

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

RECEIVED

MICHAEL EVANS,

Plaintiff,

v.

CITY OF CHICAGO, Present and Former
Chicago Police Officers ANTHONY
KATALINIC, FRED HILL, WILLIAM MOSHER,
JOHN McCABE, THOMAS McKENNA, DENNIS
BANAHAN, JOSEPH DILEONARDI, JOHN
GRIFFITH, RICHARD O'CONNELL, PAUL
NEALIS, PETER DIGNAN, THOMAS FERRY,
PATRICK McGROARTY, JOSEPH DIGIACOMO,
ROY MARTIN, EDWARD LERACZ, and other
AS-YET-UNKNOWN CHICAGO POLICE OFFICERS,

Defendants.

MAY 24 2004

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

JUDGE COAR,

MAGISTRATE JUDGE NOLAN

04C 3570

JURY TRIAL DEMANDED

COMPLAINT

NOW COMES Plaintiff, MICHAEL EVANS, by his attorneys,
LOEVY & LOEVY, LOCKE BOWMAN of the MacARTHUR JUSTICE CENTER, and
LARRY MARSHALL and KAREN DANIEL of the BLUHM LEGAL CLINIC at
NORTHWESTERN UNIVERSITY SCHOOL OF LAW, and complaining of CITY OF
CHICAGO, ANTHONY KATALINIC, FRED HILL, WILLIAM MOSHER, JOHN
McCABE, THOMAS McKENNA, DENNIS BANAHAN, JOSEPH DILEONARDI, JOHN
GRIFFITH, RICHARD O'CONNELL, PAUL NEALIS, PETER DIGNAN, THOMAS
FERRY, PATRICK McGROARTY, JOSEPH DIGIACOMO, ROY MARTIN, EDWARD
LERACZ, and other AS-YET-UNKNOWN CHICAGO POLICE OFFICERS
(collectively, the "Defendant Officers"), alleges as follows:

Introduction

1. In 1976 and continuing thereafter, the above-named
Defendant Chicago Police Officers engaged in a conspiracy to
frame Plaintiff, Michael Evans, for a heinous rape and murder

with which he had absolutely no involvement. As a result of the Defendant Officers' actions, Mr. Evans spent 27 years of his life wrongfully incarcerated for a crime he did not commit.

2. Plaintiff never gave up hope that the truth would prevail and, eventually, it did. More than a quarter of a century after Plaintiff was originally convicted, lawyers working *pro bono* at Northwestern University School of Law's Bluhm Legal Clinic were finally able to overturn his conviction and secure his release from prison on the basis of new DNA evidence.

3. Specifically, by the Summer of 2002, Plaintiff was able to take advantage of recent technological advances in DNA testing to conclusively establish his innocence of the crime for which he had been wrongfully prosecuted and convicted.

4. Though Plaintiff has finally obtained his freedom, he will never regain the lost decades of his life, decades that were stolen from him by the Defendant Officers. Because he was a teenager at the time of his unlawful arrests, Defendants robbed Mr. Evans of his youth, his adolescence, and 27 critical years of his adult life. This lawsuit seeks redress for those injuries.

Jurisdiction and Venue

5. This action is brought pursuant to 42 U.S.C. Section 1983 to redress the deprivation under color of law of Plaintiff's rights as secured by the United States Constitution.

6. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1367. Venue is proper under 28 U.S.C. § 1391(b). The parties reside in this judicial district, and the events giving rise to the claims asserted herein occurred here as well.

The Parties

7. Plaintiff Michael Evans is a 45 years-old resident of the City of Chicago. At the time he was maliciously prosecuted by the Defendants, Plaintiff was a 17-year-old high school student with no criminal record. Since that time, he has spent virtually his entire life behind bars.

8. Defendant City of Chicago is a municipal entity which employs or employed the Defendant Officers.

9. At all times relevant hereto, Defendant DiLeonardi was a Chicago Police Commander who oversaw the investigation which led to Plaintiff's wrongful conviction, and Defendant Griffith was a Lieutenant and the commanding officer of Chicago Police Area 2 Homicide/Sex unit ("Area 2"). In these capacities, these Defendants were the supervisors and commanders of the Defendants identified in the following two paragraphs.

10. At all times relevant hereto, Defendants O'Connell, Ferry and McGroarty were duly appointed Chicago Police Sergeants assigned to Area 2. As such, these Defendants were the direct supervisors of the Defendant detectives described below.

11. At all times relevant hereto, Defendants Katalanic, Hill, McCabe, Mosher, McKenna, Dignan, DiGiacomo, Banahan, Nealis, Leracz, and Martin were duly appointed Chicago Police Detectives assigned to Area 2.

12. All of the foregoing Defendants are sued in their individual capacities, and all acted under color of law and in the scope of their employment in engaging in the actions alleged in this Complaint.

Background Allegations

13. On January 14, 1976, a nine-year-old girl named Lisa Cabassa disappeared while walking home alone in her neighborhood on Chicago's southeast side. Her body was found later that night in an alley several miles from where she had last been seen. She had been brutally raped and murdered.

14. From that day forward, the Cabassa murder attracted consistent media attention; as a result, there was substantial pressure on the Chicago Police Department to identify and catch the perpetrators of this heinous crime. When weeks passed without the arrest of any suspects, this public pressure mounted.

Defendants' Misconduct

15. Rather than continue to perform the police work necessary to properly solve the crime, the Defendants instead conspired among themselves and with others to shortcut the process. Specifically, the Defendants unjustly singled out the Plaintiff and another man, Paul Terry, as potential suspects, and then affirmatively endeavored to stretch and manipulate the facts and the evidence to fit the false hypothesis that they were guilty of the crime.

16. In that regard, the Defendants manufactured "evidence" that falsely implicated Plaintiff. This fabrication of evidence included, but was not limited to, unlawfully manipulating multiple witnesses to falsely implicate Plaintiff by means of improper suggestiveness and outright coercion, all of which violated Plaintiff's constitutional rights.

17. The unlawful witness manipulation described in the preceding paragraph included coercing false and incriminating statements from Michael Evans, Sam Parker, Keith Jones, Columbus Thomas, and Judith Januszewski. Defendants obtained these false, incriminating statements through coercive and unconstitutional tactics, including actual physical violence, threats of physical violence, improper psychological intimidation/pressure, and unduly oppressive conditions of confinement such that the resulting statements were neither true nor the product of the witnesses' free will.

18. In the case of Ms. Januszewski, for example, Defendants pressured her to change material details from her initial description of the night of the murder, including the time she allegedly left her workplace, so as to falsely implicate Plaintiff. Among other improper and coercive tactics, one or more of the Defendants detained Ms. Januszewski in the police station very late one night against her will until her husband arrived and demanded her release, and they repeatedly visited and pressured her to alter the details of her initial statement, all in an attempt to persuade her to incriminate Plaintiff. Ms. Januszewski did not succumb to Defendants' unrelenting pressure to change her story to implicate Plaintiff (whom she had known for years) until more than 40 days after her first contact with the Defendants.

19. In addition to the foregoing misconduct, the Defendant Officers also disregarded and/or destroyed exculpatory evidence, to wit, police reports, notes, and statements that

should have been preserved along with the rest of the Chicago Police Department's files, but were not.

20. The Defendant Officers also deliberately and affirmatively failed to investigate and develop information which would have helped to establish the guilt of individuals other than Plaintiff. Consistent with that endeavor, Defendants unlawfully suppressed information which would have implicated others and thereby exonerated Plaintiff.

21. Defendants further violated Plaintiff's rights by creating various sworn police reports containing materially false "evidence" (e.g., attributing incriminating statements to witnesses who had in fact never made these statements) which were then used to unlawfully detain and convict the Plaintiff.

22. The Defendant Officers also withheld from the Plaintiff -- and, in some instances, from the prosecutors -- evidence that was both exculpatory and material. This unconstitutional conduct included, but was not limited to, withholding knowledge of the existence of exculpatory information concerning Ms. Januszewski and others that would have helped exonerate Plaintiff.

23. Through improper suggestiveness and other unconstitutional tactics, the Defendants also manipulated a line-up identification of Mr. Terry to try to create a false inference that he was Plaintiff's purported co-conspirator in the Cabassa murder. Defendants engaged in this misconduct in order to further implicate Plaintiff, even though Defendants knew there was no basis to connect either Mr. Terry or Plaintiff to the

crime, and Defendants then proceeded to withhold from Plaintiff's defense exculpatory information concerning the same.

24. Defendants also denied Plaintiff access to his mother and to an attorney during his interrogation despite the fact that Plaintiff was a juvenile at the time.

The Malicious Prosecutions

25. In May and June of 1976, Plaintiff stood trial for the kidnapping, rape, and murder of Lisa Cabassa. As a proximate result of the Defendants' misconduct described above, Plaintiff was wrongfully convicted. However, after the trial court learned that the State had improperly failed to disclose to Plaintiff's defense the fact that financial assistance had been provided to the key prosecution witness, Ms. Januszewski, the trial court granted Plaintiff's motion for a new trial.

26. In April 1977, Plaintiff was retried for the Cabassa crime, along with his new co-defendant, Mr. Terry, who by then had been wrongfully implicated by Defendants as Plaintiff's alleged co-conspirator in order to help bolster the false case against Plaintiff.

27. As a proximate result of the above-described misconduct on the part of the Defendant Officers, both Plaintiff and Mr. Terry were found guilty at this second trial of kidnapping, rape, and murder. But for Defendants' above-described misconduct, Plaintiff would have been neither prosecuted nor convicted.

28. In imposing sentence, the trial court observed that Plaintiff had not "shown remorse" for the crime (of which he

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was in fact innocent), and the court sentenced Plaintiff and Mr. Terry to terms of 200-400 years' imprisonment.

Plaintiff's Exoneration

29. Shortly following the Cabassa murder, swabs were made from the victim's vaginal and rectal cavities. The rectal swab was found to be positive for the presence of seminal material, but the state of the technology in the 1970s did not permit definitive DNA testing to determine the identity of the person or persons who had deposited the seminal fluid in the victim. Fortunately, however, the swabs were preserved.

30. Decades later, when more sophisticated testing technology became available, Plaintiff petitioned pursuant to Illinois law to conduct DNA testing at his own expense. In July 2002, the court approved this petition for DNA testing.

31. The resulting DNA testing at Orchid Cellmark laboratory, formerly known as Cellmark Diagnostics, established conclusively (a result later confirmed by a second lab, Bode Technology Group) that neither Plaintiff nor Mr. Terry was the source of the seminal fluid in the victim's body, directly contradicting the theory under which they had been convicted and thereby establishing their innocence.

32. Based on these results, Plaintiff and Mr. Terry subsequently filed petitions for relief from their convictions. The State did not oppose these petitions.

33. On May 23, 2003, Judge Dennis J. Porter vacated Plaintiff's conviction and released him and Mr. Terry immediately on their own recognizance. The Cook County State's Attorney

proceeded to dismiss all charges against Plaintiff on August 22, 2003.

34. In explaining his decision to forgo any additional prosecution, Cook County State's Attorney Richard A. Devine wrote a letter to the *Chicago Tribune* stating in part:

I want to make it very clear that anytime anyone spends a day, a week or a year in jail for a crime he or she did not commit, it is, indeed, regrettable. In the case of Evans and Terry, wrongly incarcerated for 27 years, that feeling of regret is both present and strong.

Plaintiff's Damages

35. At the time he was wrongfully accused of the Cabassa murder, Plaintiff was a 17-year-old student at Bowen High School, without any criminal record whatsoever or any other involvement with the criminal justice system. He lived at home with his mother, father, brother, and sisters, and he spent his free time with his family, enjoying music and playing the clarinet. He also played baseball and basketball.

36. Notwithstanding his eventual exoneration, Plaintiff's life has been ruined by the Defendants' misdeeds. Defendants improperly caused Plaintiff to be removed from his family and his high school environment, and abruptly thrust instead into the Illinois prison system to fend for himself as a teenager in a prison full of dangerous, fully-grown men.

37. Plaintiff's imprisonment was made even more arduous because he faced the stigma within the prison of having been convicted for raping and murdering a child in an abhorrent

manner. As a result, Plaintiff was thoroughly shunned by the inmate population, and worse.

38. Despite a personal background which left him wholly unprepared for prison life, Plaintiff coped the best he could. In prison, Plaintiff became an avid reader, and he received certificates for completion of programs in gold-setting and self-esteem. He also mastered the trade of floor- and tile-stripping.

The Effect on Plaintiff

39. On information and belief, 27 years and three months of wrongful incarceration is the longest prison term ever served in Illinois before exoneration by DNA evidence.

40. In serving nearly three decades behind bars, Plaintiff was wrongfully deprived of not only the end of his youth and his adolescence, but virtually his entire adult life to date. Plaintiff must now attempt to make a life for himself outside of prison without the benefit of the decades of life experiences which ordinarily equip adults for that task.

41. Additionally, the emotional pain and suffering caused by losing 27 years in the prime of life has been substantial. During his wrongful incarceration, Plaintiff was stripped of the various pleasures of basic human experience, from the simplest to the most important, which all free people enjoy as a matter of right. He missed out on the ability to share holidays, births, funerals, and other life events with loved ones, the opportunity to fall in love and marry or to pursue a

career, and the fundamental freedom to live one's life as an autonomous human being.

42. As a result of the foregoing, Plaintiff has suffered almost unfathomable damages, all proximately caused by Defendants' misconduct.

**Policies and Practices:
Chicago's "Street Files"**

43. The unconstitutional withholding of exculpatory information from Plaintiff's defense in this case, as well as the subsequent destruction of some of the same, was all undertaken pursuant to, and proximately caused by, a policy and practice on the part of the Chicago Police Department.

44. Specifically, at all times relevant hereto, members of the Chicago Police Department, including the Defendants in this action, systematically suppressed Brady material by intentionally secreting discoverable information in so-called "street files." As a matter of widespread custom and practice, these clandestine street files were routinely withheld from the State's Attorney's Office and from criminal defendants and were subsequently destroyed.

45. Consistent with the municipal policy and practice described in the preceding paragraphs, Defendants in this case concealed exculpatory evidence within street files which were never disclosed to Plaintiff's criminal defense team and which have since been destroyed. This withholding and destruction of evidence which would have exonerated Plaintiff was undertaken

pursuant to the City's policy and practice in the manner described above.

46. The policy and practice described in the foregoing paragraph was consciously approved at the highest policy-making level for decisions involving the police department, and was a proximate cause of the injuries suffered here by the Plaintiff.

**Further Policies and Practices:
Malicious Prosecution**

47. In addition to the foregoing, Plaintiff was also the victim of, and his injuries were proximately caused by, a policy and practice on the part of the City of Chicago to pursue and secure false convictions through profoundly flawed investigations.

48. Specifically, throughout the 1970s and continuing thereafter, a group of Chicago Police Officers in Area 2, including some or all of the Defendants herein, engaged in a systematic pattern of coercion, fabrication of evidence, withholding of exculpatory information, and other illegal tactics, the sum total of which completely corrupted the investigative process.

49. This institutional desire to "solve" crimes more expediently regardless of actual guilt or innocence, in order to enhance police officers' personal standing in the Department, was known to the command personnel, who themselves participated in the practice.

50. The above-described widespread practices, so well-settled as to constitute *de facto* policy in the Chicago Police

Department during the time period at issue, was able to exist and thrive because municipal policymakers with authority over the same exhibited deliberate indifference to the problem.

51. In addition to Plaintiff and Mr. Terry, there are now dozens of other known victims of similar abuses in Area 2, though there may well be many more. At least thirteen criminal defendants victimized by this practice were wrongfully sentenced to death.

52. The widespread practices described in the preceding paragraphs were allowed to take place because the City declined to implement sufficient training and/or any legitimate mechanism for oversight or punishment. Indeed, the Department's system for investigating and disciplining police officers accused of the type of misconduct which befell Plaintiff was, and is, for all practical purposes, nonexistent.

53. Chicago police officers who manufactured criminal cases against individuals such as Plaintiff had every reason to know that they not only enjoyed *de facto* immunity from criminal prosecution and/or Departmental discipline, but that they also stood to be rewarded for closing cases no matter what the costs. In this way, this system proximately caused abuses, such as the misconduct at issue in this case.

Count I -- 42 U.S.C. § 1983

Due Process

54. Each of the Paragraphs of this Complaint is incorporated as if restated fully herein.

55. As described more fully above, all of the Defendants, while acting individually, jointly, and in 'conspiracy, as well as under color of law and within the scope of their employment, deprived Plaintiff of his constitutional right to a fair trial.

56. In the manner described more fully above, the Defendants deliberately withheld exculpatory evidence, as well as fabricated false reports and other evidence, thereby misleading and misdirecting the criminal prosecution of Plaintiff. Absent this misconduct, the prosecution of Plaintiff could not and would not have been pursued.

57. The Defendant Officers' misconduct also directly resulted in the unjust criminal conviction of Plaintiff, thereby denying him his constitutional right to a fair trial, and a fair appeal thereof, in violation of the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

58. As a result of this violation of his constitutional right to a fair trial, Plaintiff suffered injuries, including, but not limited to, emotional distress, as is more fully alleged above.

59. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally with willful indifference to Plaintiff's constitutional rights.

60. The misconduct described in this Count was undertaken pursuant to the policy and practice of the Chicago Police Department in the manner described more fully above.

Count II -- 42 U.S.C. § 1983

False Imprisonment

61. Each of the Paragraphs of this Complaint is incorporated as if restated fully herein.

62. As described more fully above, all of the Defendants, while acting individually, jointly, and in conspiracy, as well as under color of law and within the scope of their employment, caused Plaintiff to be falsely imprisoned in violation of his constitutional rights.

63. As a result of this violation, Plaintiff suffered injuries, including but not limited to emotional distress, as is more fully alleged above.

64. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally with willful indifference to Plaintiff's constitutional rights.

65. The misconduct described in this Count was undertaken pursuant to the policy and practice of the Chicago Police Department in the manner described more fully above.

Count III -- 42 U.S.C. § 1983

Coerced Confession

66. Each of the Paragraphs of this Complaint is incorporated as if restated fully herein.

67. As more fully described above, one or more of the Defendants used unjustified violence against Plaintiff in an attempt to coerce him to confess to a crime he did not commit.

68. As a result of Defendants' unjustified use of force, Plaintiff suffered great mental anguish, humiliation,

degradation, physical and emotional pain and suffering, and other consequential damages.

69. The misconduct described in this Count was undertaken with malice, willfulness, and reckless indifference to the rights of others.

70. The misconduct described in this Count was also undertaken pursuant to the policy and practice of the Chicago Police Department in the manner described more fully above.

Count IV -- 42 U.S.C. § 1983

6th Amendment

71. Each of the Paragraphs of this Complaint is incorporated as if restated fully herein.

72. As described more fully above, one or more of the Defendants, all while acting individually, jointly, and in conspiracy, as well as under color of law and within the scope of their employment, denied Plaintiff his right to counsel in violation of his constitutional rights.

73. As a result of these violations, Plaintiff suffered injuries, including but not limited to emotional distress, as is more fully alleged above.

74. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally with willful indifference to Plaintiff's constitutional rights.

75. The misconduct described in this Count was undertaken pursuant to the policy and practice of the Chicago Police Department in the manner described more fully above.

Count V -- 42 U.S.C. § 1983

Equal Protection

76. Each of the Paragraphs of this Complaint is incorporated as if restated fully herein.

77. As described more fully above, Defendants, all while acting individually, jointly, and in conspiracy, as well as under color of law and within the scope of their employment, denied Plaintiff equal protection of the law in violation of his constitutional rights.

78. Specifically, these Defendants actively participated in, or personally caused, misconduct in terms of abusing minority criminal suspects in a manner calculated to coerce confessions and secure unjust convictions. Said misconduct was motivated by racial animus and constituted purposeful discrimination; it also affected minorities in a grossly disproportionate manner vis-a-vis similarly-situated Caucasian individuals.

79. As a result of this violation, Plaintiff suffered injuries, including but not limited to emotional distress, as is more fully alleged above.

80. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally with willful indifference to Plaintiff's constitutional rights.

81. The misconduct described in this Count was undertaken pursuant to the policy and practice of the Chicago Police Department in the manner described more fully above.

Count VI -- Section 1985(3) Conspiracy

Conspiracy to Deprive Constitutional Rights

82. Each of the Paragraphs of this Complaint is incorporated as if restated fully herein.

83. As described more fully above, each of the Defendants conspired, directly or indirectly, for the purpose of depriving Plaintiff of Equal Protection of the law.

84. In so doing, Defendants took actions in furtherance of this conspiracy, causing injury to Plaintiff.

85. The misconduct described in this Count was undertaken with malice, willfulness, and reckless indifference to the rights of others.

86. The misconduct described in this Count was undertaken pursuant to the policy and practice of the Chicago Police Department in the manner described more fully in preceding paragraphs.

Count VII -- Section 1983

Conspiracy to Deprive Constitutional Rights

87. Each of the Paragraphs of this Complaint is incorporated as if restated fully herein.

88. After the Cabassa murder, the Defendants reached an agreement amongst themselves to frame Plaintiff for the crime, and to thereby deprive Plaintiff of his constitutional rights, all as described in the various Paragraphs of this Complaint.

89. Independently, before and after Plaintiff's convictions, each of the Defendants further conspired, and continue to conspire, to deprive Plaintiff of exculpatory

materials to which he was lawfully entitled and which would have led to his more timely exoneration of the false charges as described in the various Paragraphs of this Complaint.

90. In this manner, the Defendant Officers, acting in concert with other unknown co-conspirators, including persons who are not members of the Chicago Police Department, have conspired by concerted action to accomplish an unlawful purpose by an unlawful means.

91. In furtherance of the conspiracy, each of the co-conspirators committed overt acts and was an otherwise willful participant in joint activity.

92. As a direct and proximate result of the illicit prior agreement referenced above, Plaintiff's rights were violated, and he suffered financial damages, as well as severe emotional distress and anguish, as is more fully alleged above.

93. The misconduct described in this Count was undertaken with malice, willfulness, and reckless indifference to the rights of others.

94. The misconduct described in this Count was undertaken pursuant to the policy and practice of the Chicago Police Department in the manner described more fully in preceding paragraphs, and was tacitly ratified by policy-makers for the City of Chicago with final policymaking authority.

Count VIII -- Section 1983

Denial of Access to Courts

95. Each of the Paragraphs of this Complaint is incorporated as if restated fully herein.

96. In the manner described more fully herein, each of the Defendants, all while acting individually, jointly, and in conspiracy, denied Plaintiff the right to access to courts by their wrongful suppression and destruction of information and evidence which deprived Plaintiff of constitutional claims against potential Defendants.

97. Other claims were diminished by the passage of years, and the accompanying erosion of evidence necessary to prove these claims against those Defendants.

98. The misconduct described in this Count was undertaken with malice, willfulness, and reckless indifference to the rights of others.

99. The misconduct described in this Count was undertaken pursuant to the policy and practice of the Chicago Police Department in the manner described more fully in preceding paragraphs.

Count IX -- 42 U.S.C. § 1983

Failure to Intervene

100. Each of the Paragraphs of this Complaint is incorporated as if restated fully herein.

101. In the manner described above, during the constitutional violations described above, one or more of the Defendants (and other as-yet-unknown Chicago Police Officers) stood by without intervening to prevent the misconduct.

102. As a result of the Defendant Officers' failure to intervene to prevent the violation of Plaintiff's constitutional rights, Plaintiff suffered pain and injury, as well as emotional

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distress. These Defendants had a reasonable opportunity to prevent this harm, but failed to do so.

103. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally with willful indifference to Plaintiff's constitutional rights.

104. The misconduct described in this Count was undertaken pursuant to Chicago's policy and practice in the manner described in preceding paragraphs.

Count X -- State Law Claim

Malicious Prosecution

105. Each of the Paragraphs of this Complaint is incorporated as if restated fully herein.

106. Defendants caused Plaintiff to be improperly subjected to judicial proceedings for which there was no probable cause. These judicial proceedings were instituted and continued maliciously, resulting in injury, and all such proceedings were terminated in Plaintiff's favor in a manner indicative of innocence.

107. The Defendant Officers identified above accused Plaintiff of criminal activity knowing those accusations to be without probable cause, and they made statements to prosecutors with the intent of exerting influence to institute and continue the judicial proceedings.

108. Statements of the Defendant Officers regarding Plaintiff's alleged culpability were made with knowledge that said statements were false and perjured. In so doing, the

Defendants fabricated evidence and withheld exculpatory information.

109. The misconduct described in this Count was undertaken with malice, willfulness, and reckless indifference to the rights of others.

110. As a result of this misconduct, Plaintiff sustained, and continues to sustain, injuries including pain and suffering.

Count XI -- State Law Claim

Civil Conspiracy

111. Each of the Paragraphs of this Complaint is incorporated as if restated fully herein.

112. As described more fully in the preceding paragraphs, Defendants, acting in concert with other known and unknown co-conspirators, conspired by concerted action to accomplish an unlawful purpose by unlawful means.

113. In furtherance of the conspiracy, Defendants committed overt acts and were otherwise willful participants in joint activity.

114. The misconduct described in this Count was undertaken with malice, willfulness, and reckless indifference to the rights of others.

115. As a proximate result of Defendants' conspiracy, Plaintiff suffered damages, including severe emotional distress and anguish, as is more fully alleged above.

Count XII -- State Law Claim

Intentional Infliction of Emotional Distress

116. Each of the Paragraphs of this Complaint is incorporated as if restated fully herein.

117. The acts and conduct of the Defendant Officers as set forth above were extreme and outrageous. The Defendant Officers intended to cause, or were in reckless disregard of the probability that their conduct would cause, severe emotional distress to Plaintiff, as is more fully alleged above.

118. Said actions and conduct did directly and proximately cause severe emotional distress to Plaintiff, and thereby constituted intentional infliction of emotional distress.

119. The misconduct described in this Count was undertaken with malice, willfulness, and reckless indifference to the rights of others.

120. As a proximate result of Defendants' wrongful acts, Plaintiff suffered damages, including severe emotional distress and anguish, as is more fully alleged above.

Count XIII - State Law Claim

Respondeat Superior

121. Each of the Paragraphs of this Complaint is incorporated as if restated fully herein.

122. In committing the acts alleged in the preceding paragraphs, each of the Defendant Officers were members of, and agents of, the Chicago Police Department acting at all relevant times within the scope of employment and under color of law.

123. Defendant City of Chicago is liable as principal for all torts committed by its agents.

Count XIV - State Law Claim

Indemnification

124. Each of the Paragraphs of this Complaint is incorporated as if restated fully herein.

125. Illinois law provides that public entities are directed to pay any tort judgment for compensatory damages for which employees are liable within the scope of their employment activities.

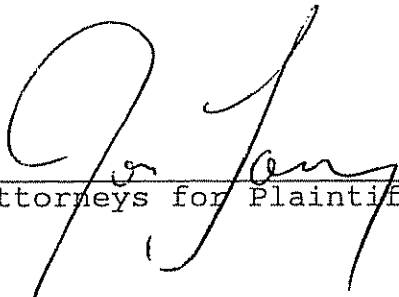
126. The Defendant Officers are or were employees of the Chicago Police Department, who acted within the scope of their employment in committing the misconduct described herein.

WHEREFORE, Plaintiff, MICHAEL EVANS, respectfully request that this Court enter judgment in his favor and against Defendants, CITY OF CHICAGO, ANTHONY KATALINIC, FRED HILL, WILLIAM MOSHER, JOHN McCABE, THOMAS McKENNA, DENNIS BANAHAN, JOSEPH DILEONARDI, JOHN GRIFFITH, RICHARD O'CONNELL, PAUL NEALIS, PETER DIGNAN, THOMAS FERRY, PATRICK MCGROARTY, JOSEPH DIGIACOMO, ROY MARTIN, and EDWARD LERACZ, awarding compensatory damages, costs, and attorneys' fees, along with punitive damages against each of the individual Defendants in their individual capacities, as well as any other relief this Court deems appropriate.

JURY DEMAND

Plaintiff, MICHAEL EVANS, hereby demands a trial by jury pursuant to Federal Rule of Civil Procedure 38(b) on all issues so triable.

RESPECTFULLY SUBMITTED:


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