

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

KELLEY ALTOM,)	
)	
Plaintiff,)	No. 13-cv-1076
)	
vs.)	Judge
)	Magistrate Judge
VILLAGE OF SCHAUMBURG,)	
Schaumburg Police Officers)	
MATTHEW HUDAK, Star 3161,)	Jury Demand
TERRANCE O'BRIEN, Star 1794,)	
and Unknown Schaumburg police officers)	
)	
Defendants.)	

COMPLAINT

1. This is an action for money damages brought pursuant to 42 U.S.C. § 1983.
2. Jurisdiction for Plaintiff's federal claims is based on 28 U.S.C. §§ 1331 and 1343(a).
3. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b), in that the claims arose in this district as alleged below.

Parties

4. Plaintiff is a resident of Schaumburg, Illinois.
5. Defendant-Officers are duly appointed and sworn Schaumburg police officers. At all times relevant to this Complaint, the Defendant-Officers were acting in the course and scope of their employment, and under color of state law, ordinance and/or regulation.
6. The Defendant-Officers are sued in their individual capacities.
7. Defendant VILLAGE OF SCHAUMBURG is a municipal corporation, duly incorporated under the laws of the State of Illinois, and is the employer and principal of the Defendant-Officers.

Introduction

8. This case involves allegations against police officers who worked for the Schaumburg Police Department. The incident alleged below was part of a pattern and practice of these officers, who essentially ran a robbery ring which entailed illegally entering persons' homes; conducting illegal searches of homes, vehicles, and persons; false arrests; stealing narcotics and money; and engaging in physical abuse, intimidation and threats in order to extort narcotics and money as well as cover up the officers' own illegal conduct.

On January 16, 2013, three Schaumburg police officers were arrested and charged: TERRANCE O'BRIEN and MATTHEW HUDAK, Defendants in this case, along with John Cichy. These officers were charged with multiple felonies. Following the arrests, large bonds were issued to the officers. These officers are currently fighting the charges.

Facts

9. On or about February 24, 2011, Defendants HUDAK, O'BRIEN and other currently unknown police officers executed a search warrant at Plaintiff's residence in Schaumburg.

10. The search warrant was issued based upon an affidavit of Defendant HUDAK.

11. Defendant HUDAK made knowingly false statements in the affidavit.

12. Without these false statements, the search warrant would not have been issued.

13. During the execution of the search warrant, the Defendant-Officers, including Defendants HUDAK and O'BRIEN pointed their weapons at Plaintiff's head.

14. Plaintiff was violently shoved to the ground during the search.

15. Plaintiff was complying with the Defendant-Officers and did not pose a risk to them while they pointed their guns at Plaintiff's head and when they shoved him to the ground.

16. After searching Plaintiff's home, Defendants HUDAK and O'BRIEN went to Plaintiff's grandmother's home in Hoffman Estates. Plaintiff was not with the Defendant-Officers at this time.

17. Defendant HUDAK falsely claimed that Plaintiff stated he lived at the Hoffman Estates home, and that the Schaumburg home – which Defendants had just searched – was vacant.

18. Plaintiff lives in the Schaumburg home and his grandmother lives in the Hoffman Estates home.

19. The Defendant-Officers, including Defendants HUDAK and O'BRIEN also searched the Hoffman Estates home.

20. The Defendant-Officers did not have a search warrant for the Hoffman Estates home.

21. Defendant-Officers removed about \$5,000.00 in cash from the Hoffman Estates home. The Defendant-Officers only inventoried \$2,820.00 of the \$5,000.00. The remaining \$2,180.00 was seized and converted by the Defendant-Officers.

22. Plaintiff was charged with Unlawful Production and Unlawful Possession with Intent to Deliver Cannabis. The case was docketed in the Cook County Circuit Court as: People v. Kelley Altom, 11 C3 30243.

23. On July 28, 2011, a hearing was held regarding the search warrant at issue. The Judge granted Plaintiff's motion quash the search warrant and the charges against Plaintiff were dismissed.

24. Defendant-Officers made out false and incomplete official reports and gave a false and incomplete version of the event to other police officers investigating the incident in order to cover up their misconduct.

25. Each individual Defendant-Officer acted willfully, wantonly, maliciously, oppressively, and with a conscious disregard and deliberate indifference to Plaintiff's rights.

26. As a direct and proximate result of the acts of the Defendants described above, Plaintiff has suffered and continues to suffer damages including loss of physical liberty, emotional distress, pain and suffering, and monetary losses including attorney's fees, and property damage.

COUNT I
(42 U.S.C. § 1983 – Excessive Force)

27. Plaintiff realleges paragraphs 1 through 26 as if fully set forth herein.

28. The Defendant-Officers pointed their weapons at Plaintiff and violently shoved Plaintiff to the ground.

29. Defendant-Officers violated Plaintiff's Fourth Amendment right, as guaranteed by the Fourteenth Amendment, to be free from the use of excessive and unreasonable force.

WHEREFORE, Plaintiff asks that this Honorable Court:

- a) Enter judgment against Defendant-Officers,
- b) Award Plaintiff compensatory and punitive damages,
- c) Award attorneys' fees and costs, and
- d) Award any further relief that this Honorable Court deems just and equitable.

COUNT II

(42 U.S.C. § 1983 – Unreasonable Search of Home)

30. Plaintiff realleges paragraphs 1 through 26 as if fully set forth herein.

31. Defendant-Officers searched Plaintiff's home.

32. Defendant HUDAK prepared a knowingly false affidavit for a search warrant for Plaintiff's home.

33. Defendant-Officers did not have a valid search warrant, consent, exigent circumstances, or any other legal justification to search Plaintiff's home.

34. Searching Plaintiff's home without any legal justification violated his Fourth Amendment right, as guaranteed by the Fourteenth Amendment, to be free from unreasonable searches.

WHEREFORE, Plaintiff asks that this Honorable Court:

- a) Enter judgment against Defendant-Officers,
- b) Award Plaintiff compensatory and punitive damages,
- c) Award attorneys' fees and costs, and
- d) Award any further relief that this Honorable Court deems just and equitable.

COUNT III

(42 U.S.C. § 1983 – Substantive Due Process, Abuse of Power)

35. Plaintiff realleges paragraphs 1 through 26 as if fully set forth herein.

36. The actions of the Defendant-Officers were an egregious arbitrary abuse of government power that shocks the conscience.

WHEREFORE, Plaintiff asks that this Honorable Court:

- a) Enter judgment against said Defendant-Officers;
- b) Award Plaintiff compensatory and punitive damages, as determined at trial;
- c) Award Plaintiff attorney's fees and costs;
- d) Award such other and additional relief that this Honorable Court deems just and equitable.

COUNT IV
(42 U.S.C. § 1983 – Civil Conspiracy)

37. Plaintiff realleges paragraphs 1 through 26 as if fully set forth herein.

38. Defendant-Officers knowingly and intentionally schemed and worked together in a common plan to illegally search his house, and steal money from him.

39. Defendant-Officers then conspired and acted together to cover up their misconduct.

WHEREFORE, Plaintiff asks that this Honorable Court:

- a) Enter judgment against said Defendant-Officers;
- b) Award Plaintiff compensatory and punitive damages, as determined at trial;
- c) Award Plaintiff attorney's fees and costs;
- d) Award such other and additional relief that this Honorable Court deems just and equitable.

COUNT V
(42 U.S.C. § 1983 – *Monell* Claim against the Village of Schaumburg)

40. Plaintiff realleges all of the above paragraphs and counts, as if fully set forth herein.

41. The incident alleged in this Complaint was part of a pattern and practice of these officers, who essentially ran a robbery ring which entailed illegally entering persons' homes; conducting illegal searches of homes, vehicles, and persons; false arrests; stealing narcotics and money; and engaging in physical abuse, intimidation and threats in order to extort narcotics and money as well as cover up the officers' own illegal conduct.

42. At all times material to this Complaint, there existed in the Village of Schaumburg the following practices, policies and customs:

- a. searching person's homes without a warrant, probable cause, reasonable suspicion, consent, or any other legal basis;
- b. preparing false and incomplete police reports, and/or not preparing police reports, to cover up police misconduct including unconstitutional searches and seizures;
- c. filing false charges and pursuing baseless prosecutions in order to protect police officers from claims of improper conduct and avoid liability;
- d. a *code of silence* in which police officers fail to report police misconduct;
- e. said *code of silence* also includes police officers either remaining silent or giving false and misleading information during trials and official investigations to cover up misconduct, and protect themselves and other officers;
- f. failure to adequately train, supervise and discipline police officers in the categories and fields of police work addressed in sub-paragraphs a - e above;
- g. failure to adequately investigate citizen complaints against police officers;
- h. failure to adequately discipline police officers for misconduct;

43. The actions of the Defendant-Officers as alleged in this Complaint were done pursuant to, and as a result of, one or more of the above *de facto* practices, policies and customs of the Village of Schaumburg, the Schaumburg Police Department, and its police officers.

44. One or more of the following entities, authorities and officials are responsible for the policies, practices and customs alleged above: the Mayor of Schaumburg, the Schaumburg Police Department, the Schaumburg Chief of Police.

45. The practices, policies and customs described above are widespread, permanent and well-settled, and were known, or should have been known, to the municipal policy-makers of the Village of Schaumburg.

46. The municipal policy-makers of the Village of Schaumburg acted with deliberate indifference to the rights of Plaintiffs in maintaining, overlooking and preserving the unconstitutional practices, policies and customs delineated above.

47. By their inaction and failure to correct the above-described practices, policies and customs, municipal policy-makers tacitly approve and thus indirectly authorize the type of misconduct Plaintiff complains of herein.

WHEREFORE, Plaintiff asks that this Honorable Court:

- a) Enter judgment against the Village of Schaumburg;
- b) Award Plaintiff compensatory damages, as determined at trial;
- c) Award Plaintiff attorney's fees and costs;
- d) Award such other and additional relief that this Honorable Court deems just and equitable.

COUNT VI
(Indemnification Claim pursuant to 745 ILCS 10/9-102)

48. The acts of the Defendant-Officers described in the above claims were willful and wanton, and committed in the scope of employment.

49. Pursuant to the Illinois Tort Immunity Act, 745 ILCS 10/9-102, Defendant VILLAGE OF SCHAUMBURG is liable for any judgments for compensatory damages in this case arising from the Defendant-Officers' actions.

WHEREFORE, Plaintiff asks that this Honorable Court order Defendant VILLAGE OF SCHAUMBURG to indemnify the Defendant-Officers for any judgment for compensatory damages in this case arising from their actions.

Jury Trial Demanded

Respectfully submitted,

/s/ Louis J. Meyer
Counsel for the Plaintiff

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