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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

ERROLL SCOTT, X Civil Action no.
Plaintiff

vs.

COMPLAINT

TOWNSHIP OF NUTLEY, a municipal
corporation, PETER TIERNE, JOHN
and JANE DOES 1-10,
Defendants

X
Plaintiff, residing at 125 Lincoln Ave., Apartment C3 in the City of Newark,
County of Essex, State of New Jersey, complains of the Defendants as follows:

PARTIES

1. Defendant Township of Nutley is a "person" within the meaning of 42 U.S.C. sec. 1983.
2. Defendant Peter Tierne is a police sergeant employed by Nutley Township and a "person" pursuant to 42 U.S.C. sec. 1983.
3. Defendants John and Jane Does 1-10 are fictitious persons whose present

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identities are unknown but who may be liable to Plaintiff in the action.

4. Plaintiff is a "citizen" under U.S.C. sec. 1983.

JURISDICTION

5. The United States District Court for the District of New Jersey has jurisdiction over the within matter in accordance with 42 U.S.C. sec. 1983.

COUNT I DEPRIVATION OF CIVIL RIGHTS

6. On May 20, 2015, Plaintiff, an African-American , was walking down Park Avenue near the intersection of River Road, within the jurisdiction of Defendant Nutley Township. As he was walking, Plaintiff had his right hand positioned in a lapa pouch slung around his shoulder and neck. This garment was used as part of Plaintiff's religious practice during chanting or meditation.

7. While Plaintiff was nearing the intersection of River Road, he was observed by Defendant Tierne, who was patrolling in the area. At one point Tierne rolled down his car window and asked Plaintiff if was alright. Plaintiff responded in the affirmative and proceeded on his way. Soon thereafter, Tierne stopped again and asked Plaintiff if he hurt his hand. Plaintiff responded that his hand was fine and continued walking. Plaintiff observed Tierne then speeding to the intersection with his lights and siren activated. Tierne stopped and exited his vehicle with his hand on his weapon and ordered Plaintiff to remove his hand from the lapa pouch. Plaintiff complied.

8. After Tierne was satisfied that Plaintiff was not carrying a weapon and had

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otherwise been cooperative, Plaintiff asked Tierne if he could proceed on his way. Tierne would not however permit him to leave because he stated that there was a report of a robbery committed by a black male in the area and that Plaintiff fit the description. Tierne then asked Plaintiff to produce identification and Plaintiff refused.

9. Tierne then radioed for backup and approximately six other officers shortly arrived on the scene. Several backup officers also asked Plaintiff to produce his identification. Plaintiff explained that Sgt. Tierne only stopped and questioned him about his concealed hand but never mentioned anything about a report of a robbery in the area until he first asked Plaintiff to produce identification. One of the backup officers advised Plaintiff that, unless he either fit the description of one of the robbery suspects or had any outstanding priors (arrests or convictions), warrants or had owed child support, he could not be taken into custody. Plaintiff responded that he had no prior arrests, convictions or outstanding warrants. The officer further explained that an elderly woman in her 80's had been robbed by two black males with one wearing brown pants and a white T-shirt which did not match Plaintiff's attire. The officer further explained that if Plaintiff were to give his identification, they could match it against that of the suspects since they had robbed the lady once before. Plaintiff asked about photos of the suspects but the officer appeared dismissive. All of the officers then conferred and Plaintiff was placed under arrest for obstruction.

10. Plaintiff was then taken to the Nutley police precinct where he was booked and caged. After a short time, he was released with a summons to appear in the Nutley Municipal

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Court. He thereafter pleaded not guilty and the matter was tried on November 10, 2015. Ultimately Plaintiff was ultimately acquitted.

11. Plaintiff thereafter applied for an expungement of his arrest which was granted.

12. The actions of the Defendants Nutley and Tierne in detaining and arresting Plaintiff on May 20, 2015 after it was determined that Plaintiff was neither carrying a weapon nor perceived as a threat and after he did not appear to fit the description of either of the robbery suspects violated Plaintiff's right to religious expression and personal liberty under the United States Constitution in accordance with 42 U.S.C. sec. 1983.

13. Plaintiff has suffered economic and non-economic harm as a result of his wrongful arrest.

WHEREFORE, Plaintiff demands judgment against Defendants for the following relief:

(A) economic compensatory damages for lost or diminished economic opportunities during the period from May 15, 2015 until the date of expungement of his arrest;

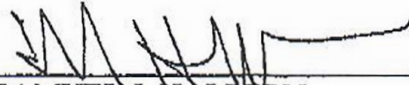
(B) non-economic compensatory damages for pain and suffering, emotional distress, humiliation, anxiety and for reputational injury;

(C) punitive damages;

(D) attorneys fees and costs of suit; and

(E) such other relief the Court deems equitable and just.

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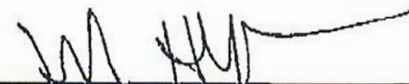


SAMUEL J. HALPERN
Attorney for Plaintiff

May 20, 2017

DEMAND FOR JURY TRIAL

Plaintiff hereby requests a jury trial on all issues so triable.



SAMUEL J. HALPERN
Attorney for Plaintiff

May 20, 2017

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JS 44 (Rev. 07/16)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
ERROLL SCOTT

DEFENDANTS

TOWNSHIP OF NUTLEY, a municipal corporation, PETER TIERNE,
JOHN AND JANE DOES 1-10(b) County of Residence of First Listed Plaintiff ESSEX
(EXCEPT IN U.S. PLAINTIFF CASES)County of Residence of First Listed Defendant ESSEX
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.(c) Attorneys (Firm Name, Address, E-mail and Telephone Number)
SAMUEL J. HALPERN, ESQ.
347 MT. PLEASANT AVE., STE. 203, WEST ORANGE, NJ 07052
(973)669-8880

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | ☒ 1 | ☐ 1 | Incorporated or Principal Place of Business in This State | ☐ 4 | ☒ 4 |
| Citizen of Another State | ☐ 2 | ☐ 2 | Incorporated and Principal Place of Business in Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instruments ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 151 Medicare Act ☐ 152 Recovery of Debted Student Loans (Excludes Veterans) ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholders' Suits ☐ 190 Other Contract ☐ 195 Contract Product Liability ☐ 196 Franchise	PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Federal Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury ☐ 362 Personal Injury - Medical Malpractice	PERSONAL INJURY ☐ 365 Personal Injury - Product Liability ☐ 367 Health Care/Pharmaceutical Personal Injury Product Liability ☐ 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY ☐ 370 Other Fraud ☐ 371 Truth in Lending ☐ 380 Other Personal Property Damage ☐ 385 Property Damage Product Liability	☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 690 Other LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Management Relations ☐ 740 Railway Labor Act ☐ 751 Family and Medical Leave Act ☐ 790 Other Labor Litigation ☐ 791 Employee Retirement Income Security Act IMMIGRATION ☐ 462 Naturalization Application ☐ 463 Other Immigration Actions	☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 PROPERTY RIGHTS ☐ 820 Copyrights ☐ 830 Patent ☐ 840 Trademark SOCIAL SECURITY ☐ 861 HIA (1395M) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI ☐ 865 RSI (405(y)) FEDERAL TAX SUITS ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS—Third Party 26 USC 7609	☐ 373 False Claims Act ☐ 376 Qui Tam (31 USC 3729(a)) ☐ 400 Sino Repatriation ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce ☐ 460 Deportation ☐ 470 Racketeer Influenced and Corrupt Organizations ☐ 480 Consumer Credit ☐ 490 Cable/Sat TV ☐ 850 Securities/Commodities/Exchange ☐ 890 Other Statutory Actions ☐ 891 Agricultural Acts ☐ 893 Environmental Matters ☐ 893 Freedom of Information Act ☐ 896 Arbitration ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision ☐ 910 Constitutionality of State Statutes
REAL PROPERTY ☐ 210 Land Condemnation ☐ 220 Parcel Closure ☐ 230 Rent Lease & Ejectment ☐ 240 Torts to Land ☐ 245 Trust Product Liability ☐ 290 All Other Real Property	CIVIL RIGHTS ☒ 440 Other Civil Rights ☐ 441 Voting ☐ 442 Employment ☐ 443 Housing/Accommodations ☐ 445 Amer. w/Disabilities - Employment ☐ 446 Amer. w/Disabilities - Other ☐ 448 Education	PRISONER PETITIONS ☐ Habeas Corpus ☐ 463 Alien Detainees ☐ 510 Motions to Vacate Sentence ☐ 530 General ☐ 535 Death Penalty ☐ Other ☐ 540 Mandamus & Other ☐ 550 Civil Rights ☐ 555 Prison Condition ☐ 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (Specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. sec. 1983Brief description of cause:
Wrongful Arrest

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See Instructions)

JUDGE

DOCKET NUMBER

DATE

05/20/2017

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE