

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DAVID TEAL,

Plaintiff,

v.

CITY OF AMSTERDAM, CITY OF
AMSTERDAM POLICE DEPARTMENT,
CITY OF AMSTERDAM POLICE OFFICER
RAYMOND RENZI, CITY OF AMSTERDAM
POLICE OFFICER AURELIO FIORILLO and
CITY OF AMSTERDAM POLICE OFFICER
VJAY RATHORE,

Defendants.

Case No. 1:21-cv-01256 (BKS/DJS)

**42 U.S.C. § 1983 AMENDED
COMPLAINT FOR DAMAGES**

MONELL LIABILITY

**FALSE ARREST & UNLAWFUL
IMPRISONMENT**

USE OF EXCESSIVE FORCE

DEMAND FOR JURY TRIAL

E. STEWART JONES HACKER MURPHY, LLP
James C. Knox, Esq.
Bar Roll No. 517109
Attorneys for Plaintiff
28 Second Street
Troy, New York 12180
Telephone: (518) 274-5820

NOW COMES plaintiff, DAVID TEAL, by and through his attorneys, E. STEWART JONES HACKER MURPHY, LLP, complaining of defendants CITY OF AMSTERDAM, CITY OF AMSTERDAM POLICE DEPARTMENT, CITY OF AMSTERDAM POLICE OFFICER RAYMOND RENZI, CITY OF AMSTERDAM POLICE OFFICER AURELIO FIORILLO and CITY OF AMSTERDAM POLICE OFFICER VJAY RATHORE, alleging as follows:

BACKGROUND AND JURISDICTION

1. This is an action for money damages brought pursuant to 42 U.S.C. §§ 1983 and 1988 and the Fourth and Fourteenth Amendments to the United States Constitution. Jurisdiction is based upon 28 U.S.C. §§ 1331 and 1343.
2. The defendants made an unreasonable seizure of plaintiff in violation of his rights under the Fourth and Fourteenth Amendments to the United States Constitution, and then further violated those same Amendments by using excessive force against plaintiff.
3. The defendant City of Amsterdam had a policy, custom, history, pattern and/or practice that members of the City of Amsterdam Police Department unlawfully arrest, falsely imprison and use excessive force against civilians in violation of their Fourth and Fourteenth Amendment rights and, as a result, plaintiff suffered a violation of his rights under the Fourth and Fourteenth Amendments of the United States Constitution.

PARTIES

4. The plaintiff is a resident of the State of New York.
5. At all relevant times, defendant City of Amsterdam was a municipality with authority over the City of Amsterdam Police Department and its officers.

6. At all relevant times, defendants City of Amsterdam Police Officers Raymond Renzi, Aurelio Fiorillo and Vjay Rathore were duly-appointed and acting law enforcement officers of the police department of the City of Amsterdam, acting under color of the statutes, ordinances, regulations, policies, customs, practices and usages of the City of Amsterdam and the City of Amsterdam Police Department

FACTS

7. On July 13, 2021, having committed no crime, plaintiff was lawfully at his residence located at 49 South Mathias, in the City of Amsterdam, New York.

8. At approximately 9:12 p.m. on said date, while employed as City of Amsterdam Police Officers, defendants Renzi, Fiorillo and Rathore traveled to plaintiff's residence in response to a noise complaint.

9. Acting without warrant or legal cause, defendants Renzi, Fiorillo and Rathore entered said property.

10. Without legal cause or warrant, defendants Renzi, Fiorillo and Rathore approached plaintiff.

11. Without legal cause, defendants Renzi, Fiorillo and Rathore used excessive force upon plaintiff to effect an unlawful arrest of plaintiff for an alleged violation of the Amsterdam City Code Chapter 154, "Noise."

12. Violations of said chapter are not arrestable offenses.

13. Without legal cause, defendants Renzi, Fiorillo and Rathore used excessive force upon plaintiff to effect an arrest for an alleged violation of the Amsterdam City Code Chapter 154

“Noise.”

14. Although plaintiff was not resisting in any way, defendants Renzi, Fiorillo and Rathore used excessive force upon plaintiff to effect their arrest of plaintiff.

15. In the course of effecting such arrest, defendants Renzi, Fiorillo and Rathore slammed defendant bodily to the ground and then wrenched his left leg, causing his lower left leg to bend against the direction of the natural motion of said joint, through at least 90 degrees of forced movement.

16. In said exercise of excessive force, defendants Renzi, Fiorillo and Rathore caused traumatic injury to plaintiff, including but not limited to fracturing his left tibia, dislocating his left knee, tearing his left anterior cruciate ligament, tearing his left posterior cruciate ligament, tearing the lateral collateral ligament of his left knee, tearing the lateral meniscus of his left knee, causing nerve damage in his left leg and causing traumatic injury to the blood vessels and other tissues of his left leg.

17. Immediately thereafter, one of defendants Renzi, Fiorillo and Rathore remarked words to the effect of, “I heard it pop.”

18. Said injuries prevented circulation from reaching plaintiff’s lower left leg, resulting in severe pain and injury to the muscles and other tissues of plaintiff’s lower leg.

19. Plaintiff was deprived of his freedom of movement and personal liberty as a result of the actions of defendants Renzi, Fiorillo and Rathore.

20. Although plaintiff was innocent of any crime, and although plaintiff was traumatically injured and physically immobilized, defendants Renzi, Fiorillo and Rathore placed

handcuffs on plaintiff.

21. Plaintiff was thereafter transported by ambulance to St. Mary's Hospital in Amsterdam, New York, where he was observed to have extreme pain and deformity under his left knee cap.

22. While at St. Mary's Hospital, plaintiff was initially diagnosed with a fractured tibia and vascular damage to his leg.

23. At approximately 8:00 a.m. the following morning, plaintiff was emergently transferred by St. Mary's Hospital to Albany Medical Center where, almost immediately upon arrival, he underwent an emergency surgery approximately 2 to 3 hours in length to repair the vascular damage in his left leg.

24. To repair the vascular damage in plaintiff's left leg, a section of blood vessel from plaintiff's right leg had to be harvested during the surgery.

25. Plaintiff was placed on a ventilator, which he remained on for several days, in a semi-unconscious state.

26. As a result of the injuries caused by defendants, doctors had to make incisions on plaintiff's lower leg to relieve the swelling; as a result plaintiff had massive open wounds on his lower left leg that had to remain open for weeks.

27. Plaintiff then required multiple ongoing procedures and/or surgeries, including skin grafts to repair the open wounds.

28. Plaintiff's open wounds were not able to be closed by skin grafts until early September 2021, over six weeks into the course of plaintiff's hospitalization.

29. During that time, the dressing of his open wounds had to be changed every three days, and each time the dressing-change procedure caused extreme pain and discomfort to plaintiff.

30. A large patch of skin had to be harvested from plaintiff's left thigh to provide the skin for the grafts.

31. Plaintiff was hospitalized on an inpatient basis as a result of the injuries caused by defendants for approximately 8 weeks.

32. Plaintiff suffered severe pain as a result of the above procedures and injuries.

33. Plaintiff suffered massive, permanent scarring on his legs.

34. Since his discharge from the hospital, plaintiff has been confined to a wheelchair.

35. Plaintiff is unable to work as a result of his injuries.

36. Plaintiff's surgeries to date have only addressed the vascular damage caused by defendants.

37. Plaintiff will require future surgeries to address the injuries to the knee joint itself.

38. As a direct and proximate result of defendants' use of unnecessary force, plaintiff was severely injured.

39. As a result of the injuries he has suffered, plaintiff is permanently partially disabled.

40. On or about July 13, 2021, defendants filed charges against plaintiff, knowingly and falsely alleging that plaintiff had committed a violation of the Amsterdam City Code and the crime of Resisting Arrest.

41. Defendants knowingly filed these charges against plaintiff without probable cause and with the intent to justify their use of excessive force upon plaintiff and their unlawful arrest

and imprisonment of plaintiff.

42. Said charges against plaintiff were dismissed in the Amsterdam City Court on October 13, 2021.

43. At all times during the events described above, defendant police were engaged in a joint venture. The individual police defendants assisted each other in performing the various actions described and lent their physical presence, support and the authority of their office, to each other during the described events.

44. At all times during the events described above, defendants Renzi, Fiorillo and Rathore materially aided and worked with each other.

45. The above actions of defendants Renzi, Fiorillo and Rathore caused substantial pain and physical injury to plaintiff, including but not limited to bruising, contusions, lacerations, vascular injury, knee injury, nerve damage, chronic pain and psychological and emotional trauma.

46. At all relevant times, defendant City of Amsterdam had municipal policies or customs in which defendant City of Amsterdam Police Department members, including, but not limited to, defendant officers, falsely arrested, falsely imprisoned and used excessive force against civilians in violation of civilians' rights granted under the Fourth and Fourteenth Amendments to the United States Constitution.

47. At all relevant times, defendant City of Amsterdam and Defendant City of Amsterdam Police Department exercised deliberate indifference by failing to train City of Amsterdam Police Department members, including, but not limited to, individual defendant officers, to not falsely arrest, unlawfully imprison or use excessive force against civilians in

violation of the Fourth and Fourteenth Amendments to the United States Constitution.

48. At all relevant times, defendant City of Amsterdam and defendant City of Amsterdam Police Department knew to a moral certainty that department members, including, but not limited to, defendant officers, would confront situations in which they would be required to arrest, imprison and use force against civilians.

49. At all relevant times, defendant City of Amsterdam and defendant City of Amsterdam Police Department knew to a moral certainty that City of Amsterdam Police Department members, including, but not limited to, defendant officers, would face choices about whether to arrest and/or imprison, and/or about the amount of force required when interacting with civilians, as to which choices training or supervision by defendant City of Amsterdam and defendant City of Amsterdam Police Department would make said choices less difficult.

50. There is a history, pattern, practice and custom of defendant City of Amsterdam Police Department members, including, but not limited to, defendant officers, who have falsely arrested, unlawfully imprisoned, and/or used excessive force upon civilians which has frequently caused and continues to cause the deprivation of civilians' rights under the Fourth and Fourteenth Amendments to the United States Constitution.

51. The history, pattern, practice and custom of defendant City of Amsterdam Police Department members, including, but not limited to, defendant officers, of falsely arresting, unlawfully imprisoning, and/or using excessive force upon civilians in violation of their rights under the Fourth and Fourteenth Amendments to the United States Constitution is permanent and widespread.

52. The City of Amsterdam and the City of Amsterdam Police department have tolerated, fostered, permitted, been deliberately indifferent to and/or encouraged such pattern, practice and custom of false arrests, unlawful imprisonment and uses of excessive force by department members.

53. The City of Amsterdam and the City of Amsterdam Police Department, with knowledge of said history, pattern, practice and custom of false arrests, unlawful imprisonment and uses of excessive force by members of the City of Amsterdam Police Department, have failed to take necessary steps to correct, change or alter such pattern, practice and custom.

54. The City of Amsterdam and the City of Amsterdam Police department have created, permitted, failed to correct, tolerated and encouraged said customs, cultures and practices of the false arrest, unlawful imprisonment and uses of excessive force by department officer by the above detailed actions and by, among other things:

- a. Routinely and deliberately failing to or refraining from investigating allegations of officer misconduct, false arrest, unlawful imprisonment and/or the use of excessive force;
- b. Routinely and deliberately failing to or refraining from disciplining officers who have committed misconduct, including false arrest, unlawful imprisonment and/or using excessive force;
- c. Routinely and deliberately failing to or refraining from training officers to avoid false arrest, unlawful imprisonment and/or the use of excessive force; and
- d. Routinely and deliberately rewarding and promoting department members who

engaged in false arrest, unlawful imprisonment and/or the use of excessive force.

55. As a direct and proximate result of the acts of the defendants, the plaintiff suffered the following injuries and damages:

- a. Violation of his constitutional rights under the Fourth and Fourteenth Amendments to the United States Constitution to not be subjected to false arrest, unlawful imprisonment and excessive force;
- b. Physical damages, including medical expenses, pain and suffering and psychological and emotional trauma;
- c. Economic loss, including loss of income and other expenses; and
- d. The actions of the defendants violated the clearly established and well settled Federal constitutional rights of plaintiff.

COUNT ONE

42 U.S.C. § 1983
Monell Liability

(Defendants City of Amsterdam and City of Amsterdam Police Department)

56. Plaintiff re-alleges and incorporates by reference herein all preceding paragraphs of plaintiff's complaint.

57. Defendants City of Amsterdam and City of Amsterdam Police Department, by the actions detailed above, created, fostered, permitted and maintained a pattern and practice that members of the City of Amsterdam Police Department violate civilians' right to be free from false arrest, unlawful imprisonment and/or excessive force granted by the Fourth and Fourteenth

Amendments to the United States Constitution, including the actions detailed above of defendants herein.

58. Defendants City of Amsterdam and City of Amsterdam Police Department, by the actions detailed above, were deliberately indifferent to false arrest, unlawful imprisonment and/or the excessive use of force by department members, including the actions detailed herein of defendants herein.

59. Defendants City of Amsterdam and City of Amsterdam Police Department, by the actions detailed above, had a policy or custom that members of the City of Amsterdam Police Department violate civilians' right to be free from false arrest, unlawful imprisonment and/or the use of excessive force granted by the Fourth and Fourteenth Amendments to the United States Constitution, including through the actions detailed above of defendants herein.

60. As a direct and proximate result of defendants City of Amsterdam and City of Amsterdam Police Department's unconstitutional policies, practices or customs, department members, including defendants, were trained, encouraged, permitted, and/or expected to falsely arrest, unlawfully imprison and/or use excessive force upon plaintiff, causing him injuries and damage, as detailed herein.

61. These damages include, but are not limited to physical damages, including medical expenses, pain and suffering and emotional and psychological trauma; as well as economic loss, including loss of income and other expenses arising out of plaintiff's injuries and resultant permanent disability.

COUNT TWO

42 U.S.C. §1983
False Arrest and Illegal Imprisonment
(Defendants Renzi, Fiorillo and Rathore)

62. Plaintiff re-alleges and incorporates by reference all preceding paragraphs of plaintiff's complaint.

63. Even though plaintiff did not commit any crime, and posed no threat to defendants, defendants Renzi, Fiorillo and Rathore, acting without probable cause, illegally arrested and illegally imprisoned plaintiff.

64. As a direct and proximate result of the illegal arrest and imprisonment, plaintiff suffered damages.

65. Plaintiff claims damages for the injuries set forth above under 42 U.S.C. § 1983 against defendants for violation of his constitutional rights under the Fourth and Fourteenth Amendments to the United States Constitution while acting under color of law.

COUNT THREE

42 U.S.C. §1983
Use of Excessive Force
(Defendants Renzi, Fiorillo and Rathore)

66. Plaintiff re-alleges and incorporates by reference herein all preceding paragraphs of plaintiff's complaint.

67. Defendants, by the actions detailed above, including but not limited to body slamming plaintiff, wrenching the knee of plaintiff, dislocating the knee of plaintiff, breaking the leg of plaintiff, handcuffing plaintiff in an excessive and unreasonable way and kneeling on plaintiff, used excessive force in violation of plaintiff's rights under the Fourth and Fourteenth

Amendments to the United States Constitution.

68. As a direct and proximate result of the use of excessive force, plaintiff was damaged by defendants.

69. These damages include, but are not limited to, loss of plaintiff's physical liberty; physical damages, including medical expenses; pain and suffering and psychological and emotional trauma as well as economic loss, including loss of income and other expenses arising out of his injuries.

DEMAND FOR JURY TRIAL

57. Plaintiff demands a jury trial on all causes of action.

WHEREFORE, plaintiff requests that this Court:

- a. Award compensatory damages to plaintiff against the defendants, jointly and severally;
- b. Award punitive damages against defendants, as determined by a jury;
- c. Award reasonable attorney's fees and costs to the plaintiff on all counts;
- d. Award costs of this action to the plaintiff; and
- e. Award such other and further relief as this Court may deem appropriate.

Dated: December 13, 2022

E. STEWART JONES HACKER MURPHY, LLP

By: /s/ James C. Knox
James C. Knox
Bar Roll No. 517109
28 Second Street
Troy, New York 12180
Telephone: (518) 274-5820
Facsimile: (518) 274-5875

UNITED STATES DISTRICT COURT

for the

Northern District of New York

DAVID TEAL

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Plaintiff(s)

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v.

Civil Action No. 1:21-cv-01256 (BKS/DJS)

CITY OF AMSTERDAM, CITY OF AMSTERDAM
POLICE DEPARTMENT, CITY OF AMSTERDAM
POLICE OFFICER RAYMOND RENZI, et al

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Defendant(s)

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SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* CITY OF AMSTERDAM POLICE OFFICER AURELIO FIORILLO
City of Amsterdam Police Department
1 Guy Park Extension
Amsterdam, New York 12010

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

JAMES C. KNOX, ESQ.
E. STEWART JONES HACKER MURPHY, LLP
28 Second Street
Troy, New York 12180

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. 1:21-cv-01256 (BKS/DJS)

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

*Server's signature**Printed name and title**Server's address*

Additional information regarding attempted service, etc:

UNITED STATES DISTRICT COURT

for the

Northern District of New York

DAVID TEAL

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Plaintiff(s)

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v.

Civil Action No. 1:21-cv-01256 (BKS/DJS)

CITY OF AMSTERDAM, CITY OF AMSTERDAM
POLICE DEPARTMENT, CITY OF AMSTERDAM
POLICE OFFICER RAYMOND RENZI, et al

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Defendant(s)

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1 Guy Park Extension
Amsterdam, New York 12010

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JAMES C. KNOX, ESQ.
E. STEWART JONES HACKER MURPHY, LLP
28 Second Street
Troy, New York 12180

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. 1:21-cv-01256 (BKS/DJS)

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: