

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

John Cokos
729 Howard Ave.
Wenonah, NJ 08090

Plaintiff,

v.

Deptford Township d/b/a
Deptford Township Police Department
1011 Cooper Street
Deptford, NJ 08096

And

✓ Daniel Murphy, individually and in his
official capacity as Chief of the Deptford
Township Police Department
1011 Cooper Street
Deptford, NJ 08096

And

Gloucester County d/b/a
Deptford Township Police Department
2 South Broad Street
Woodbury, NJ 08096

And

✓ Matthew Principato, individually and in his
official capacity as Police Officer for the
Deptford Township Police Department
1011 Cooper Street
Deptford, NJ 08096

And

✓ Edward Kiermeier, individually and in his
official capacity as Detective for the
Deptford Township Police Department
1011 Cooper Street
Deptford, NJ 08096

And

CIVIL ACTION NO.:

JURY TRIAL DEMANDED

John Does 1-10

Defendants.

CIVIL ACTION COMPLAINT

I. Introduction

Plaintiff was walking to school with a video camera when he was stopped and interrogated by Defendant Police Officers. Plaintiff tried to record the incident when Defendants retaliated by assaulting Plaintiff and arresting him under the false pretense of possession of crack cocaine, when, in fact, Plaintiff was carrying saltine cracker crumbs. Defendants violated the First, Fourth, and Fourteenth Amendments of the United States Constitution and the New Jersey Civil Rights Act, among other state claims.

II. Jurisdiction and Venue

1. Jurisdiction in this Honorable Court is based on a violation of federal law conferred by 28 U.S.C. §1331; supplemental jurisdiction over state law claims is granted by 28 USC §1367.
2. Venue lies in this district in that the events giving rise to this claim occurred here, at least one (1) Defendant resides, maintains a principal place of business, and/or does business here, and/or the property which is the subject of this action is situated within this district.

III. Parties

3. Plaintiff, John Cokos, is an adult individual, currently residing at the above captioned address.
4. Defendant, Deptford Township, is a municipality located within Defendant, Gloucester County, upon information and belief, both doing business as Defendant, John Doe, the Deptford Township Police Department.

5. Defendant, Daniel Murphy, is an adult individual who, at all times material herein, acted individually, and/or as an agent, servant, workman, and/or employee of the Deptford Township Police Department, as well as in his official capacity as Chief, acting under color of State law.

6. Defendant, Matthew Principato, is an adult individual who, at all times material herein, acted individually, and/or as an agent, servant, workman, and/or employee of the Deptford Township Police Department, as well as in his official capacity as Police Officer, acting under color of State law.

7. Defendant, Edward Kiermeier, is an adult individual who, at all times material herein, acted individually, and/or as an agent, servant, workman, and/or employee of the Deptford Township Police Department, as well as in his official capacity as Detective, acting under color of State law.

8. Defendants, John Does 1-10, is a moniker/fictitious name for individuals and entities currently unknown but will be substituted when known, as affiliated, associated or liable hereunder for the reasons set forth below or inferred therefrom. Each of these parties are incorporated as Defendants in each and every count and averment listed above and below. Upon information and belief, Defendants, John Does, were agents, servants, workmen, or employees of Co-Defendant, liable to Plaintiff hereunder.

IV. Statement of Claims

9. On or about November 10, 2011, around 11 a.m., Plaintiff was carrying a video recorder and walking to Gloucester County College when a Deptford Township Police Car made an abrupt u-turn towards Plaintiff.

10. Defendant, Officer Principato, exited the patrol car and asked Plaintiff what his intentions were with the video camera.

11. Plaintiff responded by asking whether he was charged with any offense, and, if not, Plaintiff asked whether he was free to leave.
12. Principato ignored and continued interrogating Plaintiff. Principato stated that there had been burglaries in the area and said the camera made Plaintiff look very suspicious.
13. Plaintiff responded that if Principato was going to continue his line of questions, Plaintiff would like to see his supervisor and have the encounter witnessed.
14. At which point, Defendant contacted Co-Defendant, Detective Kiermeier, who came to the scene.
15. Plaintiff informed Defendants that he was within his rights to record public employees in a public space.
16. Defendants disagreed and demanded that Plaintiff stop recording.
17. A verbal and physical altercation ensued.
18. Plaintiff was forced against a guardrail while the officers searched Plaintiff and his belongings.
19. The officers found saltine cracker crumbs in brown wax paper and asked Plaintiff if it was crack cocaine, which Plaintiff denied.
20. Plaintiff was then told he was under arrest for possession of crack cocaine.
21. Other Defendants Officers, John Docs, were then called to the scene and also examined the crackers.
22. Plaintiff was handcuffed, placed in a police car, and taken to the Deptford Police headquarters.

23. Once at the police station, Defendant Kiermeier came to the holding cell and told Plaintiff that after further investigating, the supposed crack cocaine was, in fact, a piece of saltine cracker.

24. Nonetheless, Plaintiff was charged with obstructing administration of law/governmental function.

25. On or about January 11, 2012, Plaintiff was found not guilty by Deptford Township Municipal Court Judge William Golden.

26. The conduct of the Defendants was part of a custom, policy and/or practice and these customs, policies or practices caused the violations of Plaintiff's rights. Specifically, Defendants arrest without probable cause, and retaliate against citizens for exercising their First Amendment rights, as a result of failure to train, supervise or otherwise.

V. Causes of Action

COUNT I
Selective Enforcement

27. Plaintiff incorporates by reference all prior paragraphs as if fully set forth at length herein.

28. Defendants treated Plaintiff differently from other similarly situated individuals, and used selective treatment to prevent Plaintiff from exercising his First Amendment rights.

29. Defendants caused Plaintiff to suffer selective enforcement by their wrongful conduct all in violation of the Fourth and Fourteenth Amendment of the United States Constitution, actionable through 42 U.S.C. §1983, et seq.

COUNT II
Malicious Prosecution

30. Plaintiff incorporates by reference all prior paragraphs as if fully set forth at length herein.
31. At the time of Defendants' investigation, arrest, charges, imprisonment, and trial, Plaintiff had not committed any infraction to legally justify the incarceration and charges.
32. Defendants' actions stated above, *inter alia*, were committed under color of state law and were violations of Plaintiff's clearly established and well-settled Constitutional and other legal rights.
33. Defendants caused Plaintiff to suffer a malicious prosecution by their wrongful conduct in subjecting Plaintiff to false criminal charges, all in violation of the Fourth and Fourteenth Amendments to the United States Constitution.
34. Defendants instituted criminal action against Plaintiff by way of failing to properly investigate the alleged obstructing administration of law/governmental function.
35. Plaintiff was seized from the time he was arrested through the time he was imprisoned.
36. Defendants did not have probable nor any cause to arrest, charge, and/or accuse Plaintiff of the criminal acts.
37. The criminal action terminated in Plaintiff's favor after Plaintiff was found not guilty of all charges in the Deptford Township Municipal Court by the Honorable Judge William Golden.
38. Defendants deliberately ignored and failed to advise prosecutors of evidence and accounts of the event that exonerated Plaintiff.

COUNT III
First Amendment Violation

39. Plaintiff incorporates by reference all prior paragraphs as if fully set forth at length herein.
40. Plaintiff engaged in a protected activity; the government responded with retaliation; and the protected activity was the cause of the retaliation.
41. Defendants instituted criminal action to penalize Plaintiff's exercise of his First Amendment rights.
42. Defendants caused Plaintiff to suffer selective enforcement by their wrongful conduct all in violation of the First Amendment of the United States Constitution, actionable through 42 U.S.C. §1983, et seq.

COUNT IV
Excessive Force

43. Plaintiff incorporates by reference all prior paragraphs as if fully set forth at length herein.
44. At the time of Defendants' conduct, Plaintiff had not committed any infraction or otherwise to legally justify the force used by Defendants.
45. Defendants' actions stated above, *inter alia*, were committed under color of state law and were violations of Plaintiff's clearly establish and well settled Constitutional and other legal rights.
46. Defendants caused Plaintiff to suffer excessive force by their wrongful conduct all in violation of the Fourth and Fourteenth Amendments of the United States Constitution, actionable through 42 U.S.C. §1983, et seq.

COUNT V
False Arrest

47. Plaintiff incorporates by reference all prior paragraphs as if fully set forth at length herein.
48. Defendants lacked probable cause to arrest Plaintiff.
49. Plaintiff had not committed any infraction or otherwise to legally justify his arrest by Defendants.
50. Defendants intentionally arrested Plaintiff for a purpose other than bringing Plaintiff to justice.
51. Defendants caused Plaintiff to suffer false arrest by their wrongful conduct all in violation of the Fourth Amendment of the United States Constitution, actionable through 42 U.S.C. §1983, et seq.

COUNT VI
Assault

52. Plaintiff incorporates by reference all prior paragraphs as if fully set forth at length herein.
53. Defendants used unreasonable and unnecessary force including intentionally shoving Plaintiff against a guardrail.

COUNT VII
False Imprisonment

54. Plaintiff incorporates by reference all prior paragraphs as if fully set forth at length herein.
55. Defendants lacked probable cause to arrest Plaintiff.
56. Plaintiff had not committed any infraction or otherwise to legally justify his arrest by Defendants.

57. Defendants intentionally deprived Plaintiff of his liberty for a purpose other than bringing Plaintiff to justice.

58. Defendants caused Plaintiff to suffer false imprisonment by their wrongful conduct all in violation of the Fourth Amendment of the United States Constitution, actionable through 42 U.S.C. §1983, et seq.

COUNT VIII

N.J.S.A. 10:6-2 – New Jersey Civil Rights Act

59. Plaintiff incorporates by reference all prior paragraphs as if fully set forth at length herein.

60. Defendants' actions stated above, *inter alia*, were committed under color of state law and were violations of Plaintiff's clearly establish and well settled rights under the New Jersey Civil Rights Act. N.J.S.A. 10:6-2.

61. Plaintiff suffered harm due to Defendants' conduct.

COUNT IX

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62. Plaintiff incorporates by reference all prior paragraphs as if fully set forth at length herein.

63. Prior to the events described herein, Defendants developed and maintained policies, practices, procedures and customs exhibiting deliberate indifference to the Constitutional rights of persons within the geographic and jurisdictional limits of the Township of Deptford and County of Gloucester, which caused violations of Plaintiff's constitutional and other rights.

64. The above described acts or omissions by Defendants, demonstrated a deliberate indifference to the rights of citizens, such as Plaintiff, and were the cause of the violations of Plaintiff's rights as set forth herein.

65. Plaintiff suffered harm due to Defendants' conduct.

VI. Prayer for Relief

WHEREFORE, Plaintiff respectfully requests this Honorable Court enter judgment in his favor and against Defendants, individually, jointly and severally, in an amount in excess of seventy-five thousand dollars (\$75,000), plus such other and further relief as this Honorable Court deems necessary and just, and to Order the following relief:

- a. Statutory damages;
- b. Compensatory damages, including:
 - i. Actual damages for financial and physical injuries, including but not limited to wage loss and loss of earning capacity, attorneys fees related to the criminal defense, and emotional distress;
 - ii. Attorneys' fees and expenses, and costs of suit.
- c. Injunctive relief, including:
 - i. Monitoring and training.

WEISBERG LAW

/s/ Matthew B. Weisberg
Matthew B. Weisberg, Esquire
Attorney for Plaintiff

A. Michael Barker, Esquire
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A Professional Corporation
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210 New Road
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AMBarker@BarkerLawFirm.net
Our File Number: 46640-38

Attorney for Defendants, Deptford Township; Deptford Township Police
Department; Daniel Murphy; Matthew Principato; Edward Kiermeier

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY - CAMDEN

JOHN COKOS,

Plaintiff,

v.

DEPTFORD TOWNSHIP d/b/a Deptford
Township Police Department;

DANIEL MURPHY, individually and in his
official capacity as Chief of the Deptford
Township Police Department;

GLOUCESTER COUNTY d/b/a Deptford
Township Police Department;

MATTHEW PRINCIPATO, individually and in
his official capacity as Police Officer for the
Deptford Township Police Department;

EDWARD KIERMEIER, individually and in
his official capacity as Police Officer for the
Deptford Township Police Department;

JOHN DOES 1-10,

Defendants.

Civil Action

Number 13-cv-06810 (JEI/AMD)

SETTLEMENT AGREEMENT and
GENERAL RELEASE

1. The parties to this Negotiated Settlement Agreement and General Release (the "Agreement") are John Cokos and his agents, servants, employees, representatives, attorneys, heirs, assigns (hereinafter "Plaintiff"), and Deptford Township, Matthew Principato, and Edward Kiermeier and its agents, servants, employees, representative, attorneys and insurance carriers on the risk for any matter complained of by John Cokos (hereinafter "Defendant").

2. Plaintiff and Defendant have chosen to enter into the Agreement in order to avoid further proceedings with respect to certain claims that Plaintiff has made or could have made against Defendant, directly or indirectly, related to any and all causes of action, claims and/or demands of every type, whether known or unknown, sustained or allegedly sustained, presented or which may have been presented, by Plaintiff, arising from or in any way connected with any of the matters alleged or which may have been alleged in the civil action filed in the United States District Court of New Jersey, Camden Vicinage, Civil Action Number 13-cv-06810 (the "Litigation").

3. Plaintiff and Defendant have chosen to enter into this Settlement Agreement and General Release in order to avoid further litigation expenses and

distraction with respect to any and all claims between one another including but not limited to those filed or which may have been filed in the matter of *John Cokos v. Deptford Township d/b/a Deptford Township Police Department; Daniel Murphy, individually and in his official capacity as Chief of the Deptford Township Police Department; Gloucester County d/b/a Deptford Township Police Department; Matthew Principato, individually and in this official capacity as Police Officer for the Deptford Township Police Department; and Edward Kiermeier, individually and in his official capacity as Detective for the Deptford Township Police Department, Civil Action Number: 13-cv-06810.*

4. Plaintiff understands and agrees that Defendant denies each and every allegation of wrongdoing made by Plaintiff in the above-captioned matter currently pending in the United States District Court for the District of New Jersey/ Camden Vicinage under Civil Action Number 13-cv-06810.

5. Plaintiff and Defendant understand and agree that the making of this Agreement shall not, in any way, be construed or considered to be an admission by Defendant of guilt or non-compliance with any federal, state or local law, or of any other wrongdoing whatsoever. Plaintiff and Defendant agree that the making of this Settlement Agreement and General Release shall not, in any way, be construed as an admission against interest by Plaintiff or Defendant nor shall this Settlement Agreement and General Release be admissible into evidence in any subsequent proceeding, except for the

enforcement of this Settlement Agreement and General Release. This Settlement Agreement and General Release is entered into solely to avoid the continuing expense and distraction of litigation.

6. In exchange for the promises made by Defendant herein, Plaintiff:
 - A. agrees to the dismissal, with prejudice, of the Complaint filed in the Litigation; and,
 - B. unconditionally and irrevocably discharges and releases Defendant, from any and all claims for fees and costs, and from any and all other claims, known or unknown, that Plaintiff, has or may have had against Defendant as of the date of the full, complete and proper execution of this Agreement, including, but not limited to those claims set forth in the Litigation.

7. In exchange for the promises made by Plaintiff and his execution of this Agreement, Defendant agrees to pay the following:

- A check made payable to Matthew B. Weisberg, Esquire, as attorney for John Cokos in the amount of Thirty-Five Thousand Dollars (\$35,000.00);

This payment is in full satisfaction and for the general release of all claims for personal injury, compensatory damages, attorneys' fees and disbursements, known or unknown, asserted or unasserted including, but not limited to, claims for emotional distress, pain and suffering, legal or equitable relief, for all

10. Plaintiff agrees to be responsible for any liens including but not limited to any liens for any medical provider or attorney and Plaintiff does agree that in the event any state agency or other authority or person deems any amount to be due from Defendant with respect to any lien, Plaintiff will indemnify Defendant for any sums Defendant may be required to pay to satisfy any such lien or any part thereof; and, Plaintiff further agrees to pay any reasonable and necessary attorney's fees incurred by Defendant in defense of any action brought against Defendant as a result of any such lien provided that Plaintiff will have no such obligation to pay any such reasonable and necessary attorney's fees incurred by Defendant in defense of any such lien related to claims unless Plaintiff is first provided by Defendant with notice of any such lien related claims and Plaintiff is provided 30 days of opportunity to pay or otherwise fully resolve any such lien related claim against Defendant.

11. This Agreement fully supersedes any prior agreements or understandings between the parties. Plaintiff also acknowledges that he has not relied on any representation, promises, or agreements of any kind made in connection with the decision to sign this Agreement, except for those set forth in this Agreement; and, Plaintiff acknowledges he has been satisfied by the representation and services of his attorney.

12. This Agreement may not be modified except upon express written consent of Plaintiff and Defendant wherein specific reference is made to this

Agreement.

13. Plaintiff acknowledges and agrees that he has been given a reasonable period of time to consider the terms of this Agreement. Plaintiff further acknowledges that he has reviewed with legal counsel of his choosing, the terms of this Agreement and the consequences of his signing this Agreement. Plaintiff understands and agrees that this Agreement settles, bars, and waives any and all claims that he has or could possibly have against Defendant for anything that has happened up until the execution of this Agreement.

14. This Agreement shall be governed by and conformed in accord with the laws of the State of New Jersey without regard to its conflict of laws provision.

15. Plaintiff agrees to fully execute any and all supplemental documents and take any additional action(s) that may be necessary or appropriate to give full force and effect to the terms of this Settlement Agreement and General Release.

16. In the event that any provision contained in this Agreement is declared invalid, illegal or unenforceable by any court of competent jurisdiction, and cannot be modified to be enforceable, excluding the general release language, such provision shall immediately become null and void, leaving the remainder of this Agreement in full force and effect. Moreover, if any such

