A., O. to be a ploy to seek, or in hopes of delays to hold plaintiff in jail knowing that first DNA proves him not guilty of charges

The Acts of District Attorney's undermine the very spirit of Justice to MAKE them the ones whom should be incarcerated for their action and inactions in not living to the sworn oath taken.

All District Attorney's and their superiors are liable while making decisions of which violate purely establish LAW, Federal, State City and United State Constitutions along with human, Civil Rights

The Acts of testifying to Judges by omittance of evidence should not be condoned especially when it leads to unjustified incarceration and denial of all the civil rights constitutional rights that are slowly being deminished.

9

The District Attorney's Office is given to many rights to withhold meaningful representation to secure a fair trial

By allowing A.D.A. to Marshall evidence of police officers/detectives gives them card blank to violate our secret laws of this Great Nation.

The Allowance of A.D.A. to disregard the laws of the state and city makes judges very very angry to adhere to there duty.

The A.D.A. Marshall the evidence use to adhere to obtaining a conviction everything is more on their side and they constantly continue to hold defendants in jail as ploy to achieve their goals to obtain cop-out, this should not be condone,

The Officers/Detectives Testify to get a conviction and A.D.A. official condone this action for its advantages for both parties. This should not be Transpire,



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The third action by the Prosecution District Attorneys office is to deprive the rights of all Brady/Rosario Material way before the inception of trial - and should let the Judges and or Grand Jury know of their action - and/or not be allowed to continue to trial before they allow their Superior's know of their actions

Any know A. D. A, or Superior District Attorney should be dismissed for violation of any defendant before trial or arraignment,



The District Attorney's Office should be monitored by Federal officers and others to secure Peoples, Citizens Rights Are not being violated.

The District Attorney should be overseen for holding one in jail as ploy to obtain a plea bargain favorable to a conviction for them

important

### Background Material

The plaintiff on more than one occasion has plea guilty because, ploys use by District Attorney's office, by delaying Trial Date false unpreparedness, obtaining evidence for case and DNA postponements etc,

Just to secure that plaintiff takes a plea or to get a conviction the plaintiff has plea guilty in past the District Attorney's office was aware of this

In 2006 to 7 the plaintiff plea guilty to D Felony where he stepped out of jail without need to go upstate after serving 10 months at Rikers Island 9 months not guilty merely to get out jail

②

A, Please Take Notice, that this is a 2nd Amend complaint against the defendants that this District Court Judge, Paul G Gundophe, has chosen to move to Dismiss - the complaint of the plaintiff allegedly because they are time bar and because all the defendants have absolute immunity and or/qualified immunity from being sue and because the plaintiff's State claims the court refuses to adhere to entertain for they believe that since the Judge has dismissed all the Plaintiffs claim against the Plaintiff the court doesn't wish to handle the state claims.

B. The Plaintiff perceives to believe upon being knowledgeable of the proceedings had before this Court and that the decision of the Court is premature for all the defendants for the reasons set forth below:

C. The Plaintiff firmly believes that upon information and belief that he has a viable claim against all the defendants and that without further discovery this case should not be decide and/or dismiss.

1) The Plaintiff States that Although the plaintiff has stated a viable claim against the Defendants stated in his original complaint and upon this Courts decision to allow the plaintiff the right to address the Court and attach this Amended Complaint to his already submit first Amended Complaint as stated on the Courts' Order rendered September 28<sup>th</sup>, 2018 and ordered the pro se clerk to send this order by certified mail. However, the plaintiff received it late because it was sent by regular mail. on or about October 9<sup>th</sup> or 10<sup>th</sup>.

by Plaintiff, thus the Plaintiff<sup>(5)</sup> went directly to the pro-se office to request time to make an amended complaint - thus the Plaintiff would need additional time to do so.

8. The Plaintiff wishes this Court would take an intermmediate look at this amended complaint with the scrutiny the Plaintiff believes to be a viable claim as to asserted in the forgoing matter.

(b)

The District Attorney's office  
As well as officers and/or Detectives  
Are Sworn Officials for the  
City and State to Secure that  
they uphold State and United State  
Constitution along with the Federal  
Laws that they are bound to  
Secure and uphold the Constitution  
of the United States.

In the process of seeking  
an indictment against the  
plaintiff the office of the  
District Attorney knew that one  
of their co worker's and Assistant  
District Attorney withheld evidence  
that would had prove the plaintiff's  
innocent and use some evidence  
that states with particularity



that the plaintiff was not <sup>(7)</sup>  
the one that had committed  
the crime, also based on the  
fornation and ongoing the plaintiff  
respectfully states that this  
direction of Duty by the  
District Attorney's office  
the District Attorney's office  
have violated the State and  
United States along with the  
Federal Laws that are binding  
to these laws and the violation  
of the District Attorney was  
direct and deliberate that it  
violated the Plaintiff 145  
6, 8 10 11 14 Constitutional Rights  
to 1) be free from unlawful intrusion  
in his person, his home, and to



gm

Enjoy his freedom in the prosuit  
of happiness also to cause violation  
and a pro long unnecessary time  
in carcerated before and after  
they became knowledgable that  
the evidence had been with held  
by A.D.A's Aosario / Brady Material and also  
by the uses of allege challenge  
DNA admittance into evidence  
challenge by the Plaintiff - and  
the plaintiff took exception  
to the Ammittance of the  
use of DNA. - despite  
the fact that some of  
the first DNA proved that  
the DNA held or had on  
the distroyed Crowbar  
which the defendant's choose  
to use as evidence, had  
evidence that the plaintiff

LOOK!

see Trial  
TRANS  
SCRIPTS

Was Not the one that (9)  
Committed the Crime, the Accuser  
And All the evidence was not  
tested for Blood, the DNA  
on the Destroyed Alleged use  
crowbar was that of a  
Female not a male and  
differentely not the plaintiff.  
See Respectfully Minutes of  
The Trial by the Medical  
Examiner, and the Police  
Forensic Department, A, B, C, 3 Documents  
E. The Minutes of the transcript  
of trial where it state that  
A Females DNA was found on  
Crowbar exhibit E P, 89  
and, the Document where the  
Presiding Judge Stated on  
Record that he knew that  
The plaintiff was not the

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" To Service a Motion to Dismiss  
A Complaint must contain sufficient  
factual matter, accepted as true, to  
state a claim to relief that is plausible  
on its face" Ashcroft v. Iqbal 556  
U.S. 662, 678 (2009) (quoting Bell Atl. Corp. v.  
TWombly, 550 U.S. 544, 570 (2007))

In considering a Motion to Dismiss...  
The Court is to accept as true all  
facts alleged in the complaint. Kassler vs.  
2nd Ave. Delicatessen Inc. 496 F.3d 229,  
237 (2nd Cir 2007) citing Dougherty v Town  
of N. Hempstead of Zoning Appeals, 282 F.3d  
83, 87 (2d Cir 2002) and must "draw all  
reasonable inferences in favor of the  
Plaintiff." Id. citing Fernandez v. Chertoff, 471  
F3d. 45, 51 (2d Cir. 2006) This Court Choose  
to go on that the strongest points  
should be considered Hill v Curcione  
657 F3d. 116, 122 (2d Cir 2011) Ceniz v Gomez

202. F.3d 593 597 (2<sup>nd</sup> Cir. 2000) ~~along~~ with  
 Wilder v. United States Dept of  
 Veterans Affairs 175, F. Supp. 3d, 82, 87  
 (S.D.N.Y. 2016) nor will the Court  
 consider it stated conclusion of  
 Law or deductions of fact Whitfield  
 v. O'Connell, 9 Civ 1925 (WATIP) 2010  
 WL 101060. n \*4 S.D.N.Y. Mar. 2010

Quoting First Nationwide Bank v. Belt  
 Funding Corp. 27 F3d. 763, 771 (2<sup>nd</sup> Cir.  
 1994) See HARRIS v. Mills 572 F.3d, 72

2d Cir. 2009) ... (1) headline recitals  
 of the elements a cause of action  
 supported by mere conclusory statements  
 do not suffice (to establish entitlement to relief  
 ("quoting Iqbal 556 US, at, 662,)

In Considering A Motion to dismiss for  
 failure to state a claim Pursuant to Rule  
 12(b)6 A district may consider the  
 Facts alleged in the complaint, documents  
 attached to the complaint as exhibits, and

(12)

documents attached to the Complaint, documents incorporated by reference in the Complaint  
 Disfalso v MSNBC CABLE LLC, 622 F.3d 104, 110 (2d Cir. 2010) Citing Chambers v. Time Warner Inc. 282 F.3d 147, 153 (2d Cir. 2002) Hyland v. City of Nassau 180 F.3d 42, 54 (2d Cir. 1999)

"Where a document is not incorporated by reference, the Court may nevertheless consider it where the Complaint" Id quoting Mangini v. Fico v. Blumenthal 471 F.3d 391 398 (2d Cir. 2006)

Moreover, allegations made in pro-se plaintiff's Memorandum of Law... are consistent with those in Complaint, they also may be considered in motion to dismiss." Braxton v. Nichols 8 Civ. 3568 P.66, 2010 WL 1010001 at \*1 (S.D.N.Y. Mar. 18, 2010) Citations omitted see Also Bugness v. Goord, 98 Civ. 2047 (SAS) 1999 WL 34458, \*1 v. 1 (Saw 26 1999) same

Realistically in the rational submitted by the Courts ruling on the Complaint in accordance for Whit, Perry, and Cabrinista in their official capacities or otherwise the Complaint was not view in fact as



To The Facts that these were A.D.A.,  
in reference to the Second District  
Attorneys that were able to adhere  
to the indictment of 1562/11 for  
the initial D.A. Supervisor knew that  
the evidence omitted being Brady/Rosario  
material was suffice enough to prove  
the plaintiff's innocence to the sole  
charge on the indictment so the  
Supervisor whom withheld the evidence  
could not have had his team try the case.  
These Assistant's Later received the  
case but in viewing the manner in which  
they conspire to also conspire to testify  
that they too withheld evidence of  
Brady/Rosario material that although  
more evidence is withheld the evidence

that they withheld of which some was given toward the end at least to the Court that it was self evident that Pages 291 to 295 - Stipulate that Judge knew that the then Defendant now plaintiff was not the individual that broke into the establishment for the evidence proved that the DNA that was found on the alleged instrument the bloody crowbar had enough evidence to state that it was X DNA meaning a Females DNA was on the crowbar not enough to state that who it was but enough to stipulate that it was a female; also note that it was never ever tested for



(14)

blood - therefore ; these facts show that this Court had the opportunity to secure that there had been not one conspiracy but two from the Supervisor District Attorney who first received case and choose not to handle it that would be the first District Attorney's that handle the docket to secure that another District Attorney Team handle it for they withheld/ and/or omitted evidence still believe to be in their possession (Prosecution Possession.)

That is why this Court should secure that they obtain this information for it this Discovery Material

is sort it would prove the true intentions of the Plaintiff's truth to the matters set forth in his complaint not in so many ways but since the this case is so hard that its easy if investigated that in essence the District Attorney's Office, Supervisors, and/or Assistant District Attorney's (Newson D.A.D, D.A. Supervisors ~~D.A.~~ respectfully) are all liable for their actions or inactions - The former to act in manner as to their sworn oath to uphold the office they were sworn to uphold the oath of his office, protect the integrity of their office, not disgrace the sworn oath because that is one of the smaller yet larger than life actions done by District Attorney Office

NOT to mention the obstruction of justice in withholding evidence that would have proved the plaintiff's innocence and the need for violation of the plaintiff's Federal, State, United States Constitutional Rights to be free from Malicious Prosecution, Abuse of Process, Cruel and unusual Punishment 8th Amendment, 14, 6, Amendment Right to Fair Trial, 4, Right in his own self & home for malicious, Malice by all Defendants 4, 5, 6, 14, 10, 12, Federal Constitutional Rights Along with his Civil Rights because he WAS a his paric convicted individual profiled as one who will cop-out - (plea guilty although not guilty)

Note: plaintiff, WAS held for approximately 10 months From (October 10, 2005 to 2006) when he pleaded Guilty although not guilty at Manhattan Supreme Ct #155

'is receive it would further prove  
that their was pass it to someone  
meaning ADA, whom has NO knowledge  
of the Omission of evidence  
for they could try the case - we  
have knowledge that we withheld  
evidence, he may cop-out before  
we go to trial he has in  
pass - statement upon information  
and belief of first team that with  
held/omitted evidence of Brady/Rosario material  
Therefore, The 2nd District Attorney  
whom handled this case, knew  
inadvertently that the only  
way to try the indictment 1562/11  
is to withhold evidence of Brady/Rosario  
material until Trial - had this material

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The District Court Erred  
in not adhering to the Plaintiff  
complaint in his original charge  
of conspiracy against the  
A.D.A.'s and do not have absolute  
immunity or qualified immunity  
for their acts of knowledge  
that one of their allege (A.D.A.'s)  
Assistant District Attorney's with  
held evidence being Brady/Rosario  
material that would have swornly  
violated their oath of office to  
violate the plaintiff's Federal, United  
States and State Constitutions. Civil Rights

See Walker vs City of New York  
974 F2d 293; 42 § 1983 also see Rieberg  
v. PAULK 132 S.Ct 1497 : Margawiel Co 612 F3rd  
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(3)

19<sup>th</sup>

held in an attempt to seek a plea of Guilty or hopes that plaintiff would plea Guilty, See Walker v. The City of New York 974 F.2d 293

2. The prosecution duty is to uphold the Laws of this State and Oath Sworn to do their duty in a manner that was consistent with that oath not to falsely accuse an individual for he had prior convictions and it was likely for him to plea guilty rather than ~~to go to trial~~ <sup>to go to trial</sup>. See (Background Material (Anti)) also see copy of sworn similar oath of prosecutors - see also copy of ABC exhibits attached hereto



The evidence of the Trial Ms  
are indicative that there was  
malice to attempt to try, Mr. Crespo  
the plaintiff, without the evidence  
haven't been relied upon to  
obtain, the Warrant for Arrest  
to give to the Judge to obtain  
warrant now was it evidence

had been given to the Grand  
Jury to indict Mr. Crespo, but  
it would have proved Mr. Crespo

Never Broke the alleged Window

So the people / Defendants a

relied on false maliciously

Brady/Rosario Material that

have proved a conspiracy



②

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All the District Attorney that first withheld Brady/Rosario Material and did violate the Plaintiff's Federal State and United States Constitutional Rights, Civil Rights and City and State Claims - of U.S.C.A. 1, 4, 5, 6, 8, 10 14 Amendments of United States Constitutional Amendments, State Constitutional Rights to be free from False Arrest, Malicious Prosecution Abuse of Process, Right to be free from Malicious Abuse of the Defendant to use their office to secure a misleading the Plaintiff in believing that he had committed they knowingly knew was innocent by false omitted evidence

### Exhibits

A. Copy of Minutes, <sup>1, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100</sup> which prove that Judge knew plaintiff was not the individual that broke into the 99¢ store.

A.1. The Court knew based on the omitted evidence to Grand Jury to seek warrant that there was conspiracy and choose to suggest that he had gone into the establishment rather than to hear the plaintiff out so he stated for him to shut up, and spoke to his legal advisor. See minutes of Trial.

A.2. The Court that presided over the case didn't want to dismiss the charges nor did he allow plaintiff to speak. This made the plaintiff hold back on what he stated in Court. Plaintiff knew Jury at Trial heard this. - See Trial (Min.

11. The omission of the Brady/Material  
should prove to this Court that there  
was a conspiracy by the 2nd District  
Attorney's A.D.A., ADA Supervisors  
that it was an ongoing conspiracy  
that should have let this Court  
look more intermediately at this  
crucial evidence that plaintiff has  
a truthful viable claim against  
the first A.D. Attorney Team as  
well as the 2nd District Attorney  
team which should have dismissed  
the indictment from inception and  
the case in its totality. This Honorable  
Court erred in not looking into  
the claim of conspiracy by both

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The District Attorney Supervisors  
Team (1) And (2).

The Acts of the UNKNOWN  
District Attorney; and District Attorney  
Assistant's (Hereon (D.A. + (A.D.A.))

Are that they violated the Duties  
of their Sworn OATH to uphold  
the Constitution. violating the state,  
United States Constitution of the

America along with Federal Constitutional  
Laws along with Civil Rights  
of the plaintiff,

1. The Commanding Officers of  
the District Attorneys, the District  
Attorneys Office as a municipal  
function are guilty of improperly Training  
the (D.A. and A.D.A. involved in the indictment

1562/11 and/or Not Proper Supervising them  
2. The District Attorney's office

A. For Improperly Training their A.D.A.'s  
And for Acting in Manner Contrary  
to their Function and not properly  
Screening thean employee's

~~A~~ The District Attorney's office  
is in violation of prolonging  
the Stay in Jail of known innocent  
MAN.

C. Falsifying evidence and/or omitting  
evidence that would prove the  
plaintiff innocent of charge against  
him.

D for Falsifying evidence by Marshaling  
evidence for convenience of case



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The D.A. and A.D.A's in the case docket 1562/11 is undoubtedly a fact that all the District Attorney's and A.D.A's obviously knew that there had been evidence withheld, also that they all knew that the evidence that was used was suffice to have falsely presented to suit predicate of case, to Judge, Grand Jury and because of withholding of evidence District Attorney's involved in Indictment 1562/11 are all guilty of the conspiracy to seek conviction under false pretenses and the need for proper training is essential for A.D.A.

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The District Attorney Supervisor  
 And or District Attorney and/or the  
 District Attorney Assistant's all  
 (Hereon D.A., S.; / D.A., / A.D.A., Respectfully)  
 involved 1562/11 indictment when

They all had a consensus meeting  
 knew that there wasn't enough  
 evidence to presume that there  
 was suffice evidence and/or Probable  
 cause to arrest the Defendant  
 now plaintiff in 16 CIV. 0708,  
 for the following reasons

A. The Records kept by the  
 Medical Examiner of the State of N.Y.  
 See exhibit A, B, C, D

B. The Minutes of the trial  
 where it states and Judge States  
 see exhibit 291-295 and 98-99 where  
 it states that XY was on the  
 DNA on Crowbar when tested  
 which meant it was ~~FEMALE~~ NOT MALE

Although unable whom it was  
it was suffice to determine  
it was not a male and obviously  
not the plaintiff.

Although plaintiff was never  
made aware of this at no  
time prior to trial, however, all  
the D.A's aforementioned made  
the policy maker's liable and  
their supervisors and as policy  
makers they are for making  
a wrong choice that is likely  
to happen on occasion and  
more than once liable for  
their action - See Walker v.  
City of New York 974 F2d 293

Which was a females DNA, not  
A male, therefore,

- A) The DNA wasn't the Plaintiffs
- B) The DNA allegedly bloody  
Crowbar had been destroyed  
as evidence by the N.Y. City  
Police Department.
- C) There wasn't any evidence to  
prove the allegedly burglar, Mr. Crespo  
was ever in the area at any given  
time either before or after the  
commission of the crime.

For all the forementioned this  
Court should reverse the decision  
made 9/18 and restate the case  
and/or make a decision of law that  
there is sufficient evidence that there  
would be favorable to have a favorable  
decision to the plaintiff as a matter  
of law. See

Complaint Against The Defendants<sup>29</sup>  
Are As Follows

That the District Attorneys  
in this matter directly and deliberately  
violate the plaintiff's rights based  
upon that they falsely choose to  
"indict and omitted evidence to present  
to Judge and to the grand jury all false,  
to secure that they could obtain a  
conviction".

The District Attorney and assistant  
district Attorneys (A.D.S.) (D.A.)  
(hereon (A.D.A.)) use  
their office in a malicious way  
contrary to their custom and training  
to secure that they could obtain a con-  
viction with hopes that the plaintiff  
would plea guilty and not go to  
Trial.

The District Attorney held this evidence in hopes that the plaintiff knowing been incarcerated at other times, for allegedly committing other crimes of which he plead guilty for the A.D.A.'s believe that he would plea guilty of this crime although they knew he was not guilty because he would have received an exorbitant amount of time, and in the past he had plead guilty of crimes that were not proven against him although the A.D.A. knew that since the plaintiff was not guilty in the past they believed by holding him in Jail that he would eventually get tired and take a plea of guilty for less amount of time.



As he had in the past,

The District Attorney with held crucial evidence that was Brady/Rosario Material. Had this evidence been given there would be no need for him to make this claim against Defendants, nor would there be any need for his arrest or any of the Federal, State and United States Constitutional Rights to be infringe upon as well as his Civil Rights.

This amended complaint states that the D.A. and A.D.A. whom worked on the conjuring up of evidence to secure an arrest, falsely, and the false evidence made up by a consensus decision

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of the D.A and A.D.A.s of which  
is a conspiracy of withholding  
the evidence made the A.D.A's  
decision a sworn conspiracy to  
make it seem as the plaintiff Crespo  
was guilty of the crime. This  
chosen action was made the District  
Attorney's office liable because of  
the direction of their duty. It  
also made the District Attorney's  
office liable, because they are liable  
for making a choice of something  
which they may encounter during their  
training to become Assistant District  
Attorney's of District Attorney's  
The District Attorney whom choose

(5)

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To omit the evidence, knew that his actions were wrong but believed that by making this possible, that one of his subordinates would obtain a conviction, and by doing same is screening a case to obtain a conviction of which he believed he/she is doing the function of their job.

Although the plaintiff is unaware as to whom was the D.A. or A.D.A, he claims it was one of them a District Attorney or Assistant that omitted said Rosario/BARDY material that would make it possible for the charges against Mr. Crespo, the plaintiff stick.

The A.D.A. was given a Duty by District Attorney after Altering the the ~~D.N.A.~~, and choose this to be a deloratory tactic to hold the plaintiff in Jail after the Arraignment.

First The District Attorney's and Assistances' and all other A D A's that were involved in the consensus decision making meeting - they told Whitt what to say during Arraignment, Bennett Codrington how to address the Grand Jury and they gave the case to Lauree Perry to Try.

The first Act was to secure that they could obtain a warrant that seemed to be truthfull enough to believe to

obtain Warrant from A Judge  
An Arrest Warrant if this in fact  
was a real Judge, (for the  
plaintiff look on his own if there  
was a Judge by the Name of Williams  
After he received the Discovery from  
his Attorney or Acting Attorney Katz,  
on October 23, 2011 which was the  
first time after arraignment he had seen  
this Attorney - This is reasoning for firing him)

The Plaintiff believed he never had  
seen a warrant without the seal coming  
out when it was a true warrant from his  
study of cases. So the Judge who  
allegedly issued warrant is questionable.  
As to the fact whether or not a truthful  
signature of Judge?

2. The Instructing the Commanding Officer whom gave the Warrant to Police officers that the instructions given them on how to go about going to execute the Warrant. This made the Commanding Officer and Investigating Officer Garcia, whom became sworn witness of his instructions to Arrest Caspo, the plaintiff, along with his subordinate officer all liable for their respective action and inactions in the performance of their duties, and for false arresting by using tactics contrary to their respective training of arresting one with warrant, for they lied about what he was being arrested, never showed warrant.



The Officers were wrong  
And violated the manner in which they  
arrested the plaintiff, ① they never  
stated they were officers or that they  
had a warrant to arrest the plaintiff.

3. They use lies to obtain an arrest  
when there wasn't any need to  
lie. 4. They mislead the plaintiff  
where the plaintiff believed he was  
coming home that evening. The officers  
knew that the plaintiff was not guilty  
of the charge, the leading Det. Garcia  
especially for he was the investigating officer  
since the inception of the case 4/17, 18 2007  
for he was the investigating officer and  
one that took the allegedly DNA from plaintiff.

38

The District Attorney's Office upon securing their Indictment, having a False Arrest allegedly Arrest Warrant had the plaintiff arrested and gave the assignment to Bernadette LUMAS Carrington she Lied to the Jury upon instructing them as to the evidence also marshalling the questions to all the witnesses to obtain a allegedly True Document against the plaintiff, knowing that this manner she would obtain the given requested relief of an Indictment against the plaintiff.

The Instructions given Whitt, upon his arraignment to the Court was rehearsed and contrary to the manner

in which he was trained, of which infuriated the mind of an already pro District Attorney Judge, Judge Renee A. White part 62.

The statement upon the Plaintiff entering the courtroom on August 24th 2011 where the A.D.A Charles Whitt. Stated in a Loud voice, the following Mr. CRESPO has been indicted by the Grand Jury on the 15 of August for breaking into a 99¢ store with a "crowbar" (Bloody crowbar) with his DNA.

The Bail of 8,000 was placed on the Plaintiff whom knew

he could never raise that amount of funds nor anyone in his family.

So then the case had been adjourned and the D.A. now being Lauren Perry whom conjured

up, to have D.U.A. retaken

so that the case would be

prolong along with fact that evidence of the original people

that took evidence would prove

the plaintiff's innocence, this

was purpose of the long delay

two fold to hide the testimony that

would have proved it wasn't plaintiff

and that the A.D.A. knew this all

along - also to prolong stay incarcerated

to hopefully have plaintiff plea guilty,

The District Attorney, Vance,  
and Supervising District Attorney  
and perhaps even Assistant D.A.'s  
know to a moral certainty that  
the District Attorney's in some form  
will be left with decisions that  
may be harmful to them either directly  
or indirectly in adhering to allow or  
omit evidence and it's a choice  
taken often knowing as to what  
may happen, if discovered and thus,  
by making the wrong choice they  
have violated the oath of the Office  
that they have, the Federal, United States,  
and State Constitutional Rights of a  
Citizen and Civil Rights along with

the Laws of the State of New York especially abuse the process of Making a False Arrest conspiring to secure a already known convicted individual, now citizen to violate his rudimentary right to unlawful arrest abusing their office and becoming an Obstruction of Justice by filling an unlawfully seek arrest, warrant for arrest seeking to falsify evidence to obtain the warrant, the false testimony of the presenting A.D.A. Know accomplice of the conspiracy to falsify testimony to violate their office, state, United States and Federal Constitutional Laws to the Grand Jury whom are Trusting



41

that any A.D.A. holding their office will state a truthful claim as to what they present not rogue of the sort had at this instant case that should be dismissed from the office @ hold in the District Attorney's office proving that this may have happen again and again and sending wrong messages to up coming A.D.A. and for having the gal to act in a manner to stand for Justice and most of all for depriving a person to secure a place in society - even if he/she has been convicted in past.

42

The District attorney should be taken the salary for @ month that they sort to prosecute the plaintiff and accountable for their actions and the state and city should be held liable @ of the officer's and assistants that worked on indictment 1562/11 for they knew that the defendant now plaintiff was falsely prosecuted for their acts and inaction for not reporting those whom they knew that these actions were be done to the ex convicted and now citizen plaintiff Herman Crespo and secure that they never whored a public office again and serve as a example to

43

Any other Assistant District Attorney  
or a worker therein to these  
views which are the very people  
that are suppose to uphold the  
spirit of the District Attorney's  
office

The Above mentioned makes the  
all known A.D.A., of whom worked  
on the Indictment 1562/11 are all  
liable for their acts or non-acts  
as subordinate A.D.As and Policy makes  
of the Municipality also the Supervisors  
and District Attorney's Cyruss Vance  
whom should know as to the work  
either improperly training or non  
supervision of the supervising  
A.D.A. or supervising District Attorney

The Supervizing Officer or officer in charge that gave the Warrant or allege Warrant and/or instructions to obtain Mr. Crespo for arrest must have gave Det. Garcia and other cohorted officer's who assisted in the Allegedly arrest Warrant were all guilty of falsely arresting plaintiff under false information and without probable cause exclusively Det. Garcia whom was also the investigative officer on the burglary when he obtain the hit by the evidence that he had knowledge of for he was the Det. in charge of case since inception back 2007 Note: He was in charge of All Burglaries in chealsea Area. (23rd St) etc

2

Not alleged a pattern of practice in connection with said Monell claim;

3. Plaintiff claims against Detectives for false arrest and imprisonment are time

barred. (4) The Malicious Prosecution

claims and denial of Fair Trial claims

against Rivera fails, because Grand Jury

Testimony may not be used against him;

5) Law of Plaintiffs Remaining claims on

cause of action of state claims, for all

Federal claims have or will be dismissed;

This Court will not exercise Supplemental

Jurisdiction over Plaintiffs State Law claims,

because This Court finds all Federal

claims had been reserved for Defendants.

B

46

Abuse of Process, false arrest,  
false Imprisonment, denial to fair  
Trial, Cruel and unusual Punishment  
and equal Protection of Civt Rights

(2) State Law for false arrest, false  
imprisonment, malicious prosecution, false  
imprisonment and Abuse of process, equal  
Protection of Law of New York State Constitution  
and defamation; also a Movell Claim against  
District Attorney.

The Plaintiff seeks seeks for  
this Court to reverse their Decision on  
the Order entered 9-19-18. Stating  
that District Court found Plaintiff Claims  
against District Attorney's are barred by  
the Eleventh Amendment and Absolute  
immunity. 2) Plaintiffs Claims do not  
allege a Movell Claim because he had



47

The District Attorney's Office erred in not dismissing the case and in evenly enough in making an attempt in trying to make an issue of the case for they knew that they didn't have enough <sup>case out</sup> " " of an obviously none provable fact that there was insufficient evidence to even prove that Mr. Crespo ever committed the lesser part of the case which would have been distraying property in breaking the window. See exhibit where it states that the allege DNA on the supposedly have been the instrument that was used to break into the burglary site; where it states that DNA belong to X

This is An Amended Claim  
against The Defendants already  
STATED in the Original Complaint  
AND the Add Defendants of which  
are set forth herein ON This 2nd  
AMENDED Complaint granted by  
the Court Order dated 9/19/18

This Second Amended Complaint  
ASSERTS claims against the  
Defendants under 42 § 1983, ~~Civ~~ Civil  
Rights Violation of Federal, State  
and United States Constitution along  
with the City of New York and Laws  
therein including and not limited  
to the equal Protection of Law.  
They are for <sup>(1)</sup> Malicious Prosecution,

48

Also upon information and belief all evidence gathered up and received by him from Squad that made report available to him upon being investigating Det. And CASE being initially his - so he had direct and deliberate knowledge of First DNA reports, before turning it over to District Attorney's office, The finalization of DNA was first sent to him with no hit on it.

49

The District Attorney's office  
and/or D.A.s., A.D.A's that worked  
on this case of 1552/11 are all  
liable for being knowledgeable of  
conspiracy to violate the rights  
of the plaintiff, Federal, State  
United States respective Constitutional  
rights as well as civil rights to  
be profiled as recidivus arrest records  
and the use of District Attorney Office  
for withholding Brady Rosario/material  
in hopes of getting a plea of guilty  
via cop out by plaintiff or defendant  
at time for he had plead guilty  
in the past.

51

The District Court for Southern District erred in not going to the actions or inactions of District Attorney's office and all the Defendant District Attorney's - see Minutes 291-295 Trial Minutes - where Judge stated it was not Plaintiff's DNA on crowbar. it (DNA) belong to female not male thus Plaintiff never used allege bloody crowbar that was never bloody crow - but had suffice evidence DNA to prove it was a female not Plaintiff. See Exhibits 1, A, B, C, D, respectfully

52

The Prosecution Supervisor and Training Staff Have Never Train the District Attorneys on how to conform in the manner in which to properly dismiss a claim  
10 Nor should any District Attorney should be allowed to violate the spirit of oath of office

(2) The Supervisors of District Attorney whom conform to these tactics should be dismissed from their duties as Prosecution's or Assistant A.D.A assistant District Attorney  
A District Attorney should not condone these actions by their subordinates and be subject to dismiss



SWORN Duty of  
Prosecution  
D.A. A etc.  
Exhibit (1)  
(1)

Cornell Law School



U.S. Code › Title 5 › Part III › Subpart B › Chapter 33 › Subchapter II › § 3331

### 5 U.S. Code § 3331 - Oath of office

An individual, except the President, elected or appointed to an office of honor or profit in the civil service or uniformed services, shall take the following oath: "I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God." This section does not affect other oaths required by law. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 424.)

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900

20 —

800 -

10 -

600



(1)

The plaintiff believes that during the reception of the response of the District Court, the plaintiff's belief became true and he became knowledgeable of the fact that their had been more than one conspiracy or Judgment therefore the contentions that the charge of being untimely given the plaintiff should be reversed for he became knowledgeable on the Judges Decision that this was the time he became knowledgeable therefore all charge against the Plaintiff should be reinstated and this action is premature discovery on this matter should be allowed.

in furtherance of Claim; The officers  
and/or Detectives should be reinstated  
to their original claim against the  
officers/Detectives The Det McNair should be  
served also, along with Commanding Officer <sup>10 Precinct</sup>  
The Kuew Defendants A.D.A <sup>of Precinct</sup>  
office - A.D.A. ADAS, A.D.A.s  
should be served with Complaint etc,  
Also the claim against the Cyruss  
A Vance should be reinstated for  
failure to supervise, and train  
District Attorney Personell etc,

The District Attorney Office and all Defendants denied the plaintiff his rudimentary Right, Federal States, United States, 1, 4, 5, 6, 8, 11, 12, 14 etc. Civil Rights Human Rights and crystallizing fact he was used as one who had been arrested before.

See United States, Walker v. The City of New York, 974 F.2d 293, 42 § 1983

Pembaur v Cincinnati, 475 U.S. 469

City of Canton v. Harris, 489 U.S. 378.

Riccit v New York City T.A. 941

v 72 id 119, Herman Cestero v. Commanding Officer NYC Police Department,

Mangawiello, 612 F.3d. 149 at 161, Murphy v

Lyn. 118 F.3d. 938, 944 (2 Cir. 1997)

wherefore to the plaintiff Humble prays that this Court enter an order restore all the claims against all the defendants be restored until further discovery and that discovery be set forth immediately as to all defendants in Indictment 1562/11 prior to indictment - that plaintiff may know all defendants the discovery as to all moving papers et-al the Ordering that know defendants may be served and that Det. McNair from original complaint may be served and all other defendants may be served and for whatever this honorable Court deem just and proper



The Plaintiff seeks that this court reevaluate the facts surrounding the claims against the District Attorney's office using some of the exhibits shown here and others that are in the minutes of trial to make an informed decision, Reverse its decision for the plaintiff just found out the acts of Police Department so reinstatement of his claim against him is in order that if the court perceives that the plaintiff has proven that there is no way that the District Attorney's office could deny this that an order be entered in his favor as matter of LAW.

The Plaintiff HERMAN CRESPO does  
swear that all statements aforesaid  
in this Amended Complaint are true  
and correct accept for all statements  
made upon information and belief  
and as to those are believed to  
be true.

cc: Filed

Submitto Etc.

Herman Crespo  
HERMAN CRESPO  
760 East 188<sup>th</sup>  
Bronx, N.Y.  
10460

LOOK

— This Court didn't review  
this evidence that all  
conspiring A. D. A. officer  
knew they hadn't enough  
evidence to support probable  
cause to indict Mr. Crespo

This evidence alone should  
suffice that there was conspiracy  
and case should have been  
dismissed!

Exhibit 1  
(A.B.C.D) enclosed

— Trial Proceedings  
where Judge admits  
plaintiff DNA was not on  
alleged crowbar used to  
break into 99¢ store

Female's DNA found  
on crowbar not plaintiff's

Exhibit 1  
Trial Minutes please read  
291 to 295

## PROCEEDINGS

1 please, let me finish.

2 DEFENDANT CRESPO: Sure.

3 THE COURT: I don't see how giving an adverse  
4 inference, in other words, sanction the People in any way  
5 prevents this type of conduct from occurring again in the  
6 future or how it serves as a deterrent because there was  
7 nothing that was done wrong. It's wasn't like the police or  
8 the District Attorney's Office were even responsible -- in  
9 any way destroyed evidence that otherwise would have been  
10 saved. So I have to think about this.

11 I understand that your client -- now, he never made  
12 a specific demand for it, right?

13 MR. DONLON: I wasn't involved in motion practice.  
14 I believe that all of those things were asked for during  
15 that portion. I'm not too sure that Mr. Weinstein filed  
16 motions and demand of discovery.

17 THE COURT: It was the standard, usual demand for  
18 discovery.

19 But he never requested to see the crowbar, and he  
20 never knew it was destroyed until he came in here last week.  
21 So we're talking mid-January, all the time that the case was  
22 pending without knowing that the crowbar had been destroyed.  
23 He never made a demand to see in it, to have it tested. I'm  
24 not ruling on it right now, but I can tell you that I'm not  
25 sure that I am going to stick with my original ruling and

## PROCEEDINGS

1 require that the Court give an adverse inference.

2 MR. DONLON: I would respectfully disagree with the  
3 Court. I believe that the People do have an obligation to  
4 preserve evidence. I believe that's clear, and they are  
5 aware of the Police Department's policy.

6 I was given a written directive from the district  
7 attorney which explains the policy, and I assume the  
8 investigative detective also is aware of the Police  
9 Department's policy and would make it a practice to,  
10 particularly when they have open cases with a pattern, that  
11 they would make every effort to preserve that evidence.

12 Again, in the event -- certainly I think we all  
13 could agree that the inference that I think is drawn from  
14 the crowbar laying in the broken window is that the crowbar  
15 was used to break the window. This was the implement that  
16 was used to break the window. Certainly if Mr. Crespo's DNA  
17 was on that crowbar, it would further the inference that he  
18 was the person who broke the window.

19 THE COURT: Right.

20 MR. DONLON: The fact that there's unknown DNA, I  
21 guess, creates the possibility that it was somebody other  
22 than Mr. Crespo.

23 THE COURT: Right. We have that.

24 MR. DONLON: So I think if it was someone else's  
25 DNA -- and certainly I would want to argue, Look, the People

## PROCEEDINGS

1 want you to believe that the crowbar was used to break the  
2 window. Now, we have X's DNA on it. So someone else broke  
3 the window, and Mr. Crespo went into the store. I think it  
4 would create some argument to be made, Judge.

5 THE COURT: Even if we had the crowbar, it doesn't  
6 change the argument because that crowbar was never  
7 re-tested.

8 MR. DONLON: Right.

9 THE COURT: So I don't really see where you're  
10 going with the argument. The crowbar was never re-tested by  
11 anyone. So the evidence that was recovered from this  
12 crowbar is what it is. It is today in 2013. What it was in  
13 2007 nothing has changed. And not having the physical  
14 crowbar here does not change your ability to make whatever  
15 argument you want to make.

16 I will say this, I do disagree with your argument  
17 that the police should preserve evidence in blanket form.  
18 This is a huge city with huge amounts of evidence gathered  
19 every single day, many crimes that go unsolved. If the  
20 police and the Prosecutor's Office were to be required to  
21 preserve every bit of evidence ever vouchered whether it be  
22 investigatory or arrest evidence, we would literally have  
23 countless numbers of warehouses of evidence. It is an  
24 impractical approach. I think to keep it for a year seems  
25 reasonable and -- you know, I'm not in the Legislature. I'm



## PROCEEDINGS

1 not on the City Council. So I have no say on this. But as  
2 a Judge, it seems reasonable. You save it for a year. If a  
3 case is not solved after a year, it gets destroyed. And  
4 that seems that's all that could be done to make sure it is  
5 always enough room for ongoing, active investigations. I  
6 don't have a problem with something being destroyed after a  
7 year.

8 Moving along to the memo book, I am going to give  
9 an adverse inference as to Officer Serrano's memo book. And  
10 I will give an adverse inference as to the other officer's  
11 memo book. If between now and tomorrow morning we don't get  
12 it and if we do get it between now and tomorrow morning, I  
13 would ask you to have that detective available if Mr. Crespo  
14 chooses to put him on the stand to conduct further  
15 cross-examination.

16 MS. PERRY: Yes, Judge.

17 THE COURT: If we don't get it, it's going to be an  
18 adverse inference as to both memo books.

19 MR. DONLON: The police officer, Officer Serrano's  
20 memo book, your Honor, the prosecutor had given me an  
21 example. I don't know if the Court has a copy of it, an  
22 example of an adverse inference for that memo book. And I  
23 believe given that Police Officer Serrano's testimony which  
24 I would characterize is, at the very least, disingenuous and  
25 misleading to the jury and to the Court, and on the other

Leading Case Buckley v. Fitzsimmons 509 US 259, 263 Supreme Ct Indictment #

P.D.  
Absolute  
Qualified  
immunity

③ Imbler v. Pachtman (1976)  
424 US 409, 430 - 31 (1976)

1562/211

Crim. Ct. DKT. #

2011 NY 003442

④ Hill vs City of New York  
45 F.3rd 655, 660

① Pinauel v City Suffolk [10 Precinct  
52 F.3rd 1139, 1147. (2nd Cir 1995)]

230 W 20<sup>th</sup> Street  
N.Y. NY 10011

Burris v. Reed 500 U.S. 478  
486 (1991) Lauren Perry  
N.Y. NY 10013

1 Hojin Place

Deronette v City of New York  
5 Civ. 5275 (ST) - citing  
Deronette v. City of New York

Before Discovery Mitchell 472 U.S. 511

526 (1985) U.S. v. Colbert 87 4789  
87 Civ. 4789 (1991 WL 183376 at \*4 SDNY Sept 11

SEE P. 11.

Decided 12 8, 2016

See Cases under

unsealing Case 160.50

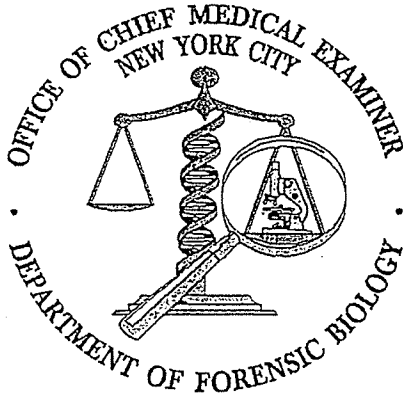
Martin El v Doe NO. 15 Civ. 6581  
2016 US Dist. LEXIS 10259 (EDNY  
(1-28-16)

Crosby v. City N.York 269 F.R.D. 267, 274 (SDNY 2010)

Schomburg v Bologna 298 FRD 138, 141 (SDNY 2014)  
HANS v City of N.Y. NO 03-civ 4915, 2006 US Dist  
LEXIS 85225 SDNY 11/17/06

Office of Chief Medical  
Examiner

Exhibit A



OFFICE OF CHIEF MEDICAL EXAMINER  
Charles S. Hirsch, M.D., *Chief Medical Examiner*

DEPARTMENT OF FORENSIC BIOLOGY

Mechthild Prinz, Ph.D., *Director*  
Howard J. Baum, Ph.D., *Deputy Director*  
421 East 26<sup>th</sup> Street, New York, NY 10016  
Tel: 212.323.1200 · Fax: 212.323.1590 · E-mail: DNALab@ocme.nyc.gov

September 9, 2007

LABORATORY REPORT

---

COMPLAINANT: Mamadou Diakhate

LAB NO: FB07-01010

COMPLAINT NO: 2007-010-01955

---

SUMMARY OF RESULTS:

PCR DNA typing performed on the following samples indicates the presence of the same male DNA profile that is suitable for inclusion in DNA databases:

- swab "E2" from "inside on wall by point of entry near broken glass"
- swab "E3" from "piece of broken glass (on inside of)"

This combination of DNA alleles would, at a minimum, be expected to be found in approximately:<sup>1</sup>

1 in greater than 1 trillion people

DNA extraction was performed on the following sample, but an insufficient amount of DNA was present for the DNA testing listed in this report:

- swab "E1" from "crow/pry bar"

Further analysis could be done upon submission of a blood or saliva sample from a suspect and/or victim/ elimination sample. Further analysis will require approximately 30 days.

The DNA results in this case do not match any previous PCR (STR) DNA cases to date.

The DNA results in this case will be entered into the OCME local DNA databank. The DNA results will be entered into the National Combined DNA Index System (CODIS).

1. OCME STR database, National Research Council (1996) The Evaluation of Forensic DNA Evidence, Natl. Acad. Press, Washington DC.

## Exhibit B

See Trial Minutes  
DNA Expert Testimony  
p. 95 - p. 98

X means Female  
XY means Male

X DNA Found on Crowbar  
use by A.D.A AS instrument  
used to Break in Allego 99¢  
Store.

PEOPLE-DIRECT-MS. RAZZANO

1 MS. PERRY: At this time, the People offer  
2 People's 13 into evidence.

3 THE COURT: Any objections?

4 DEFENDANT CRESPO: No objections.

5 THE COURT: People's 13 is accepted into evidence.  
6 (People's Exhibit 13 marked and moved into evidence.)

7 MS. PERRY: Permission to publish it to the jury.

8 THE COURT: Sure.

9 Q Ms. Razzano, looking at People's Exhibit 13, can you  
10 describe what we're looking at here.

11 MS. RAZZANO: May I approach?

12 THE COURT: Sure.

13 MS. RAZZANO: Thank you.

14 A So what you're going to see here is three lines. The  
15 first line would indicate the DNA profile that we obtained from  
16 Herman Crespo.

17 The second and third lines will indicate the DNA profile  
18 that we obtained from two swabs tested in the case.

19 Along the top you will find 15 locations that we tested  
20 in the laboratory along with one location at the end. It says,  
21 AMEL. This is a sex determining locus. So if you see a XY, it  
22 indicates the DNA profile came from a male. If you just see X,  
23 it indicates it came from a female. These are the locations that  
24 we know to be different from one another thus making us unique.

25 What you'll see down here are two numbers. These are



DEFENSE-CROSS-MS. RAZZANO

1 You can answer it.

2 A DNA is deposited when a person comes into contact with  
3 an item.

4 Q But I mean as to span of time. Can you state with  
5 particularity how long that would have been at that given area?

6 A No.

7 Q Okay.

8 Therefore, you cannot -- by not being able to do that,  
9 you can't say how long it was there, right?

10 A That is correct.

11 Q Can you tell from what part of the body it came from?

12 A No, it's skin cells that are deposited from some part of  
13 the body.

14 Q So you don't know whether that was blood or what it was  
15 in essence?

LOOK 16 A The two swabs that were tested from the glass had a  
17 reddish/brown appearance. At the time of testing, we did not  
18 test for blood on the sample. So the swabs were reddish/brown,  
19 but they were not tested for blood.

20 Q Is it possible that, let's say, when given test items  
21 such as a piece of glass, is it possible for there to be two DNAs  
22 at one given time on a piece of glass?

23 A Based on the results, DNA was only found from one  
24 individual.

25 Q Let me rephrase that so you can understand.

*Crowley never tested 4 Blood*

*See 291-24*

Police DNA Report  
given by A.D.A - from  
Police Examiner

Exhibit C



REQUEST FOR  
LABORATORY EXAMINATION  
PD 521-161 (Rev. 9-89)-95

POLICE DEPARTMENT  
CITY OF NEW YORK

BioTRACKS #0700625

(See instructions on last copy)

INVESTIGATING/ARRESTING OFFICER (Print) Rank Name (Surname, First, M.I.) PO Serrano Raymond L	TAX REG. No. [REDACTED]	COMMAND 010	COMP./CASE No. 1955/	PCT. 010	PROP. CLK. INV. No. N656005			
OFFENSES Burglary			COMPLAINANT (Name) Diakhate Mamadou					
DATE/TIME OF OCCURRENCE 4-18-07		ADDRESS OF OCCURRENCE 244 W 23rd St, NY, NY		TYPE OF PREMISES				
DEFENDANT/SUSPECT								
Name	Arrest No.	Pct.	NYSID No.	Sex	Color	Age	Height	Weight

DETAILS OF OFFENSE (Include Relationship of Evidence to Case. When necessary, include physical description of complainant.)  
 CV states upon opening store he discovered his storefront window was broken and items from the immediate area of window were removed. Crow bar was discovered on scene as well as blood.

EVIDENCE SUBMITTED

Item No.	QTY	Description	Ident. Marks	Where Obtained
E1	01	Swab of Pass DNA		From Crow/Pry Bar
E2	01	Swab of Pass Blood		Inside on wall by point of entry near broken glass.
E3	01	Swab of Pass Blood		From piece of broken glass (on inside of)

TYPE EXAMINATION REQUESTED (Purpose of Request)  
 Bio Tracks. EBOA 01010

HAS OTHER EVIDENCE IN THIS CASE BEEN PREVIOUSLY SUBMITTED?  Yes  No  
 Check section and give case no., if known.  
 Lab Case No. \_\_\_\_\_  Crime Scene No. \_\_\_\_\_  Ballistics Unit No. \_\_\_\_\_  Bomb Squad No. \_\_\_\_\_  
 IS THERE A PREVIOUS CASE WHERE EVIDENCE CAN BE COMPARED WITH THIS CASE?  
 Yes  No. If Yes, Complaint No. \_\_\_\_\_ Pct. \_\_\_\_\_ Lab. Number(s) \_\_\_\_\_

REMARKS: (Any Information That May Aid in Analysis)  
 In Regards to ECT Run # 07-R-049 Evidence Given to  
 Finder of Property PO Ribustello PO Miyamoto Tax #927214  
 PO Serrano Tax #929158  
 Fax # [REDACTED]

MEMBER SUBMITTING EVIDENCE  
 Rank Name Tax Reg. No. Cmd.  
 PO Ribustello, A [REDACTED] M5ECT

LABORATORY USE ONLY

CRIM  ARSON  SER  
 DOC  BAL  IDTU

Laboratory No. 07T 1728 Date 5-1-07 Received by: PO [Signature]  
 EUC07-M1825 5/30/07 a Kay 627

WHITE AND PINK COPIES -- POLICE LABORATORY BLUE COPY -- PRECINCT FILE COPY