

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

**Kimberly Sharp**

Plaintiff

vs.

**City of Atlantic City**  
1301 Bacharach Boulevard  
Atlantic City, NJ 08401

and

**Police Officer Garry Stowe, and  
Police Officer(s) John Doe(s) 1 to 10, and  
Police Officer(s) Jane Doe(s) 1 to 5  
individually and as police officers for  
The City of Atlantic City  
c/o Police Department  
Public Safety Building  
2715 Atlantic Boulevard  
Atlantic City, NJ 08401**

Defendants

CAMDEN VICINAGE

CIVIL ACTION

NO.

Complaint with Jury Demand

**CIVIL ACTION COMPLAINT**

**PRELIMINARY STATEMENT**

1. This is a civil rights action under 42 U.S.C § 1983 seeking redress for the extraordinary misconduct of the **Defendants, Atlantic City Police Officer Garry Stowe, and Police Officer(s) John Doe(s) 1 to 10, and Police Officer(s) Jane Doe(s) 1 to 5**, in using shocking and indiscriminate force against **Plaintiff, Kimberly Sharp** on or about November 17, 2012. The assault upon, and arrest of, **Plaintiff, Kimberly Sharp**, and her subsequent criminal prosecution were wholly without legal justification. The actions and misconduct of the individual **Defendants, City of Atlantic City Police Officer Garry Stowe, and Police Officer(s) John Doe(s) 1 to 10, and Police Officer(s) Jane Doe(s) 1 to 5**, were the result of policies, practices, customs and the deliberate indifference on the part of the **Defendant, City of Atlantic City**.



7. At all times relevant to this Complaint, the Defendants, Police Officer Stowe and Doe(s) (hereinafter referred to collectively as "the Defendant Officers") were acting within the course and scope of their employment and under color of state law, and are being sued in their individual capacities.
8. At all relevant times, all Defendant Officers were acting jointly, and in concert and conspiracy, and their actions deprived Plaintiff of her constitutional and statutory rights.

#### FACTUAL ALLEGATIONS

9. On November 16 and 17, 2012, and for a significant time prior thereto, Plaintiff Kimberly Sharp was employed as a bar tender at the Moose Lodge located at 3900 West End Avenue, Atlantic City, New Jersey, and as such, Plaintiff was permitted and entitled, and pursuant to her employment, was required to be on the premises of the Moose Lodge.
10. On Friday night November 16, 2012, Plaintiff worked the evening shift at the Moose Lodge. Because her home had sustained severe damage from Superstorm Sandy and there were no utilities or heat, Plaintiff decided to get some sleep at, and in the warm shelter of, the Moose Lodge at the end of her shift. Plaintiff found a clean table in the banquet room, which is located adjacent to the bar room, and went to sleep there.
11. Some time after Plaintiff went to sleep, another Moose Lodge employee closed, locked and bolted the door separating the bar room from the banquet room where Plaintiff was sleeping. The door was bolted from the bar room side and Plaintiff could not open the bolt from the banquet room where she was sleeping. Plaintiff was thereby locked in and unable to leave the Moose Lodge.

12. A few hours after midnight on November 17, 2012, while Plaintiff lay sleeping in the banquet room of the Moose Lodge, she was suddenly and without warning, viciously and brutally attacked by **Defendant Police Officer Stowe's K-9 partner**, who repeatedly bit Plaintiff's right arm, tearing the flesh, muscles, ligaments and tendons, and severing the nerves and thereby causing severe and permanent injuries as described herein, all at the direction of **Defendant Police Officer Stowe**.
13. After Plaintiff was attacked by Police Officer Stowe's K-9 partner, the administrator of the Moose Lodge, Mr. Walter Coleman, who was present, identified Plaintiff to the police as an employee and key holder of the Moose Lodge and Mr. Coleman explained to the police that Plaintiff was not a trespasser upon the premises. Mr. Coleman refused to file a criminal complaint against Plaintiff and he specifically told the police, including Police Officer Stowe, that he would not sign or file a complaint against Plaintiff.
14. Nevertheless, Police Officer Stowe filed unsupported criminal charges against Plaintiff as set forth below, which had no basis in fact or in the laws of the State of New Jersey, said charges being a false excuse, a ruse and a subterfuge to conceal his use of indiscriminate, unnecessary and excessive use of force upon Plaintiff.
15. At no time did Plaintiff threaten or use any physical force against **Defendant Police Officer Stowe or his K-9 partner**, or threaten or use any physical force against any police officers, police K-9's or civilians who was present at the scene, or provide any resistance to **Defendant Police Officer Stowe's** use of force, nor did Plaintiff attempt to evade or escape apprehension.
16. As such, there was no legal cause to justify any use of force against Plaintiff, much less the use of force against Plaintiff that was unconscionable, unreasonable, excessive and physically injurious in the extreme.

17. Plaintiff was taken to the AtlanticCare Medical Center, where she remained for several hours, for emergency treatment of the wounds inflicted by **Defendant Police Officer Stowe and his K-9 partner**.
18. While Plaintiff was at the AtlanticCare Medical Center, Atlantic City Police Officer Michael Flanigan came to the clinic and took several photos of the injuries to Plaintiff's right arm that were inflicted by **Defendant Police Officer Stowe and his K-9 partner**.
19. At all times relevant to this Complaint, the conduct of **Defendant Police Officer Stowe** in commanding his K-9 partner to attack, bite, and maim Plaintiff was in willful, reckless and callous disregard of Plaintiff's rights under federal and state law; and Defendants' own internal policies and procedures.
20. After Plaintiff was discharged from the AtlanticCare Medical Center, **Defendant Police Officer Stowe**, with full knowledge of the nature and extent of the injuries he inflicted upon Plaintiff, charged Plaintiff with unlicensed entry of structures under N.J.S.A. 2C:18-3(a) and resisting arrest under N.J.S.A. 2C:29-2(a)(1), all without legal cause or justification or legal standard and, on the contrary, knowing full well that Plaintiff was not a trespasser and did not resist arrest and, in addition, that there was no complaining witness to support these allegations of criminal misconduct, and further, that **Defendant Police Officer Stowe** knew that he had no standing to assert or support his charging Plaintiff with violations of N.J.S.A. 2C:18-3(a) concerning the unlicensed entry of structures.
21. At no time did Plaintiff commit any offense against the laws of the State of New Jersey, the United States, or the City of Atlantic City.

22. A number of Defendant Officers failed to intervene to protect Plaintiff from the unlawful use of force by Police Officer Stowe, and the subsequent unlawful arrest and criminal prosecution of Plaintiff by Police Officer Stowe.
23. The Defendant Officers acted willfully, deliberately, maliciously and/or with reckless disregard for Plaintiff's constitutional and statutory rights.
24. The Defendant Officers engaged in the aforesaid conduct for the purpose of violating Plaintiff's constitutional rights by subjecting her to the unreasonable use of force and, the unlawful arrest and unlawful criminal prosecution.
25. On February 13, 2014, all criminal charges that **Defendant Police Officer Stowe** brought against Plaintiff were dismissed by the Atlantic City Municipal Court, but only after multiple hearing dates were listed, and then adjourned due to the failure of Defendants to present evidence and witnesses.
26. As a direct and proximate result of the conduct of all Defendants as set forth herein, Plaintiff suffered substantial physical injuries, including torn muscles, tendons, ligaments and nerves with permanent scarring and permanent neurological deficits in her dominant right arm and hand, together with true and significant emotional overlay.
27. As a direct and proximate result of the conduct of all Defendants as set forth herein, Plaintiff suffered substantial physical and psychological harm and damages, pain and suffering, emotional distress and trauma, loss of enjoyment of life, and financial losses, some or all of which are or may be permanent.

CAUSES OF ACTION

COUNT I

FEDERAL CONSTITUTIONAL CLAIMS

PLAINTIFF V. DEFENDANT POLICE OFFICER STOWE

AND DEFENDANT POLICE OFFICER(S) DOE(S)

28. All of the allegations set forth in the preceding paragraphs, inclusive, are incorporated herein as if set forth at length hereat.
29. As a direct and proximate result of the actions of the all **Defendants**, Plaintiff was deprived of her rights under the Fourth and/or the Fourteenth Amendment to the United States Constitution to be free from the unlawful use of force, to be free from unreasonable seizure, false arrest, false imprisonment, malicious prosecution and to be secure in her person and property, and to due process of law. As a result, Plaintiff suffered and continues to suffer harm in violation of her right under the Constitution of the United States, in particular the Fourth and/or the Fourteenth Amendments, and 42 U.S.C. §1983.
30. As a direct and proximate result of the actions of the all **Defendants**, Plaintiff sustained injuries, emotional harm, loss of liberty and financial losses, all to her great detriment and harm.
31. Wherefore, Plaintiff respectfully demands all legally available and appropriate damages and remedies as are set forth in her prayer for Relief below.

COUNT II

VIOLATION OF STATE CONSTITUTION AND

NEW JERSEY CIVIL RIGHTS CLAIMS

PLAINTIFF V. DEFENDANT POLICE OFFICER STOWE

AND DEFENDANT POLICE OFFICER(S) DOE(S)

32. All of the allegations set forth in the preceding paragraphs, inclusive, are incorporated herein as if set forth at length hereat.
33. The actions and conduct of the individual Defendants violated Plaintiff's rights under the New Jersey Constitution pursuant to Article 1, paragraph 7, and the New Jersey Civil Rights Act, N.J. Stat. §10:6-2.
34. Wherefore, Plaintiff respectfully demands all legally available and appropriate damages and remedies as are set forth in her prayer for Relief below.

COUNT III

FEDERAL CONSTITUTIONAL CLAIMS

PLAINTIFF V THE CITY OF ATLANTIC CITY

35. The allegations set forth in the preceding paragraphs, inclusive, are incorporated herein as if set forth at length hereat.
36. The violations of Plaintiff's constitutional rights under the Fourth and/or Fourteenth Amendments to the United States Constitution, Plaintiff's damages, and the conduct of the individual Defendants were directly and proximately caused by the actions and/or inactions of the Defendant, The City of Atlantic City, which has encouraged, tolerated,

ratified, condoned and has been deliberately indifferent to the following policies, patterns, practices and customs and to the need for more or different training, supervision, investigation or discipline in the areas of:

- a. The legal cause to use force against a citizen;
- b. The use of force by police officers;
- c. The use of police dogs against citizens;
- d. The proper exercise of police power, including but not limited to the use of force;
- e. The monitoring of police officers whom it knew or should have known were suffering from emotional and/or psychological problems that impaired their ability to function as police officers;
- f. The failure to identify and take remedial or disciplinary action against police officers who were the subject of prior civilian and internal complaints of misconduct;
- g. Police officers' use of their status as police officers to employ force or to achieve ends not reasonably related to their police duties;
- h. The failure of police officers to follow established policies, procedures, directives and instructions regarding the use of force under such circumstances as presented by this case;
- i. The failure to supervise police officers to insure that they follow established policies, procedures, directives and instructions regarding the use of force under such circumstances as presented by this case;
- j. The failure to properly sanction or discipline police officers who are aware of and conceal and/or aid or abet violations of constitutional rights of citizens by other City of Atlantic City police officers;
- k. Police officers falsifying information and bringing unfounded criminal charges against citizens in order to cover the officers' violations of citizen's rights under federal and New Jersey law, especially to cover the officer's use of excessive force against a citizen that the officers then charges with an unfounded crime;

- l. Police officers arresting citizens and charging them with crimes for which the officers know no probable cause exists, solely for the purpose of covering the use of excessive force against a citizen who is arrested; and
  - m. Preventing the specific harm to this specific Plaintiff as set forth herein.
37. Wherefore, Plaintiff respectfully demands all legally available and appropriate damages and remedies as are set forth in her prayer for Relief below.

COUNT IV

FEDERAL CONSTITUTIONAL CLAIMS: CONSPIRACY

PLAINTIFF V. DEFENDANT POLICE OFFICER STOWE

AND DEFENDANT POLICE OFFICER(S) DOE(S)

38. The allegations set forth in the preceding paragraphs, inclusive, are incorporated herein as if set forth at length hereat.
39. The individually named defendants conspired to violate Plaintiff's civil rights by:
- a. targeting her for unwarranted violence;
  - b. subjecting her to malicious prosecution;
  - c. failing to intervene to protect Plaintiff from the unlawful use of force by Police Officer Stowe, and the subsequent unlawful arrest and criminal prosecution of Plaintiff by Police Officer Stowe;
  - d. coordinating false stories and reports against Plaintiff to incriminate her and to rationalize violence and mistreatment toward Plaintiff, and their failure to intervene;
  - d. coordinating their stories and rationalizations so as to conceal the extent of the damage and injuries that Defendants inflicted on Plaintiff, and their failure to

intervene;

- e. acting in concert and conspiring to conceal and/or cover-up the shocking and indiscriminate, unlawful, unreasonable, and excessive use of force upon Plaintiff, and their failure to intervene.

40. Wherefore, Plaintiff respectfully demands all legally available and appropriate damages and remedies as are set forth in her prayer for Relief below.

RELIEF

WHEREFORE, Plaintiff respectfully requests the following relief:

- a. Compensatory damages as to all Defendants;
- b. Punitive damages as to the individual Defendants, Police Officer Stowe and Police Officer(s) Doe(s);
- c. Reasonable attorney fees and costs as to all Defendants;
- d. Such other relief as may appear just and appropriate.

Plaintiff hereby demands a jury trial as to each Defendant as to each count.

THE FENERTY LAW FIRM, LLC

BY: /s/ John F. X. Fenerty, Jr.  
JOHN F. X. FENERTY, JR., ESQUIRE  
38 N. Haddon Avenue  
Haddonfield, NJ 08033  
856-428-7373  
Mylawyer@mylawyer.net

DATE: July 7, 2014

RELEASE

This Release dated October           , 2015, is given

BY the Releasor(s) **Kimberly Sharp**

referred to as "I",

TO THE CITY OF ATLANTIC CITY, it's agents, servants and employees.

referred to as "You".

If more than one person signs this Release, "I" shall mean each person who signs this Release.

1.    Release.     I release and give up any and all claims and rights which I may have against you. This releases all claims, including those of which I am not aware and those not mentioned in this Release. This Release applies to claims resulting from anything which has happened up to now. I specifically release the following claims:

Any and all claims arising from an incident which occurred on or about **November 17, 2012**, at The Moose Lodge located at 3900 West End Avenue in Atlantic City, New Jersey, more specifically, any and all claims set forth in a Complaint filed in the **United States District Court, District of New Jersey on July 7, 2014 under Civil Action Number 1:14-cv-04256 (JBS-JS) and captioned "KIMBERLY SHARP vs. CITY OF ATLANTIC CITY, POLICE OFFICER GARRY STOWE AND POLICE OFFICER (S) JOHN DOE (S) 1 TO 10 AND POLICE OFFICER (S) JANE DOE (S) 1 TO 5 INDIVIDUALLY AND AS POLICE OFFICERS FOR THE CITY OF ATLANTIC CITY"**.

It is expressly understood and agreed that the acceptance of the said amount is in accord and satisfaction and in compromise of all disputed claims and that the payment hereof is not an admission of liability, but is made for the sole purpose of terminating the dispute and litigation between the parties.

2.    Payment.     I have been paid a total of \$30,000.00 (THIRTY THOUSAND DOLLARS) in full payment for making this Release.

I agree that I will not seek anything further including any other payment from you.

3.    Who is Bound     I am bound by this Release. Anyone who succeeds to my rights and responsibilities, such as my heirs or the executor of my estate, is also bound. This Release is made for your benefit and all who succeed to your rights and responsibilities, such as your heirs or the executor of your estate.

4.    Signatures     I understand and agree to the terms of this Release. If this Release is made by a corporation, its proper corporate officers sign and its corporate seal is affixed.

*Kimberly R Sharp*

10/16/15

WITNESSED OR ATTESTED BY:

Eileen Tittermary \_\_\_\_\_ (SEAL)

STATE OF NEW JERSEY, COUNTY OF ATLANTIC SS:

I CERTIFY that on 10/16/15, Kimberly Sharp, personally came before me and acknowledged under oath, to my satisfaction, that this person (or if more than one, each person):

- (a) is named in and personally signed this document; and
- (b) signed, sealed and delivered this document as his or her act and deed.

Eileen Tittermary  
Notary Public

**EILEEN FAITH TITTERMARY  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires 10/21/2019**