

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

ANTONIO VIEYRA,)
)
 Plaintiff,)
)
 vs.)
)
 COUNTY OF WILL, a not-for-profit Illinois)
 Corporation, PAUL J. KAUPAS, individually,)
 and as Sheriff of Will County, Will County)
 Adult Detention Facility and)
 STEVEN BROOKS,)
)
 Defendants.)

KC FILED
 JUL 20 2005
 MICHAEL W. DOBBINS
 CLERK, U.S. DISTRICT COURT
 No. 05 C 1904

Judge David H. Coar
 Magistrate Judge Morton Denlow

SECOND AMENDED COMPLAINT AT LAW

NOW COMES the Plaintiff, ANTONIO VIEYRA, by and through his attorneys, CHUCK BRETZ and ASSOCIATES, P.C., and for his Second Amended Complaint against the Defendants, COUNTY OF WILL, PAUL J. KAUPAS, individually, and as Sheriff of Will County, Will County Adult Detention Facility, and STEVEN BROOKS, states as follows:

COUNT I
FALSE IMPRISONMENT

1. That jurisdiction is proper with this court pursuant to 28 U.S.C. 1331 as this matter involves issues of federal law.
2. That all relevant acts occurred in Will County, Illinois.
3. That the Plaintiff, Antonio Vieyra, is a resident of the Northern District of Illinois.
4. That on or about April 8, 2004 the Plaintiff, Antonio Vieyra, was placed under arrest for the offense of Aggravated Battery with associated case number 04 CF 517.
5. That the Plaintiff was alleged to have intentionally and knowingly made physical contact without legal justification with Defendant Will County Sheriff Steven Brooks.

6. That at all relevant times hereto, the Defendants, Sheriff Paul J. Kaupas, and the Will County Adult Detention Facility, were departments of the Defendant, County of Will.

7. That on April 8, 2004, the Plaintiff was in custody at the Will County Adult Detention Facility and was assigned to C Pod on an unrelated matter.

8. That on said date, the Defendant, Steven Brooks was assigned to C Pod in the capacity of a Will County Sheriff.

9. That all times relevant hereto, Defendant, Steven Brooks, was acting as an employee/agent of the Defendants, Will County Adult Detention Facility and the County of Will.

10. That earlier on said date, Defendant, Steven Brooks had told the Plaintiff to quiet down.

11. That some time later on said date, Defendant, Steven Brooks, went back to Cell 4 which housed the Plaintiff.

12. That when Defendant, Steven Brooks, went to Cell 4 to talk with the Plaintiff, it was not pursuant to any County policy or procedure.

13. That Defendant, Steven Brooks, opened up Cell 4 and struck the Plaintiff with a closed fist in his face.

14. That the Plaintiff was placed under arrest and subsequently charged with aggravated battery and resisting a peace officer under the claim that the Plaintiff head-butted the Defendant, Steven Brooks, in the mouth.

15. That on April 8, 2004, the allegations made by the Defendant, Steven Brooks, in his police report that charged the Plaintiff with a criminal offense were fabricated and contained false and misleading statements.

16. That the Defendant, Steven Brooks, wrote, fabricated and filed a complaint against the Plaintiff, while acting in his individual and official capacity and acting under color of state law.

17. That at all times material, the battery on Plaintiff and subsequent filing of false information as the basis of the criminal complaint was premised on an unwritten policy and custom of the Will County Sheriff's Department and Will County Adult Detention Facility, divisions of the County of Will.

18. That the criminal complaint was initiated pursuant to the aforementioned

unwritten policy and its overall purpose to keep the Plaintiff in custody facing additional criminal charges and to validate the inappropriate actions of abuse by Defendant, Steven Brooks.

18. That said policy of enforcing physical assaults to cover up inappropriate and abusive conduct towards prisoners incarcerated at the Will County Adult Detention Facility was a deliberate act by the Defendant, Steven Brooks.

19. That the Defendants, County of Will, Will County Adult Detention Facility and Paul J. Kaupas failed to act/or take serious action as to prevent such actions to protect inmates and, in particular, the Plaintiff.

20. That the Defendants, County of Will, Will County Adult Detention Facility and Paul J. Kaupas are in violation of implemented directives regarding Excessive Force, Official Misconduct, Abuse, and Discrimination.

21. That the Defendants through their widespread misconduct, including the use of excessive force, falsifying of police reports and criminal complaints, have caused the violation of Plaintiff's Constitutional rights.

22. That when this matter proceeded to trial, the Defendant, Steven Brooks, testified that the contact between the Plaintiff and himself could have been done unintentionally and in fact may have been an accident.

23. That the Plaintiff was detained by the Defendants for the offenses of aggravated battery and resisting a peace officer.

24. That the Plaintiff's detention by the Defendants violated Plaintiff's right to Due Process under the Fourteenth Amendment of the United States Constitution.

25. That the Plaintiff's detention by the Defendants, deprived the Plaintiff of his rights, privileges and immunities in violation of Title 42, Chapter 21, Subchapter I, Section 1983 of the United States Code.

26. That the Defendant, County of Will, knew or should have known that Defendants, Will County Adult Detention Facility, Paul J. Kaupas and Steven Brooks violated the rights of those of whom they detain, including the Plaintiff.

27. That the Defendants, County of Will, Will County Adult Detention Facility, and Paul J. Kaupas, have failed to investigate, discipline, reprimand or instruct their officers in anyway for and because of malicious and unconstitutional actions of their officers, thus evincing a policy, practice, and custom of encouraging and condoning such acts.

28. That the Plaintiff was held in custody without any lawful process and caused the Plaintiff to be deprived of his rights secured by the Fourth and Fourteenth Amendments to the Constitution of the United States.

29. That Plaintiff was unlawfully held in custody for this charge and was caused to incur legal expense as a direct and proximate result of the official policies of the County of Will, Will County Adult Detention Facility and Paul J. Kaupas and/or the deliberate indifference of the Defendants.

30. That the misconduct described in this count was undertaken pursuant to the policy and practice of the Will County Sheriff's Department, County of Will, and Will County Adult Detention Facility:

- i. As a matter of both policy and practice, the Defendants failed to adequately train, supervise and control its officers, such that its failure to do manifested deliberate indifference;
- ii. As a matter of both policy and practice, the Defendants facilitated this very type of misconduct, thereby leading the Will County deputies to believe their actions will never be scrutinized and, in that way, directly encouraging future abuses such as those affecting the Plaintiff;
- iii. Generally, as a matter of widespread practice so prevalent as to compromise municipal policy, deputies of Will County abuse prisoners in a manner similar to that alleged by the Plaintiff in this count on a frequent basis;
- iv. Policy makers are aware of (and condone and facilitate by their inaction) a "code of silence" in the Will County Sheriff's Department by which officers fail to report misconduct committed by other officers, such as the misconduct at issue in this case;
- v. The Defendants have failed to act to remedy the patterns of abuse described in the preceding subparagraphs, despite actual knowledge of the same, thereby causing the type of injuries alleged here.

31. That as a direct and proximate result of the above described unlawful detention; the Plaintiff incurred personal, costs of defending a criminal action and emotional stress.

WHEREFORE, the Plaintiff, ANTONIO VIEYRA, prays that this Honorable Court enter judgment against the Defendants, County of Will, Will County Adult Detention Facility, and Paul J. Kaupas in the amount of \$250,000 for compensatory damages, plus costs and attorney's fees and Paul J. Kaupas, individually, and Steven

Brooks in the amount of \$250,000 for compensatory damages, \$500,000.00 for punitive damages, plus costs and attorney's fees.

COUNT II
MALICIOUS PROSECUTION

1-20. That the Plaintiff re-alleges and incorporates paragraphs 1 through 20 of COUNT 1 as paragraph 1 through 20 of COUNT II as though set forth herein *in haec verba*.

21. That the Plaintiff proceeded to trial for the above related offense and associated case number 04 CF 517 on July 13, 2004.

22. That the Plaintiff was found not guilty on all matters presented to the jury.

23. That under information and belief, prior to testifying, Defendant Steven Brooks informed the prosecuting attorney that he could not say that the physical contact between the Plaintiff and himself was done intentionally and that it could have been done by accident.

24. That the Plaintiff was detained in the Will County Adult Detention Facility while this charge was pending and was subjected to isolation.

25. That the prosecution violated Plaintiff's right to Due Process under the Fourteenth Amendment to the United States Constitution.

26. That the Plaintiff's prosecution deprived the Plaintiff of his rights, privileges and immunities in violation of Title 42, Chapter 21 Subsection 1, Section 1983 of the United States Constitution.

27. That the Defendant, County of Will, knew or should have known that Defendant, Steven Brooks, violated the rights of those whom it effectuates arrests without a proper basis, including the Plaintiff.

28. That Plaintiff was prosecuted and subjected to the humiliations of being falsely accused and charged of a crime, and as a direct and proximate result of the actions and official policies of the Defendants, County of Will, Will County Adult Detention Facility, Paul J. Kaupas, and Steven Brooks who violated the rights of the Plaintiff who they prosecuted when they knew or should have known that the circumstances surrounding the arrest of the Plaintiff were not verified as is the policy of the Defendants.

29. That the misconduct described in this count was undertaken pursuant to the policy and practice of the Will County Sheriff's Department, County of Will, and Will County Adult Detention Facility:

- i. As a matter of both policy and practice, the Defendants failed to adequately train, supervise and control its officers, such that its failure to do manifests deliberate indifference;
- ii. As a matter of both policy and practice, the Defendants facilitate the very type of misconduct, thereby leading the Will County deputies to believe their actions will never be scrutinized and, in that way, directly encouraging future abuses such as those affecting the Plaintiff;
- iii. Generally, as a matter of widespread practice so prevalent as to compromise municipal policy, deputies of Will County abuse prisoners in a manner similar to that alleged by the Plaintiff in this count on a frequent basis;
- iv. Policy makers are aware of (and condone and facilitate by their inaction) a "code of silence" in the Will County Sheriff's Department by which officers fail to report misconduct committed by other officers, such as the misconduct at issue in this case;
- v. The Defendants have failed to act to remedy the patterns of abuse described in the preceding subparagraphs, despite actual knowledge of the same, thereby causing the type of injuries alleged here.

30. That as a direct and proximate result of the above described unlawful prosecution, the Plaintiff incurred personal injuries, costs of defending a criminal action, and emotional stress.

WHEREFORE, the Plaintiff, ANTONIO VIEYRA, prays that his Honorable Court enter judgment against the Defendants, County of Will, Will County Adult Detention Facility, and Paul J. Kaupas in the amount of \$250,000 for compensatory damages, plus costs and attorney's fees and Paul J. Kaupas, individually and Steven Brooks in the amount of \$250,000 for compensatory damages, \$500,000.00 for punitive damages, plus costs and attorney's fees.

COUNT III
BATTERY

1-13. That the Plaintiff re-alleges and incorporates paragraphs 1 through 13 of COUNT 1 as paragraph 1 through 13 of COUNT III as though set forth herein *in haec verba*.

14. That Defendant, Steven Brooks, opened up Cell 4 and struck the Plaintiff with a closed fist in his face.

15. That the Plaintiff was placed under arrest and subsequently charged with aggravated battery and resisting a peace officer under the claim that the Plaintiff head-butted the Defendant, Steven Brooks, in the mouth.

16. That at the time the Defendant, Steven Brooks, struck the Plaintiff it was without any legal justification or provocation.

17. That the Plaintiff was detained in the Will County Adult Detention Facility while this charge was pending and was subjected to isolation.

18. That at all times material, the battery on Plaintiff and subsequent filing of false information as the basis of the criminal complaint was premised on an unwritten policy and custom of the Will County Sheriff's Department and Will County Adult Detention Facility, divisions of County of Will.

19. That the criminal complaint was initiated pursuant to the aforementioned unwritten policy and its overall purpose to keep the Plaintiff in custody facing additional criminal charges and to validate the inappropriate actions of abuse by Defendant Steven Brooks.

20. That said policy of enforcing physical assaults to cover up inappropriate and abusive conduct towards prisoners incarcerated at the Will County Adult Detention Facility was a deliberate act by the Defendant, Steven Brooks.

21. That the Defendants, County of Will, Will County Adult Detention Facility, and Paul J. Kaupas failed to act/or take serious action as to prevent such actions to protect inmates, and in particular the Plaintiff.

22. That the Defendants, County of Will, Will County Adult Detention Facility, and Paul J. Kaupas are in violation of implemented directives regarding Excessive Force, Official Misconduct, Abuse and Discrimination.

23. That the Defendants through their widespread misconduct, including the use of physical force, falsifying of police reports and criminal complaints, have caused the violation of Plaintiff's Constitutional rights.

24. That the Plaintiff's physical abuse by the Defendants, violated Plaintiff's right to Due Process under the Fourteenth Amendment of the United States Constitution.

25. That the Plaintiff's physical abuse by the Defendant, deprived the Plaintiff of his rights, privileges and immunities in violation of Title 42, Chapter 21, Subchapter I, Section 1983 of the United States Code.

26. That the Defendant, County of Will, knew or should have known that Defendants, Will County Adult Detention Facility, Paul J. Kaupas and Steven Brooks violated the rights of those of whom they physically assault, including the Plaintiff.

27. That the Defendants, County of Will, Will County Adult Detention Facility, and Paul J. Kaupas, have failed to investigate, discipline, reprimand or instruct their officers in anyway for and because of malicious and unconstitutional actions of their officers, thus evincing a policy, practice and custom of encouraging and condoning such acts.

28. That the Plaintiff was physically assaulted without any lawful justification and caused the Plaintiff to be deprived of his rights secured by the Fourth and Fourteenth Amendments to the Constitution of the United States.

29. That Plaintiff was caused injuries as a direct and proximate result of the official polices of the County of Will, Will County Adult Detention Facility and Paul J. Kaupas and/or the deliberate indifference of Defendants.

30. That the misconduct described in this count was undertaken pursuant to the policy and practice of the Will County Sheriff's Department, County of Will, and Will County Adult Detention Facility:

- vi. As a matter of both policy and practice, the Defendants failed to adequately train, supervise and control its officers, such that it failure to do manifested deliberate indifference;
- vii. As a matter of both policy and practice, the Defendants facilitated the very type of misconduct, thereby leading the Will County deputies to believe their actions will never be scrutinized and, in that way, directly encouraging future abuses such as those affecting the Plaintiff;
- viii. Generally, as a matter of widespread practice so prevalent as to compromise municipal policy, deputies of Will County abuse prisoners in a manner similar to that alleged by the Plaintiff in this count on a frequent basis;
- ix. Policy makers are aware of (and condone and facilitate by their inaction) a "code of silence" in the Will County Sheriff's Department by which officers fail to report misconduct committed by other officers, such as the misconduct at issue in this case;
- x. The Defendants have failed to act to remedy the patterns of abuse described in the preceding subparagraphs, despite actual knowledge of the same, thereby causing the type of injuries alleged here.

32. That as a direct and proximate result of the above described unlawful battery, the Plaintiff incurred personal injury and emotional stress.

WHEREFORE, the Plaintiff, ANTONIO VIEYRA, prays that this Honorable Court enter judgment against the Defendants, County of Will, Will County Adult Detention Facility, and Paul J. Kaupas in the amount of \$250,000 for compensatory damages, plus costs and attorney's fees and Paul J. Kaupas, individually, and Steven Brooks in the amount of \$250,000 for compensatory damages, \$500,000.00 for punitive damages, plus costs and attorney's fees.

COUNT IV
INTENTIONAL INFLICTION OF
EMOTIONAL DISTRESS

1-20. That the Plaintiff re-alleges and incorporates paragraphs 1 through 20 of COUNT I as paragraph 1 through 20 of COUNT IV as though set forth herein *in haec verba*.

21. That actions of the Defendants were extreme and outrageous, was done intentionally, willful and wantonly, and/or knowingly there was a high probability that their conduct would cause the Plaintiff severe emotional distress.

22. That as a direct and proximate cause of the Defendants' extreme and outrageous conduct, the Plaintiff suffered injury and severe emotional distress.

23. That the Defendants through their widespread misconduct, including the use of excessive force, falsifying of police reports and criminal complaints, have caused the violation of Plaintiff's Constitutional rights.

24. That the Plaintiff was detained by the Defendants for the offenses of aggravated battery and resisting a peace officer.

25. That the Plaintiff's detention, physical abuse and subsequent prosecution by the Defendants causing mental distress violated Plaintiff's right to Due Process under the Fourteenth Amendment of the United States Constitution.

26. That the Plaintiff's detention, physical abuse and subsequent prosecution by the Defendants causing mental distress, deprived the Plaintiff of his rights, privileges and immunities in violation of Title 42, Chapter 21, Subchapter I, Section 1983 of the United States Code.

27. That the Defendant County of Will knew or should have known that Defendants, Will County Adult Detention Facility, Paul J. Kaupas, and Steven Brooks

violated the rights of those of whom they detain, physically abuse and subsequent prosecution including the Plaintiff.

28. That the Defendants, County of Will, Will County Adult Detention Facility, and Paul J. Kaupas, have failed to investigate, discipline, reprimand or instruct their officers in any way for and because of malicious and unconstitutional actions of their officers, thus evincing a policy, practice and custom of encouraging and condoning such acts.

29. That the Plaintiff's detention, physical abuse and being subjected to a criminal prosecution was without any lawful process or justification which caused the Plaintiff to be deprived of his rights secured by the Fourth and Fourteenth Amendments to the Constitution of the United States.

30. That Plaintiff's detention, physical abuse and being subjected to a criminal prosecution caused him mental anguish as a direct and proximate result of the official policies of the County of Will, Will County Adult Detention Facility, and Paul J. Kaupas and/or the deliberate indifference of the Defendants.

31. That the misconduct described in this count was undertaken pursuant to the policy and practice of the Will County Sheriff's Department, County of Will, and Will County Adult Detention Facility:

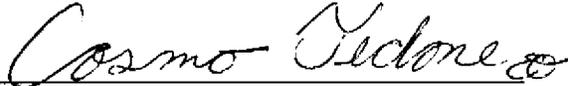
- xi. As a matter of both policy and practice, the Defendants failed to adequately train, supervise and control its officers, such that it failure to do manifested deliberate indifference;
- xii. As a matter of both policy and practice, the Defendants facilitated the very type of misconduct, thereby leading the Will County deputies to believe their actions will never be scrutinized and, in that way, directly encouraging future abuses such as those affecting the Plaintiff;
- xiii. Generally, as a matter of widespread practice so prevalent as to compromise municipal policy, deputies of Will County abuse prisoners in a manner similar to that alleged by the Plaintiff in this count on a frequent basis;
- xiv. Policymakers are aware of (and condone and facilitate by their inaction) a "code of silence" in the Will County Sheriff's Department by which officers fail to report misconduct committed by other officers, such as the misconduct at issue in this case;
- xv. The Defendants have failed to act to remedy the patterns of abuse described in the preceding subparagraphs, despite actual knowledge of the same, thereby causing the type of injuries alleged here.

33. That as a direct and proximate result of the above described unlawful detention, the Plaintiff incurred personal injury, costs of defending a criminal action, and emotional stress.

WHEREFORE, the Plaintiff, ANTONIO VIEYRA, prays that this Honorable Court enter judgment against the Defendants, County of Will, Will County Adult Detention Facility, and Paul J. Kaupas in the amount of \$250,000 for compensatory damages, plus costs and attorney's fees and Paul J. Kaupas, individually and Steven Brooks in the amount of \$250,000 for compensatory damages, \$500,000.00 for punitive damages, plus costs and attorney's fees.

Respectfully submitted,

CHUCK BRETZ and ASSOCIATES, P.C.

By: 
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