IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

JOSEPH BORGEN,	)	
	)	
Plaintiff	)	**JURY TRIAL DEMANDED**
	)	
v.	)	
	)	
FAISAL ELEZZI;	)	
WASEEM AWAWDEH;	)	CASE NO. 22–cv-4105
MAHMOUD MUSA;	)	
MOHAMMED OTHMAN;	)	
"K.A.", a Minor,	)	
	)	
Defendants.	)	

COMPLAINT

INTRODUCTION

In 2021, rockets were fired by Palestinian terrorist groups from the Gaza Strip into Israel in January and again in April. In May of 2021, Palestinian terrorists in the Gaza Strip intensified their terror campaign against Israel. Between May 10th and May 18th terrorists in the Gaza Strip, on behalf of the designated terrorist group Hamas, which serves as the governing authority in the Gaza Strip, and in coordination with other Palestinian terrorist organizations, including Palestinian Islamic Jihad, fired as many as 3,440 rockets into Israel, targeting civilian populations, and killing innocent Israeli civilians and guest workers in Israel, starting fires, and causing a great deal of damage. Some of the rockets fell short and killed Gaza residents,

including children. By May 21, 2021, at least 4,000 rockets had been fired by terrorists from the Gaza Strip into Israel.

Israel was able to intercept many of the rockets with its Iron Dome defense system; but after seeing its civilian areas indiscriminately targeted, with innocent civilians, including children, having been killed, Israel finally struck back, exclusively targeting Hamas, Palestinian Islamic Jihad, and other sites from which the terrorists launched their terror attacks.

The attacks against Israel's civilian population were so egregious that on May 13, 2021, a Resolution was introduced in the United States House of Representatives, condemning the indiscriminate terror attacks against Israel that targeted and killed innocent civilians[1] and another on May 21, 2021.[2]

Also on May 13, 2021, a group of Antisemitic, anti-Israel members of Congress, known colloquially as "The Squad," led by Representatives Ilhan Omar, Rashida Tlaib, and Alexandria Ocasio-Cortez, took to the House floor, making outrageous false claims attacking Israel, and engaging in virulently Antisemitic

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[1] https://www.congress.gov/bill/117th-congress/house-resolution/394/text?format=txt

[2] https://www.congress.gov/bill/117th-congress/house-resolution/428/text
On May 17, 2022, a new bill condemning AntiSemitism and specifically referring to the wave of attacks the brutal attack on Mr. Borgen was a part of was introduced in the House. https://www.congress.gov/bill/117th-congress/house-resolution/1125/text

rhetoric in an attempt to foment hatred and condemnation toward Israel and its supporters, with the House Floor rhetoric supported in messages to their followers on social media.[3] Their rhetoric was so inflammatory and clearly Antisemitic that other members of their political party wrote a letter to President Biden on May 26, citing the "Squad" members' rhetoric and the link between such rhetoric and increasing incidents of violent attacks against Jews, noting that Jewish organizations had found the same link, and asking President Biden to take action to address this Antisemitism and the violence against Jews it was promoting.[4] House Republican leaders joined in this condemnation of the "Squad" members Antisemitic rhetoric and warned of the risk of violence to Jews from what the "Squad" members were spewing.[5]

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[3] https://www.commentary.org/christine-rosen/the-squads-noxious-anti-semitism/ ; https://www.commentary.org/noah-rothman/progressivisms-moral-atrocity-in-the-middle-east/ https://pjmedia.com/news-and-politics/victoria-taft/2021/05/22/aocs-and-her-squads-love-fest-with-hamas-gives-the-head-of-simon-wiesenthal-center-a-shocking-case-of-deja-vu-n1448850

[4] https://gottheimer.house.gov/uploadedfiles/may_2021_letter_to_potus_re_antisemitism.pdf

[5] https://www.dailymail.co.uk/news/article-9619093/Top-House-Republican-blames-Squads-bigotry-against-Israel-anti-Semitic-attacks.html ; https://omar.house.gov/media/press-releases/reps-omar-carson-and-tlaib-statement

Meanwhile, all across the United States, violent Antisemitic gangs took up this same rhetoric and attacked innocent visibly Jewish people in May 2021, as the media has widely reported,[6] finally causing even President Biden and Vice-President Harris to speak out publicly against it.[7] Among the brutal, violent Antisemitic attacks, targeting Jews because they were Jewish, highlighted in the international media because they were so violent and shocking and clearly were acts of targeting Jews because they were Jewish, was the tragic, brutal, unprovoked beating of Plaintiff Joseph Borgen by these Defendants and others, including a minor whose identity is not yet known.[8] Mr. Borgen was targeted solely because he was visibly Jewish.

This lawsuit arises from the unprovoked, brutal, violent attack by these Defendants against Plaintiff Joseph Borgen, that left him badly injured. These Defendants were a gang of Antisemitic thugs who conspired with each other and others to brutally attack Plaintiff Borgen because he was Jewish and because they hated and wanted to hurt Jews. These Defendants and others surrounded Plaintiff

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-attacks-al-aqsa-mosque-during-ramadan

[6] https://www.foxnews.com/politics/antisemitic-spiked-squad-blue-states

[7] https://nypost.com/2021/05/24/biden-harris-finally-speak-out-to-denounce-anti-semistim/

[8] https://www.cnn.com/2021/05/21/us/anti-semitic-attacks-new-york-los-angeles/index.html

Borgen in the area of Times Square in New York City on the evening of May 20, 2021, while he was on his way to a rally in support of the State of Israel, and punched, kicked, pepper sprayed him, and otherwise assaulted Mr. Borgen just because he was Jewish (and visibly so), causing great pain and serious physical damage to him, requiring surgery. The widely publicized attack left Jews around the country feeling scared just to engage in normal activities publicly, let alone advocacy for Israel, out of fear that they too could be targeted and hurt by these Antisemitic gangs.

Nature of the Action

1. This is a civil action brought by Joseph Borgen, arising from the unprovoked brutal, violent physical assault he suffered on May 20, 2021, at the hands of these Defendants and other, including a minor whose identity is not yet known, motivated by the Defendants' virulent hatred of Jews and in furtherance of their conspiracy to attack a visibly Jewish citizen simply because he was Jewish. Defendants' actions constituted a hate crime and violated federal civil rights law and New York State law. Mr. Borgen seeks redress to the extent possible through money damages to compensate him for his injuries and to punish and deter these Defendants (and others) from ever again engaging in such outrageous, bigoted conduct.

Jurisdiction and Venue

2. This action arises under 42 U.S.C. § 1985(3), and the laws of the State of New York. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1343, and pursuant to 28 U.S.C. § 1367(a).

3. This judicial district is an appropriate venue under 28 U.S.C. § 1391(b)(2).

Parties

4. Plaintiff Joseph Borgen is an adult resident-citizen of New York.

5. Defendant Faisal Elezzi is an adult resident-citizen of New York.

6. Defendant Waseem Awawdeh is an adult resident-citizen of New York.

7. Defendant Mahmoud Musa is an adult resident-citizen of New York.

8. Defendant Mohammed Othman is an adult resident-citizen of New York.

9. Defendant "K.A." is, upon information and belief, a minor resident-citizen of New York. These are, upon information and belief, his initials. The Minor who is the co-conspirator of the other Defendants and who is believed to be "K.A." is presently charged as a juvenile in a New York County court, based on the conduct at issue in this case and his identity has been withheld by the New York County court and the New York District Attorney.

10. There are, upon information and belief, additional co-conspirators, who

also engaged in the hate crime, acts of violence and intimidation motivated by virulent Antisemitism at issue here, whose identities presently are unknown, but will be sought through discovery.

RELEVANT FACTS

11. On May 20, 2021, Plaintiff Joseph Borgen decided to attend a rally in support of the State of Israel, scheduled to take place that evening in the Times Square area of New York City.

12. Mr. Borgen worked from home on May 20, 2021 until about 6:00 p.m. and then walked to a subway stop near his home for the trip to the rally.

13. Mr. Borgen rode the subway to 57th Street and 7th Avenue, walked up the steps in the station, exited the station at 55th Street and 7th Avenue, and began walking down 7th Avenue, toward the rally that was scheduled to take place in the area of 47th Street and 7th Avenue.

14. Mr. Borgen was at all relevant times wearing a yarmulke or kipa, a skull cup which is associated with the Jewish religion and identified him as Jewish. His yarmulke was fully visible.

15. When Mr. Borgen reached 49th Street, he turned off of 7th Avenue toward Broadway as a shortcut to the rally in support of the State of Israel.

16. Within moments of making that turn, Mr. Borgen heard people yelling,

but he was not sure why they were yelling or to whom or what the yelling was directed.

17. Mr. Borgen continued walking toward the State of Israel rally; but within seconds he realized that the yelling was coming from these Defendants and he realized that it was directed at him.[9]

18. Mr. Borgen turned in the direction of the yelling and saw the Defendants behind him and now running toward him.

19. By the time Mr. Borgen turned and saw the Defendants running toward him from behind, they had closed within steps.

20. The Defendant closest to him had his fist cocked, ready to strike Mr. Borgen and before Mr. Borgen could prepare for the attack, attempt to defend himself or flee, he was surrounded by all of the Defendants, who would not allow him to flee.

21. The Defendants brutally attacked Mr. Borgen physically.

22. The Defendants punched and kicked Mr. Borgen repeatedly, knocking him to the ground as they continued punching and kicking him mercilessly.

23. The Defendants struck Mr. Borgen forcefully with weapons, as they continued their unprovoked attack on Mr. Borgen.

24. The Defendants sprayed Mr. Borgen with pepper spray or mace over and

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[9] All references herein to the "Defendants" includes the minor whose identity presently remains unknown.

over again, causing excruciating pain as they continued attacking him.

25. The Defendants punched and kicked and struck Mr. Borgen with weapons all over his head and body and sprayed the pepper spray or mace in his eyes.

26. As the Defendants attacked Mr. Borgen, they repeatedly yelled virulently Antisemitic words directed toward him, while they beat him.

27. The Defendants yelled at Mr. Borgen words that included, but were not limited to "Hamas will kill you, f...ing Jew, and we will take our land back."

28. The Defendants yelled "F... Israel" and called Mr. Borgen a "dirty Jew."

29. Throughout their brutal attack on Mr. Borgen they continued their virulently Antisemitic remarks directed toward Mr. Borgen and they continued to yell their support for the terrorist group Hamas and for plans to destroy the State of Israel.

30. At all times while they brutally beat Mr. Borgen, the Defendants held him captive and would not allow him to leave.

31. Mr. Borgen tried at all times during the attack to defend himself by covering his head and face, trying to blunt the impact of the Defendants' relentless, vicious blows; but he was unable to fend them off.

32. The attack lasted until a point when Mr. Borgen thought he would die from the Defendants' attack, when finally New York Police Department officers arrived and restored order.

33. Mr. Borgen was taken by ambulance to a New York City hospital for

treatment and evaluation for the terrible injuries he suffered from the Defendants' brutal attack.

34. As a direct and proximate result of the Defendants' attack, Mr. Borgen suffered a concussion, terrible burning pain in his eyes from the spray the Defendants used against him, tremendous pain in his head, face, stomach, chest, arms, and legs - all over his body, where the Defendants had struck him with their fists and weapons and kicked him.

35. As a direct and proximate result of the Defendants' attack, Mr. Borgen suffered bruising and lacerations to his head and face and all over his body.

36. As a direct and proximate result of the Defendants' attack, Mr. Borgen suffered permanent physical injury, including injuries to his wrist that have required surgery and injuries to his face and neck area that required the wearing of neck brace. The full extent and duration of Mr. Borgen's injuries and related consequences remains unknown. Mr. Borgen has not re-gained functionality of the wrist the Defendants injured.

37. As a direct and proximate result of the Defendants' attack, Mr. Borgen suffered tremendous emotional trauma, severe emotional distress, fear for his safety, fear for his life, and additional psychological trauma and these emotional and psychological injuries remain today and likely will last for a long time and perhaps permanently.

38. The events described herein, including the brutal attack by these Defendants against Mr. Borgen occurred within the Southern District of New York.

39. Prior to and during their brutal attack on Mr. Borgen, the Defendants conspired with and among each other, in New York State and with others, for the purpose of depriving Mr. Borgen, because he is Jewish, and others, based on their status as Jews, of the equal protection of the laws and of equal privileges and immunities under the laws.

40. Pursuant to, consistent with, and in furtherance of their conspiracy and the goals of their conspiracy, the Defendants brutally beat Mr. Borgen, causing him severe injuries and deprived Mr. Borgen of the rights and privileges guaranteed to all citizens of the United States.

41. The Defendants' conspiracy and actions in furtherance of their conspiracy directed toward Mr. Borgen, because he is Jewish and is a member of the larger class of Jewish people, deprived Mr. Borgen of the right to walk safely down the street, to be free from unlawful imprisonment, to be free from attacks based on his religion.

42. The Defendants' conspiracy and actions with respect to Mr. Borgen constitute a hate crime under New York's criminal law.

43. Almost immediately, New York law enforcement officers began their efforts to capture and arrest the Defendants to bring them to justice for their hate

crime attack against Mr. Borgen.[10]

44. By June 7, 2021, law enforcement authorities succeeded in capturing the last of these Defendants for the hate crimes they committed against Mr. Borgen.[11]

45. At no time has any Defendant in any way indicated any remorse for his actions. In fact, following his arrest for the hate crime attack on Mr. Borgen, Defendant Awawdeh publicly and proudly vowed that he would do it again.[12]

46. At all times relevant to this lawsuit, the Defendants acted intentionally, willfully, wantonly, with reckless disregard for the life and safety of Mr. Borgen, and with actual malice, intending to severely injure or kill Mr. Borgen and they so acted because Mr. Borgen is Jewish. This was all a goal of their conspiracy.

47. No Defendant at any time attempted to intervene to stop the attack on Mr. Borgen.

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[10] https://www.the-sun.com/news/us-news/2939337/cops-release-pictures-four-suspects-jewish-hate-crime-beating/

https://nypost.com/2021/05/22/nypd-searching-for-four-suspects-in-beating-of-jewish-man/?utm_source=NYPTwitter&utm_campaign=SocialFlow&utm_medium=SocialFlow

[11] https://www.newsday.com/news/new-york/times-square-attack-hate-fifth-arrest-lawrence-man-y33466

[12] https://nypost.com/2021/05/22/no-remorse-in-nyc-pummeling-of-jewish-man-da/

48. The Defendants are jointly and severally liable in all regards.

Count I - 42 U.S.C. § 1985(3)
Conspiracy to Interfere with Civil Rights

49. All allegations previously made are incorporated herein.

50. Prior to and during their brutal beating of Mr. Borgen, the Defendants came to an agreement and conspired among themselves to deprive Mr. Borgen, and any other visibly Jewish person, either directly or indirectly of the equal protection of the laws and the equal privileges and immunities under the laws, and engaged in the brutal beating and imprisonment of Mr. Borgen in furtherance of their conspiracy, whereby Mr. Borgen was severely injured and was deprived of his rights and privileges as a United States citizen.

51. At all times in entering into their conspiracy and in their actions in furtherance of it, the Defendants were motivated by and acted in furtherance of their religious animus toward Jewish people, specifically because of their status as Jews, a cognizable protected class for purposes of equal protection jurisprudence.

52. As a direct and proximate result of the conduct of Defendants, Mr. Borgen was caused to suffer economic and non-economic damages, including, but not limited to, loss of work, loss of his liberty, severe physical and emotional injuries, including tremendous pain and suffering, fear for his safety and for his life, and

continues to suffer from permanent injuries and other injuries of unknown duration and he suffered other damages.

53. The actions of the Defendants, as described herein, were malicious, deliberate, intentional, and were embarked upon with the knowledge of, or in conscious disregard of, the harm that would be inflicted against Mr. Borgen. As a result of this intentional unlawful conduct, Mr. Borgen is entitled to punitive damages against the Defendants, in an amount sufficient to punish them and to deter them and others from similar conduct.

54. Plaintiff is also entitled to an award of reasonable attorney's fees and costs pursuant to 42 U.S.C. § 1988.

Count II - Assault

55. All allegations previously made are incorporated herein.

56. The Defendants chased after Mr. Borgen from behind and suddenly, without provocation, brutally attacked him, punching him, kicking, him, striking him with weapons, spraying him with pepper spray, holding him captive, and yelling threatening, intimidating, Antisemitic slurs at him.

57. The Defendants intended to inflict personal injury on Mr. Borgen and they intended to arouse his apprehension and offensive bodily contact against Mr. Borgen.

58. As a direct and proximate result of the conduct of Defendants, Mr. Borgen was caused to suffer economic and non-economic damages, including, but not limited to, loss of work, loss of his liberty, severe physical and emotional injuries, including tremendous pain and suffering, fear for his safety and for his life, and continues to suffer from permanent injuries and other injuries of unknown duration and he suffered other damages.

59. The actions of the Defendants, as described herein, were malicious, deliberate, intentional, and were embarked upon with the knowledge of, or in conscious disregard of, the harm that would be inflicted against Mr. Borgen. As a result of this intentional unlawful conduct, Mr. Borgen is entitled to punitive damages against the Defendants, in an amount sufficient to punish them and to deter them and others from similar conduct.

Count III - Battery

60. All allegations previous made are incorporated herein.

61. Defendants intentionally made bodily contact with Mr. Borgen, the intended bodily contact was offensive and was without Mr. Borgen's consent.

62. As a direct and proximate result of the conduct of Defendants, Mr. Borgen was caused to suffer economic and non-economic damages, including, but not limited to, loss of work, loss of his liberty, severe physical and emotional injuries,

including tremendous pain and suffering, fear for his safety and for his life, and continues to suffer from permanent injuries and other injuries of unknown duration and he suffered other damages.

63. The actions of the Defendants, as described herein, were malicious, deliberate, intentional, and were embarked upon with the knowledge of, or in conscious disregard of, the harm that would be inflicted against Mr. Borgen. As a result of this intentional unlawful conduct, Mr. Borgen is entitled to punitive damages against the Defendants, in an amount sufficient to punish them and to deter them and others from similar conduct.

Count IV - False Imprisonment

64. All allegations made are incorporated herein.

65. While they were brutally beating Mr. Borgen, the Defendants intentionally confined Mr. Borgen, kept Mr. Borgen confined and rendered him unable to escape or leave. Mr. Borgen was, at all times, conscious of his confinement by the Defendants, he did not in any way consent to the confinement, and the confinement was not otherwise privileged.

66. As a direct and proximate result of the conduct of Defendants, Mr. Borgen was caused to suffer economic and non-economic damages, including, but not limited to, loss of work, loss of his liberty, severe physical and emotional injuries,

including tremendous pain and suffering, fear for his safety and for his life, and continues to suffer from permanent injuries and other injuries of unknown duration and he suffered other damages.

67. The actions of the Defendants, as described herein, were malicious, deliberate, intentional, and were embarked upon with the knowledge of, or in conscious disregard of, the harm that would be inflicted against Mr. Borgen. As a result of this intentional unlawful conduct, Mr. Borgen is entitled to punitive damages against the Defendants, in an amount sufficient to punish them and to deter them and others from similar conduct.

Count V - Intentional Infliction of Emotional Distress

68. All allegations made are incorporated herein.

69. The Defendants' conduct in the brutal beating of Mr. Borgen and their hurling of threatening, distressing, and intimidating Antisemitic slurs at him, was extreme and outrageous conduct. The Defendants intended to cause or disregarded the substantial probability of causing severe emotional distress, and their brutal beating of Mr. Borgen and the hate crime nature of their conduct, including the use of Antisemitic attacks directly and proximately caused Mr. Borgen to suffer severe emotional distress, as the Defendants intended.

70. As a direct and proximate result of the conduct of Defendants, Mr.

Borgen was caused to suffer economic and non-economic damages, including, but not limited to, loss of work, loss of his liberty, severe physical and emotional injuries and distress, including tremendous pain and suffering, fear for his safety and for his life, and continues to suffer from permanent injuries and other injuries of unknown duration and he suffered other damages.

71. The actions of the Defendants, as described herein, were malicious, deliberate, intentional, and were embarked upon with the knowledge of, or in conscious disregard of, the harm that would be inflicted against Mr. Borgen. As a result of this intentional unlawful conduct, Mr. Borgen is entitled to punitive damages against the Defendants, in an amount sufficient to punish them and to deter them and others from similar conduct.

Relief Sought

72. As and for relief, Plaintiff seeks the following:

a. That Plaintiff be awarded such compensatory damages as a jury shall determine from the evidence Plaintiff is entitled to recover;

b. That Plaintiff be awarded such punitive damages as a jury shall determine from the evidence Plaintiff is entitled to recover;

c. That Plaintiff be awarded prejudgment and postjudgment interest at the highest rates allowed by law;

d. That Plaintiff be awarded the costs of this action, reasonable attorney's fees, and reasonable expert witness fees;

e. That Plaintiff be awarded such other and further relief to which plaintiff is justly entitled.

Plaintiff Demands a Trial by Jury on All Claims So Triable.

Respectfully submitted,

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