

JUDGE SHIBRI

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

DANNY SQUICCIARINI,

Plaintiff,

v.

CITY OF YONKERS, DETECTIVE  
DELLADONNA (SHIELD NO. 207) Individually  
and in his Official Capacity, DETECTIVE  
DEVITO (SHIELD NO. 727) Individually and in  
his Official Capacity, and DESK SERGEANT  
JOHN DOE, Individually and in his Official  
Capacity,

Defendants.

Index No:



Plaintiff Danny Squicciarini, (“Plaintiff”) by and through his attorneys, Newman Ferrara LLP, as and for his Complaint, alleges upon knowledge, information and/or belief as follows:

**PRELIMINARY STATEMENT**

1. This is a civil action seeking monetary relief against Defendant City of Yonkers (“Yonkers”), Yonkers Police Department employees, Detective DellaDonna (“DellaDonna”), Detective DeVito (“DeVito”), and Desk Sergeant John Doe (“Doe”) for committing acts under color of law and depriving Plaintiff of rights secured by the United States Constitution and the State of New York.

2. Specifically, Plaintiff alleges that Defendants (collectively and individually) wrongfully deprived him of his constitutional rights when, on or about September 2, 2011, Defendants DellaDonna and DeVito unreasonably stopped, searched, arrested, harassed,

threatened, taunted, detained, strip searched and cavity searched him in retaliation for Plaintiff's unsuccessful attempt, in April 2011, to file a civilian complaint against them.

3. Plaintiff alleges further that Defendant Doe intentionally prevented Plaintiff from filing a civilian complaint against Defendants DellaDonna and DeVito for violating his constitutional rights in April 2011.

4. It is alleged further that Defendant Yonkers failed to create policies and procedures and/or to train and supervise its employees regarding: the intake, tracking and investigation of civilian complaints; the legal standards for conducting searches and seizures, stop and frisks, strip searches and cavity searches, and; the prevention of retaliatory and abusive actions by police officers against members of the public.

#### **JURISDICTION AND VENUE**

5. The Court has jurisdiction pursuant to 28 U.S.C. 1331 and 1343. Jurisdiction is proper over Plaintiff's state law claims pursuant to 28 U.S.C. 1367.

6. Venue in the Southern District of New York is proper under 28 U.S.C. 1391(b), as the Defendant Yonkers, of which the individual defendants are employees, is located in Westchester County and the events complained of arose there.

#### **PARTIES**

7. Plaintiff Squicciarini is a twenty-three (23) year old male citizen of the United States who is a lifelong resident of Yonkers, New York. At all relevant times, Mr. Squicciarini was a college student, studying criminal justice (with the intention of becoming a police officer), while also working for his father's masonry and contracting business. In July 2010, Plaintiff took the New York City Police Department exam. From August 2010 to August 2011 he also worked

as a security guard at Saint Joseph's Seminary in Yonkers and a Metro North rail yard in White Plains, New York.

8. Defendant Yonkers is a duly constituted municipal corporation of the State of New York, located in Westchester County, New York.

9. Defendant DellaDonna was at all relevant times an employee of the Yonkers Police Department.

10. Defendant DeVito was at all relevant times an employee of the Yonkers Police Department.

11. Defendant Doe was at all relevant times an employee of the Yonkers Police Department.

#### **FACTUAL ALLEGATIONS**

12. In April 2011, at approximately 7:00 p.m., Plaintiff, accompanied by a friend, drove into the parking lot of a Stop and Shop located at the Cross County Shopping Center in Yonkers, New York.

13. Immediately after Plaintiff backed into a parking space, his car was blocked by a black Ford Escape. Two men emerged from the vehicle and immediately ordered Plaintiff and his friend to get out of the car.

14. The two men did not identify themselves, were not wearing uniforms or displaying badges, and offered no explanation as to why they ordered the Plaintiff and his friend out of the car. Instead, without saying a word, one of the two unidentified men patted down every crevice of their bodies, outside of their clothes.

15. Without explanation or permission, one of the men searched the back and front seats, trunk, and glove box of Plaintiff's car.

16. During the unauthorized search of Plaintiff's car, the men found his criminal justice textbooks and asked him what they were for. Plaintiff told them that he was in school studying criminal justice and planned on becoming a police officer.

17. Also found during the unauthorized search was a small folding knife that Plaintiff kept in his glove box and used for fresh water fishing at New York City watersheds. One of the men put Plaintiff's knife in his pocket. As the two men were leaving, Plaintiff asked for his knife back. The two men just grinned and drove away.

18. Immediately after the two men left, Plaintiff drove to the Second Precinct of the Yonkers Police Department in order to inquire about the two men, and, provided they were police officers, file a complaint against them.

19. Upon arrival at the precinct, Plaintiff spoke to the desk sergeant (Doe) and four to five other officers who were standing at the desk. Plaintiff advised the desk sergeant that he wished to file a complaint against two men, believed to be Yonkers police detectives, who had illegally searched his car and stolen his knife.

20. The police officers at the desk asked Plaintiff why he thought he had been illegally searched. In response, Plaintiff informed the officers that he was studying criminal justice and, based upon his education, knew that the two men had no right to search his vehicle and take his property.

21. Plaintiff advised the desk sergeant and the other police officers that he could provide a description of the men's SUV, the full license plate number, and a description of both the men. Although Plaintiff was able to provide this information, the desk sergeant refused to file a complaint without the men's names or badge numbers. Further, the police officers at the desk informed Plaintiff that they had neither seen nor heard of detectives from the Second Precinct

using a black SUV and suggested that the two men in question could have been DEA agents or state police detectives.

22. Plaintiff became visibly upset upon the realization that the desk sergeant would not allow him to file a complaint.

23. Seeing that Plaintiff was upset, one of the police officers started to make small talk with Plaintiff by asking about Plaintiff's desire to become a police officer. Plaintiff then left the precinct without being allowed to file a complaint.

24. About five months later, on or about September 2, 2011, at approximately 10:00 p.m., Plaintiff drove to the parking lot of the Toys R' Us on Central Avenue in Yonkers to again meet his friend and his friend's girlfriend. Upon his arrival, Plaintiff parked his car next to his friend's and immediately got out to talk to his friend.

25. Within minutes of Plaintiff's arrival, a black Ford Escape pulled up perpendicularly behind their cars, blocking them in. Plaintiff recognized the SUV and its occupants as those involved in the illegal search Plaintiff was subjected to in April.

26. The two men got out of the Ford Escape and began walking toward Plaintiff and his friend. The older man of the two said to Plaintiff, "I remember you. You're the guy who tried to file a complaint on us."

27. The younger of the two men said, "I still have your knife."

28. The two men then began to search Plaintiff and his friend by patting them down from head to toe, over their clothes. They touched Plaintiff from his shoulders, armpits, torso, thighs, legs, front, back and entire legs.

29. The younger of the two men, now presumed by Plaintiff to be a police officer, again searched Plaintiff's car without permission. Although both the car doors and windows

were closed, the younger officer was undeterred, and he opened the driver's door of Plaintiff's car and leaned inside. In the ashtray, the officer found an unlit marijuana cigarette.

30. The older officer then said to Plaintiff, "Oh, some cop you're supposed to be. So you're smoking weed. And you told me the last time we saw you that you wanted to be a cop."

31. Plaintiff was then placed in handcuffs while the officers continued to search his car, including the trunk and rear passenger area. After searching Plaintiff's car, the officers moved on to his friend's car, performing a thorough search.

32. During this time, Plaintiff requested permission from the older officer to use a portable bathroom located in the parking lot because he needed to urinate. The officer responded that Plaintiff would not be permitted use a bathroom until he had been brought to the jail and a strip searched was performed.

33. Plaintiff begged the officers to reconsider letting him go. In response the older officer told Plaintiff to stop being "a whiny little bitch" and that "he shouldn't have tried to file a complaint on us."

34. The two police officers then put Plaintiff in the back seat of their SUV and drove him to Yonkers central booking facility on Alexander Street. During the ride, the older officer made a call on his cell phone and stated to whoever answered, "We got someone who tried to file a complaint on us." The officer then laughed.

35. Plaintiff asked the officers if being charged with possession of a marijuana cigarette would affect his ability to become a police officer. In response the officers stated, "That's not all you have to worry about, we might charge you with a knife, grams of coke and grams of weed."

36. Plaintiff responded, "What are you talking about? I didn't have any of that stuff on me."

37. The officers just looked at each other and grinned.

38. A few minutes later, while driving on the Cross County Parkway toward central booking, the older officer asked Plaintiff if he "voted for this nigger President, because you look like a liberal trying to file complaints on the police."

39. When Plaintiff arrived at central booking at the Alexander Street jail, he was placed in a cell with the door left open. He was told by one of the officers, "Say hi to your neighbor Daryl. He likes to complain too," indicating the man in the adjacent cell.

40. Shortly after being placed in the cell, Plaintiff asked another detective where the two arresting officers had gone because he had to use the restroom, but could not because he was handcuffed. The detective told Plaintiff that the two officers left to use the bathroom and Plaintiff would have to wait until they returned.

41. When Plaintiff heard the arresting officers' voices, he peeked out of the cell and again requested permission to urinate, stating, "I really have to use the bathroom."

42. Plaintiff was told yet again by the arresting officers, "You're not using it until you're strip searched".

43. Approximately ten minutes later, Plaintiff was taken out of his cell and in to a booking area occupied by three to four officers and under video surveillance.

44. Plaintiff's handcuffs were removed and he was instructed by the older officer to strip. Plaintiff then removed his shirt, undershirt, shorts, boxers, shoes, and socks. He was told to lift his genitals, lean forward, and spread his buttocks.

45. After the strip and cavity searches were completed, Plaintiff was permitted to get dressed. As he was pulling up his boxer shorts, the older officer grinned and pointed to a picture of a black man that was in a picture wallet on a nearby desk and asked Plaintiff if the man was Plaintiff's uncle. Plaintiff, who is white, looked at the picture and, seeing it depicted a middle-aged black man, replied, "No, why would why my uncle be black." The officer just grinned in response. Plaintiff understood the comment to be a reference to his penis size.

46. After Plaintiff got dressed, he stood in the booking room while the younger officer, in consultation with the older officer, entered booking information into a computer. It was at this time Plaintiff was informed that he was being charged with criminal possession of marijuana in the fifth degree.

47. While standing in the booking room, he asked whether he would be able to become a police officer after being charged with criminal possession. The older officer responded by telling him, "You'd make a shit cop one day. You're better off being a fire fighter or a garbage man." The officer called Plaintiff a "pussy" and asked him, "When was the last time you got laid?" As the officer asked him the question, he looked around the corner of the cell block and said, "Let me see if we have someone here for you tonight."

48. Plaintiff was then taken back to the cell, this time without handcuffs, and again with the cell door left open. It was at this time that Plaintiff was finally permitted to urinate. While in the cell, Plaintiff overheard officers in the adjacent room making comments about what Plaintiff inferred to be pornographic images, specifically concerning female genitalia.

49. After approximately thirty to forty-five minutes, Plaintiff was taken out of the cell to be fingerprinted and photographed. He was then given a desk appearance ticket and released.

50. Plaintiff was required to hire an attorney to resolve the desk appearance ticket and the required court appearances caused Plaintiff to miss approximately three (3) days of work.

51. The strip search, conducted without legitimate purpose or justification, left Plaintiff extremely humiliated, embarrassed, and ashamed. Within one week of the arrest and strip search, Plaintiff began seeing a psychologist to address the trauma arising from the actions undertaken by Yonkers police officers.

52. On September 28, 2011, Plaintiff filed a civilian complaint form with the Yonkers Police Department against Defendants DellaDonna and DeVito.

53. Plaintiff received a letter dated May 2, 2012, from the Yonkers Police Department stating that his complaint had been investigated and “it has been established there is insufficient evidence to support the claim that the officer’s conduct was in violation of departmental policy.”

54. A Notice of Claim upon Defendant Yonkers was timely served on November 10, 2011, and Plaintiff’s examination of oath pursuant to Section 50-H of the General Municipal Law of New York State was conducted on January 17, 2012.

55. Further, on November 10, 2011, Defendant Yonkers was served with a letter demanding that all documents, tangible things, and electronically stored data relevant to the issues raised in the Notice of Claim be preserved. The letter stated that the demand expressly included all videotapes and/or photographs taken at the Alexander Street jail that depict Plaintiff’s arrival, detention, strip search, booking, and/or release.

**U.S. DEPARTMENT OF JUSTICE INVESTIGATION OF THE YONKERS POLICE  
DEPARTMENT**

56. The Special Litigation Section of the Civil Rights Division of the United States Department of Justice (“Justice Department”), with the United States Attorney’s Office for the

Southern District of New York, is conducting an ongoing civil investigation of Yonkers Police Department.

57. On June 9, 2009, the Justice Department issued a publicly available letter to officials of Yonkers regarding its investigation to date. The investigation included reviewing relevant policies and procedures, interviewing Yonkers city officials, interviewing a cross-section of Yonkers Police Department supervisors and patrol officers, participating in ride-alongs with Yonkers Police Department personnel, meeting with police union representatives, and speaking with local community leaders and citizens.

58. The June 9, 2009 letter focused on many issues and concerns regarding the Yonkers Police Department policies relevant to the acts complained of herein, including, but not limited to: the content, organization and overall structure of the Yonkers Police Department's Policy and Procedure Manual; use of force policies and procedures; investigation of citizen complaints; supervisory oversight structure; training program and materials; community relations; and personnel issues.

## **FEDERAL CAUSES OF ACTION**

### **First Cause of Action**

*(VIOLATION OF FOURTH, FIFTH AND FOURTEENTH AMENDMENT AND 42 USC § 1983  
AGAINST DEFENDANTS DELLADONNA AND DEVITO FOR UNLAWFUL SEARCH AND  
SEIZURE IN APRIL 2011)*

59. Plaintiff repeats and re-alleges the foregoing allegations as though fully set forth herein.

60. Defendants DellaDonna and DeVito, acting under color of law, deprived the Plaintiff of rights secured by the Fourth, Fifth and Fourteenth Amendments to protection from unreasonable search and seizure, equal protection and due process by conducting an unconstitutional search of Plaintiffs person and car and seizure of his personal property.

**Second Cause of Action**

***(VIOLATION OF FOURTEENTH AMENDMENT AND 42 U.S.C. § 1983 AGAINST DEFENDANT  
DESK SERGEANT DOE FOR DENIAL OF DUE PROCESS RIGHT TO PETITION THE  
GOVERNMENT)***

61. Plaintiff repeats and re-alleges the foregoing allegations as though fully set forth herein.

62. In April 2011, Defendant Desk Sergeant Doe wrongfully prevented Plaintiff from filing a civilian complaint regarding Defendants' DellaDonna and DeVito unreasonable search and seizure of his person and car and seizure of his personal property.

**Third Cause of Action**

***(VIOLATION OF FOURTH AND FOURTEENTH AMENDMENT AND 42 USC § 1983 AGAINST  
DEFENDANTS DELLADONNA AND DEVITO FOR UNLAWFUL SEARCH AND SEIZURE ON  
SEPTEMBER 2, 2011)***

63. Plaintiff repeats and re-alleges the foregoing allegations as though fully set forth herein.

64. On or about September 2, 2011, Defendants DellaDonna and DeVito, acting under color of law, deprived the Plaintiff of rights secured by the Fourth, Fifth and Fourteenth Amendments to protection from unreasonable search and seizure, equal protection and due process by conducting an unreasonable search and seizure of Plaintiff's person and car and violating his right to bodily integrity.

65. Defendants DellaDonna and DeVito unreasonable search and seizure further violated Plaintiff's due process right under the Fifth and Fourteenth Amendments to petition the government because their actions were undertaken as an intentional retaliation for Plaintiff's attempt to file a civilian complaint for their actions against him in April 2011 and to chill him from filing complaints in the future.

66. The actions of Defendants DellaDonna and DeVito were intentional, with Defendants knowing that they violated Plaintiff's constitutional rights and, as such, warrant and justify the assessment and award of punitive damages.

**Fourth Cause of Action**

***(VIOLATION OF FIRST, FOURTH, FIFTH AND FOURTEENTH AMENDMENTS, AND 42 USC § 1983 AGAINST DEFENDANTS DELLADONNA AND DEVITO FOR ILLEGAL STRIP SEARCH AND CAVITY SEARCH)***

67. Plaintiff repeats and re-alleges the foregoing allegations as though fully set forth herein.

68. Defendants DellaDonna and DeVito violated Plaintiff's rights to physical liberty, bodily integrity, privacy and freedom from unreasonable search and seizure when Defendants DellaDonna and DeVito forced him to submit to a strip search and visual cavity search without a reasonable basis and in an unreasonable manner.

69. Defendants DellaDonna and DeVito conducted the unreasonable strip search so as to subject Plaintiff to public humiliation and embarrassment in retaliation for his attempt in April 2011 to file a complaint against them.

70. The actions of Defendants DellaDonna and DeVito were intentional, with Defendants knowing that they violated Plaintiffs constitutional rights and, as such, warrant and justify the assessment and award of punitive damages.

**Fifth Cause of Action**

***(MONELL CLAIM AGAINST THE CITY OF YONKERS)***

71. Plaintiff repeats and re-alleges the foregoing allegations as though fully set forth herein..

72. The violations of Plaintiff's constitutional rights were proximately caused by policies, procedures, customs and practices of the Defendant Yonkers, and its police department.

73. Defendant Yonkers has a policy, procedure, custom and/or practice of failing to maintain an updated and organized Police Manual that provided its police officers policies and procedures reflecting standards and expectations consistent with relevant legal standards and contemporary police practices, constituting deliberate indifference to the rights of members of the public, including Plaintiff.

74. Defendant Yonkers has a policy, procedure, custom and/or practice of creating and maintaining a civilian complaint review process that is systemically unfair and fails to provide an open, fair and impartial process for receiving and investigating civilian complaints, and fails to ensure officer accountability and supervision or deter misconduct.

75. Defendant Yonkers has a policy, procedure, custom and/or practice of discouraging civilian complaints about its police officers and tacitly encouraging police officers to retaliate against members of the public who do file complaints.

76. Defendant Yonkers has a policy, procedure, custom and/or practice of failing to properly investigate civilian complaints, constituting deliberate indifference to the rights of members of the public, including Plaintiff.

77. Defendant Yonkers has a policy, procedure, custom and/or practice of failing to monitor, discipline and/or train police officers who are the subject of civilian complaints, constituting deliberate indifference to the rights of members of the public, including Plaintiff.

78. Defendant Yonkers has a policy, procedure, custom and/or practice of failing to train and supervise police officers in the proper use “stops and frisks”, constituting deliberate indifference to the rights of members of the public, including Plaintiff.

79. Defendant Yonkers has a policy, procedure, custom and/or practice of encouraging, sanctioning, and/or failing to rectify the improper application of “stops and frisks”.

80. Defendant Yonkers has a policy, procedure, custom and/or practice of failing to train and supervise police officers in the proper application of strip searches and cavity searches constituting deliberate indifference to the rights of members of the public, including Plaintiff.

81. Defendant Yonkers has a policy, procedure, custom and/or practice of encouraging, sanctioning, and/or failing to rectify the improper application of strip searches and cavity searches by police officers.

## **STATE LAW CAUSES OF ACTION**

### **Sixth Cause of Action**

#### ***(VIOLATIONS OF RIGHTS UNDER NEW YORK STATE LAW)***

82. Plaintiff repeats and re-alleges the foregoing allegations as though fully set forth herein.

83. By the actions described above, Defendants DellaDonna and DeVito, jointly and severally have committed the following wrongful acts:

- a) assault and battery;
- b) conversion;
- c) violation of right to privacy; and

d) negligence.

**Seventh Cause of Action**

***(RESPONDEAT SUPERIOR CLAIM AGAINST DEFENDANT YONKERS  
UNDER NEW YORK COMMON LAW)***

84. Plaintiff repeats and re-alleges the foregoing allegations as though fully set forth herein.

85. The conduct of Defendants DellaDonna, DeVito and Desk Sergeant Doe occurred while they were on duty, in and during the course and scope of their duties and functions as Yonkers police officers, and while they were acting as agents and employees of Defendant Yonkers. As a result, Defendant Yonkers is liable to Plaintiff under the doctrine of respondeat superior.

**PUNITIVE DAMAGES**

86. Plaintiff repeats and re-alleges the foregoing allegations as though fully set forth herein..

87. The acts of the individual Defendants were willful, wanton, malicious and oppressive and were motivated solely by a desire to harm Plaintiff without regard for Plaintiff's well-being and were based on a lack of concern and ill-will towards Plaintiff. Such acts therefore deserve an award of punitive damages.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff demands judgment against Defendants:

- a) Compensatory damages;
- b) Punitive damages;
- c) Award costs of this action including attorneys' fees to the Plaintiff pursuant to 42 U.S.C. § 1988; and
- d) Any such other and further relief as this Court may deem appropriate.

**A JURY TRIAL IS DEMANDED**

Dated: New York, New York  
June 21, 2012

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