

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FILED
OCT 19 PM 3:37

ANDRE GERARD #17-A-0610

PLAINTIFF,

Write the full name of each plaintiff.

17 CV 8076
(To be filled out by Clerk's Office)

-against-

COMPLAINT
(Prisoner)

THE CITY OF NEW YORK

DEFENDANT NYPD DETECTIVE MICHEAL BIA

Do you want a jury trial?
 Yes No

DEFENDANT MANHATTAN ASSISTANT DISTRICT

ATTORNEY JOSEPH GIOVANETTI DEFENDANTS.

Write the full name of each defendant. 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 above must be identical to those contained in Section IV.

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. LEGAL BASIS FOR CLAIM

State below the federal legal basis for your claim, if known. This form is designed primarily for prisoners challenging the constitutionality of their conditions of confinement; those claims are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

Violation of my federal constitutional rights

Other: POLICE MISCONDUCT & PROSECUTOR MISCONDUCT

II. PLAINTIFF INFORMATION

Each plaintiff must provide the following information. Attach additional pages if necessary.

ANDRE	F.	GERARD
First Name	Middle Initial	Last Name

State any other names (or different forms of your name) you have ever used, including any name you have used in previously filing a lawsuit.

DIN. #17-A-0610

Prisoner ID # (if you have previously been in another agency's custody, please specify each agency and the ID number (such as your DIN or NYSID) under which you were held)

FISHKILL CORRECTIONAL FACILITY

Current Place of Detention

BOX 1245

Institutional Address

BEACON

NEW YORK

12508

County, City

State

Zip Code

III. PRISONER STATUS

Indicate below whether you are a prisoner or other confined person:

Pretrial detainee

Civilly committed detainee

Immigration detainee

Convicted and sentenced prisoner

Other: _____

IV. DEFENDANT INFORMATION

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

Defendant 1: MICHEAL BIA 1885
 First Name Last Name Shield #
NYPD DETECTIVE/MANHATTAN SOUTH GRAND LARCENY SQUAD
 Current Job Title (or other identifying information)
POLICE DEPARTMENT
1 POLICE PLAZA
 Current Work Address
NEW YORK N.Y. 10038
 County, City State Zip Code

Defendant 2: JOSEPH GIOVANETTI
 First Name Last Name Shield #
MANHATTAN ASSISTANT DISTRICT ATTORNEY
 Current Job Title (or other identifying information)
1 HOGAN PLACE
 Current Work Address
NEW YORK N.Y. 10013
 County, City State Zip Code

Defendant 3:
 First Name Last Name Shield #
 Current Job Title (or other identifying information)
 Current Work Address
 County, City State Zip Code

Defendant 4:
 First Name Last Name Shield #
 Current Job Title (or other identifying information)
 Current Work Address
 County, City State Zip Code

S T A T E M E N T O F F A C T S:

1. Plaintiff alleges that civil rights violations arose from a criminal investigation that involved obtaining identification evidence from a botched "Line Up Procedure". Defendants violated Plaintiff religious rights; caused Plaintiff physical injuries; and denied Plaintiff emergency medical treatment.

2. Plaintiff alleges that Defendants NYPD Detective Micheal Bia shield #1885, and Manhattan Assistant District Attorney Joseph Giovanetti. Both made nasty racist remarks about Plaintiff African American black facial appearance. Racist remarks such as "We can't put this NIGGER in the Line Up; the way he looks". "Plaintiff looks like a hairy black gorrilla", and also; "We need the Plaintiff to look more like a clean shaven black monkey".

3. Plaintiff alleges that Defendants cancelled the initial "Line Up Procedure", back in April/2016. To obtain a "Shave Order", for Plaintiff to remove my religious beard. Which at the time; Plaintiff raised immediately an objection to both Defendants. Objecting to them that Plaintiff is of the Muslim faith, and shaving my beard is against my religion.

4. Plaintiff alleges that on May 11, 2016; Defendant NYPD Detective Micheal Bia shield #1885, repeatedly stated to Plaintiff that he does not respect the "Muslim Terrorist Religion".

FACTS CONTINUE

Referring to Plaintiff Muslim religion as a "Terrorist Religion".

5. Plaintiff alleges that on May 11, 2016, Defendant NYPD Detective Micheal Bia shield #1885, continued to harass Plaintiff by verbally referring to Plaintiff Muslim religion as "Unrespectable Bin Ladin 9/11 Terrorist Religion".

6. Plaintiff alleges that on May 11, 2016, at approximately 2:30 PM; Plaintiff was ordered to participate in another rescheduled "Line Up". Hon. Neil Ross; a Manhattan Criminal/ Supreme Court Judge; Errored in his "Line Up Order" sub. sec. #4 within the order. Because such order intentionally and maliciously ordered Plaintiff to remove my beard and facial hair. In total disregard of Plaintiff objection, that such a order would compromise and violate Plaintiff religious Civil Rights.

7. Plaintiff alleges that on May 11, 2016, Defendant Manhattan Assistant District Attorney Joseph Giovanetti; kept on suggesting to Defendant NYPD Detective Micheal Bia shield #1885, to "keep applying pressure on the Plaintiff to shave off his Muslim Terrorist beard".

8. Plaintiff alleges that on May 11, 2016 , Defendant NYPD Detective Micheal Bia shield #1885; gave Plaintiff one last final direct order to shave off my religious beard.

FACTS CONTINUE

And thereafter threaten Plaintiff life; by brandishing what appeared to be a 9mm automatic hand gun. Defendant screamed out loud at the top of his voice; and shouted at Plaintiff, saying "that if Plaintiff keep on wasting his time and refusing to shave off my Muslim religious beard. That Defendant Micheal Bia was going to shoot Plaintiff black ass with his gun".

9. Plaintiff alleges that on May 11, 2016 after being repeatedly threaten at gun point by Defendant NYPD Detective Micheal Bia. Plaintiff frantically took the unauthorized defective shaving razor from Defendant NYPD Detective Micheal Bia shield #1885, and began to shave off my Muslim religious beard and facial hair.

10. Plaintiff alleges that on May 11, 2016, that both Defendants witness Plaintiff shaving in a nasty filthy bathroom located in a remote area inside of Manhatttan Criminal Supreme Court; with the entrance door wide open. Plaintiff shaved out of fear, forceful intimidation, and police & prosecutor misconduct. At this point of time; both Defendants began to laugh snicker, and make racist and discrimination Muslim religious jokes.

11. Plaintiff alleges that on May 11, 2016, I sustained painfull physical damages as a direct result of being forced to shave with Defendant NYPD Detective Micheal Bia unauthorized, defective, dangerous, used, dull, and rusty shaving razor.

FACTS CONTINUE

12. Plaintiff alleges that on May 11, 2016, both Defendants have direct knowledge of the Physical injuries caused by the unauthorized defective shaving razor. And both Defendants conspired to cover it up by not reporting the medical injuries to jail correctional officials.

13. Plaintiff alleges that on May 11, 2016, after I sustained numerous cuts, scars, and serious physical injuries to my face. From the cause of Defendant NYPD Detective Micheal Bia shield #1885 unauthorized and defective shaving razor. Defendants deliberately treated Plaintiff indiffrent to requested emergency medical care.

14. Plaintiff alleges that on May 11, 2016, Defendants refused to assist Plaintiff with requested emergency medical treatment. While I was a detainee in their direct care, custody, and control. To add insult after injury; Defendants made Plaintiff appear in the "Line Up" with bleeding facial scars, cuts, and open wounds; sustained from their unauthorized defective shaving razor.

15. Plaintiff alleges that on May 11, 2016, counsel for the Plaintiff was present, witness, and recorded some objections to Defendants "egregious/outragous" misconduct.

FACTS CONTINUE

The names of Plaintiff counsel witness that was present for some allegations claimed herein; is Sasha Medro and Gary Gardner, both are from the "Legal Aid Society".

16. Plaintiff alleges that on May 11, 2016, I suffered gross humiliation, mental anguish, and emotional distress from Defendants forcing me to shave off my Muslim religious beard.

17. Plaintiff alleges that on the following next day, which was May 12, 2016. Officials from N.Y.C. Department of Corrections A.M.K.C. Riker's Island. Filed a medical incident report of the painful physical injuries caused by Defendants unauthorized defective shaving razor. Plaintiff intends to produce my medical records as physical evidence.

18. Plaintiff alleges that on May 18, 2016, I filed a police misconduct complaint against Defendant NYPD Detective Micheal Bia shield #1885; with the "Civilian Complaint Review Board". And on May 26, 2016, the "Civilian Complaint Review Board" informed Plaintiff that my complaint was being forward to the "Internal Affairs Bureau" under docket No. IAB201604565.

FACTS CONTINUE

19. Plaintiff alleges that on June 1st, 2016, Plaintiff filed a complaint for prosecutor misconduct against Manhattan Assistant District Attorney Joseph Giovanetti; with the Supreme Court, Appellate Division, First Judicial Department, "Departmental Disciplinary committee". Which resulted in the Defendant ADA Joseph Giovanetti being removed from Plaintiff criminal case; which was pending in Manhattan Criminal Court.

20. Plaintiff alleges that on June 21, 2016, officials from "Internal Affairs Bureau" visited Plaintiff at A.M.K.C. Rikers Island. To advised Plaintiff that the complaint under docket No. IAB201604565; against Defendant NYPD Detective Micheal Bia shield #1885. Concerning the alleged police misconduct was being investigated and taken very serious.

21. Plaintiff alleges that on June 21, 2016, officials from "Internal Affairs Bureau", agreed with Plaintiff complaints which occurred on May 11, 2016. That the actions of Defendant NYPD Detective Micheal Bia shield #1885; was in fact wrong, unprofessional, negligent, incompetent, and insubordinate on his part. Plaintiff was last told by officials from "Internal Affairs Bureau", that disciplinary actions might be imposed against Defendant NYPD Detective Micheal Bia shield #1885.

FACTS CONTINUE

22. Plaintiff alleges that on December 19, 2016, during direct cross examination from "pre-trial" hearings held at Manhattan Criminal/Supreme Court part 62. Defendant NYPD Detective Micheal Bia shield #1885; admitted under oath; on pre-trial records that he issued Plaintiff a unauthorized and defective shaving razor, for Plaintiff to remove my religious Muslim beard.

23. Plaintiff alleges that NYPD officers and agents; as a matter of law; must conduct criminal investigations within "Due Process of Law". It's quite obvious that in this case there exist no legal legeslation laws. That authorized the Defendant NYPD Detective Micheal Bia shield #1885, to issuse Plaintiff a dangerous and defective shaving razor, to remove a Muslim religious beard.

24. Plaintiff alleges that Defendants have actual knowledge that Manhattan Criminal Supreme Court does not function in no way whatsoever as a "Barber Shop". Therefore, Defendant NYPD Detective Micheal Bia shield #1885 police misconduct claimed herein; was arbitrary, capricious, incompetent, insubordinate, cruel, and unusual punishment against Plaintiff US Civil Rights.

25 Plaintiff alleges police misconduct and malicious prosecution; by means of "Entrapment".

FACTS CONTINUE

Defendants through their malicious proscribed unauthorized issuance of a dangerous and defective shaving razor to Plaintiff. Was induced and solely encouraged by official activity. And that Plaintiff had no predisposition to engage in such unrighteous conduct to remove my Muslim faith religious beard.

26. Plaintiff alleges that Defendants misconduct was in fact egregious/outrageous. Due to the fact that there exist no legal legislation law, nor due process law. That legally authorizes Defendants to issue dangerous and defective shaving razors to detainees. Plaintiff alleges that Defendants engaged in improper misconduct repugnant to a sense of justice.

27. Plaintiff alleges "Fruit From The Poisonous Tree"; In this category; Plaintiff suffered damages from a direct unfair result of Defendants making Plaintiff alter my facial features, and by forcing Plaintiff to remove my Muslim religious beard in violation of US Constitutional first amendment religious rights. Defendants misconduct made/created Plaintiff to look like a wanted criminal.

28. Plaintiff alleges that on May 11, 2016, NYPD Detective Micheal Bia shield #1885; said to Plaintiff "that only white orthodox Jewish detainees are exempt from shaving off their Jewish beards for Line Up Purposes". Wherefore, Plaintiff demands immediate "Injunction Relief" of such rule or policy.

FACTS CONTINUE

Plaintiff demands that a Federal magistrate judge order Defendants to either change or stop the illegal, arbitrary, capricious, racist, bias, and discrimination actions of Defendants specifically issuing unauthorized, defective, and dangerous razors to Black and Latino detainees at Manhattan Criminal Supreme Court; for "Line Up Purposes".

29. Plaintiff alleges that Defendants claimed herein; must be held responsible and accountable for their racist, religious discrimination, and "deliberate indifference" medical treatment misconduct against Plaintiff U.S. Civil Rights.

30. Last, Plaintiff alleges "BLACK LIVES MATTER!" Defendants illegal racial profiling and malicious injustices claimed herein violated Plaintiff U.S. Constitutional 1st, 8th, and 14th, Ammendment Rights.

INJURIES:

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

PLAINTIFF SUFFERED MENTAL ANGUISH, EMOTIONAL, DISSTRESS, SHORT
AND LONG TERM PHYSICAL DAMAGES. PERMANANT FACIAL SCARING,
BLEEDING WOUNDS, ORAL INFECTION, "DELIBERATE INDIFFERENCE"
TO MEDICAL TREATMENT, DEPRAVE INDIFFERENCE, CRUEL AND UNSUAL
PUNISHMENT, RACIAL AND RELIGIOUS DISCRIMINATION.

VI. RELIEF

State briefly what money damages or other relief you want the court to order.

PLAINTIFF SEEKS FIFTEEN \$15,000,000 MILLION DOLLARS IN MONETARY
DAMAGES. FURTHERMORE, AN ADDITIONAL \$10,000,000 MILLION DOLLARS
IN PUNITIVE DAMAGES: FOR "DELIBERATE INDIFFERENCE" AND CREUL AND
UNSUAL PUNISHMENT. LAST, PLAINTIFF SEEKS "INJUNCTION RELIEF";
REQUESTING FEDERAL JUDICAL INTERVENTION; DEMANDING A FEDERAL
JUDGE TO ORDER CHANGE OR STOP THE ARBITRARY AND CAPRICIOUS ACTS
OF DEFENDANT NYPD ISSUSING DANGEROUS, AND UNAUTHORIZED SHAVING
RAZORS TO DETAINESS FOR REMOVAL OF RELIGIOUS BEARDS.

VII. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

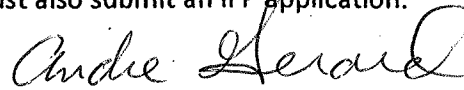
I understand that if I file three or more cases while I am a prisoner that are dismissed as frivolous, malicious, or for failure to state a claim, I may be denied *in forma pauperis* status in future cases.

I also understand that prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions, 42 U.S.C. § 1997e(a), and that my case may be dismissed if I have not exhausted administrative remedies as required.

I agree to provide the Clerk's Office with any changes to my address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

OCTOBER 16, 2016



Dated

Plaintiff's Signature

Andre

F.

Gerard

First Name

Middle Initial

Last Name

FISHKILL CORRECTIONAL FACILITY
BOX 1245

Prison Address

BEACON

NEW YORK

12508

County, City

State

Zip Code

Date on which I am delivering this complaint to prison authorities for mailing: OCTOBER 16, 2016

Andre Gerard 17A0610
Fishkill Correctional Facility
Box 1245
Beacon, N.Y. 12508

2017 OCT 19 PM 3:37

October 16, 2016

Pro Se Office
Clerk of US District Court
Southern District New York
500 Pearl Street, Rm 200
New York, N.Y. 10007

Re: Claim

Dear, Sir/Madame

Enclosed is one original claim and two
copies. Please process my ~~to~~ claim as soon as
possible.

Thanking you kindly in advance for your time
efforts and consideration.

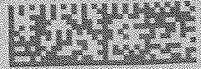
Yours, Ect
Andre Gerard
Pro Se

Andre Gerard 17A0610
Fishkill Correctional Facility
Box 1245
Beacon, N.Y. 12508

FISHKILL
CORRECTIONAL
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