

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

ALONA CARR	:	CIVIL ACTION No.: 15-CV-05848 JLL-JAD
Plaintiff	:	
vs.	:	
WOODBIDGE TOWNSHIP	:	
POLICE OFFICER HORVATH, Badge # 617	:	
and John Does 1-5	:	
Defendants	:	

COMPLAINT AND JURY TRIAL DEMAND

I. INTRODUCTION

1. Plaintiff, Alona Carr, brings this action for monetary damages, and other appropriate relief to redress the intentional violations of her civil rights, pursuant to 42 U.S.C. §§1983 and 1985, secured under the Constitution and the laws of the United States, and provisions of the laws of the State of New Jersey, against the individual defendants, Police Officers Horvath, Badge #617, and John Does 1-5, in their official and individual capacities and Woodbridge Township, collectively referred to as Defendants.

2. Plaintiff's action arises under the Civil Rights Acts of 1871, as amended, 42 U.S.C. § 1983, 1985, the Fourth and Fourteenth Amendments to the Constitution of the United States, for racial discriminatory arrest, discriminatory detention, discriminatory search and seizure, denial of equal protection on the basis of race, excessive use of force, assault and battery, sexual assault, and invasion of privacy.

II. JURISDICTION

3. Federal court jurisdiction is proper pursuant to 28 U.S.C. § 1331 and § 1343.

III. VENUE

4. Venue is proper pursuant to 28 U.S.C. § 1391, as the incidents alleged herein occurred within the District of New Jersey.

IV. PARTIES

5. Plaintiff, Alona Carr is an adult citizen of the United States, who currently resides in Camden, New Jersey.

6. Plaintiff is African-American by race.

7. Defendant Police Officer Horvath, Badge #617, (Caucasian male) at all times relevant to this action was a police officer employed by Defendant Woodbridge Township's Police Department and at all times relevant to this case was acting under the color of state law and pursuant to his authority as a Woodbridge Township Police Officer.

8. Defendant Woodbridge Township is a municipal agency constituted under the laws of the State of New Jersey with its offices located at One Main Street, Woodbridge, NJ 07095.

9. Defendants John Does 1-5, are police officers within Woodbridge Township Police Department, whose identities are presently unknown to Plaintiff.

V. BRIEF STATEMENT OF THE FACTS

10. On February 1, 2014, at about 11:00 a.m., Officer Horvath, without any probable cause, stopped Plaintiff, Ms. Carr on Main Street, near Route 9 South, in the Township of Woodbridge.

11. Officer Horvath had made a U-turn from the other direction after going pass Ms. Carr and came behind her in traffic and stopped her thereafter.

12. Officer Horvath came out of his vehicle and ordered Plaintiff to drive into the bowling alley on the left side. Plaintiff had to make a left turn, across the on-coming traffic to get into the bowling alley parking lot.

13. Officer Horvath never told Ms. Carr why he had stopped her or what traffic violation she had committed, but simply asked Plaintiff for her driver's license, registration and insurance.

14. Plaintiff had her insurance carrier email to her proof of insurance and insurance card on her cell phone.

15. Officer Horvath called for two other police officers who responded to the scene.

16. Officer Horvath told Plaintiff that her license was suspended and registration expired and said he had to take her to the police station.

17. Officer Horvath never told Plaintiff to put her hands behind her back, but roughly grabbed Plaintiff's hands real quick and brought it behind her back and placed handcuffs on her wrists really tight; which is an excessive use of force, causing her to sustain injuries to her wrist.

18. Officer Horvath walked Plaintiff to the police car and Plaintiff started having a panic attack in the back of the car; these should be on the police video in Officer Horvath's vehicle.

Ms. Carr passed out.

19. At the police station, Officer Horvath walked Plaintiff into the station, removed the handcuffs, and handcuffed Plaintiff to a bench.

20. Officer Horvath started asking Plaintiff questions, names, parents names, where she lived; then he started asking Plaintiff personal questions, "are you single?", "Why are you single?" "Do you date white guys?" "Oh you have no underwear on", while feeling Plaintiff's buttocks.

21. Officer Horvath started taking Plaintiff's coat off after un-cuffing her, underneath her coat, she had nothing much on; she had a T-shirt on and gym tights, no underwear.

22. Officer Horvath had Plaintiff put her hands against the wall, came very close to Plaintiff, almost touching her and then pulled Plaintiff's pants down on the left. Officer Horvath then made a comment to Plaintiff about not having any underwear on.

23. Officer Horvath started patting down Plaintiff's breast, saying, "Oh no bra on!" and swiping his hand around her hips. He took Plaintiff's shoes off, and handcuffed her to the bench again. Officer Horvath then said, "I really can't see a woman like you been single" "is your boyfriend coming to get you". Officer Horvath also made a comment about Plaintiff's tattoo and took pictures; asking Plaintiff personal questions as if they were on a date like, what did Plaintiff like to do? Plaintiff did not respond. Then Officer Horvath squeezed the handcuffs on Plaintiff tighter, left Plaintiff in a cold area, with no coat on, and she was cold for a long period of time.

24. Plaintiff later called her brother to come and get her and told him that the officer is treating her crazy. Officer Horvath said, "Oh, we're treating you crazy." He tightened the cuff even more. Then a Lieutenant came into the area Plaintiff was located with Officer Horvath.

25. Following this incident, Officer Horvath issued Plaintiff two tickets for, unregistered vehicle and driving while suspended. No ticket was issued for any alleged reason why Officer Horvath had stopped Plaintiff in the first place.

26. Plaintiff challenged these tickets and they were later dismissed by the Court.

27. Plaintiff is an African-American female and it is also asserted that she was subjected to racial profiling by Officer Horvath as there was no legitimate reason for Officer Horvath to have stopped her other than the fact that she was black.

28. Ms. Carr had not violated any traffic laws and Officer Horvath had no probable cause for stopping Plaintiff.

29. As a result of the violation of Ms. Carr's civil and Constitutional rights by Officer Horvath, and his unlawful and tortuous actions, Plaintiff has suffered very serious physical and emotional injuries for which she is asserting claims against the Township of Woodbridge and Officer Horvath.

30. On or about March 28, 2014, Plaintiff filed an internal complaint against Officer Horvath and Woodbridge Township with Robert J. Hubner, Director, Woodbridge Township Police Department. In her internal complaint with Woodbridge Township, Plaintiff also asserted claims under the New Jersey Tort Claims Act.

31. However, Defendants failed to conduct a thorough and good faith investigation of Plaintiff's complaint.

32. Instead Woodbridge Township acquiesced in the unlawful conduct of Officer Horvath, and was deliberately indifferent to the violation of Plaintiff's Constitutional and Civil Rights by one of its police officer.

33. Plaintiff has been detrimentally affected by Defendants' discriminatory and tortuous actions.

34. Plaintiff has suffered severe anxiety due to being arrested, detained, assaulted, her privacy invaded and harassed by Defendants. She is apprehensive, fearful and has sustained severe emotional injuries as a result of Defendants' discriminatory and tortuous actions.

VI. STATEMENT OF CLAIMS

COUNT ONE- SECTION 1983 and 1985 VIOLATION AGAINST DEFENDANTS

35. Plaintiff repeats and incorporates by reference the allegations in paragraphs 1 through 34 as though fully set forth herein.

36. Plaintiff's Constitutional rights were violated by Defendants as a direct and proximate result of the failure of the Defendant Woodbridge Township's Police Department to properly train, discipline, supervise, and control its police officers regarding discriminatory arrests, discriminatory search and seizure, abuse of police power, race discrimination, equal protection of black citizens and malicious prosecutions.

37. By failing to properly train, discipline and supervise its police officers, Defendant Woodbridge Township displayed deliberate indifference to the rights of the Plaintiff to be free from discriminatory arrests, discriminatory search and seizure, discriminatory prosecution, abuse of police power, and malicious prosecution.

38. Defendants subjected Plaintiff to a violation of her rights under the equal protection clause of the 14th Amendment, by subjecting Plaintiff to racial profiling, arrest and prosecution because of her race.

39. Defendants subjected Plaintiff to a violation of her civil rights by subjecting Plaintiff to unlawful stop.

40. Defendants subjected Plaintiff to a violation of her civil rights by subjecting her to unlawful detention.

41. Defendants violated Plaintiff's civil rights by subjecting her to use of excessive force.

42. Defendants violated Plaintiff's civil rights by subjecting her to unlawful search and seizure.

43. Defendant Woodbridge Township's Police Department was deliberately indifferent to the unlawful actions of its police officers, failed to train, and discipline its police officers about violations of citizens' constitutional rights.
44. Defendants are therefore liable to Plaintiff pursuant to 42 U.S.C. §1983 and 1985 for violating Plaintiff's Constitutional rights under color of state law.

COUNT II

(Violations of the New Jersey Civil Rights Act, N.J.S.A. 10:6-1 et. Seq.)

45. Allegations contained in paragraphs 1 through 44 above are incorporated as though fully set forth here.
46. In part, the New Jersey Civil Rights Act, N.J.S.A. 10:6-2 states:

"c. Any person who has been deprived of any substantive due process or equal protection rights, privileges or immunities secured by the Constitution or laws of the United States, or any substantive rights, privileges or immunities secured by the Constitution or laws of this State, or whose exercise or enjoyment of those substantive rights, privileges or immunities has been interfered with or attempted to be interfered with, by threats, intimidation or coercion by a person acting under color of law, may bring a civil action for damages and for injunctive or other appropriate relief. The penalty provided in subsection e. of this section shall be applicable to a violation of this subsection.

d. An action brought pursuant to this act may be filed in Superior Court. Upon application of any party, a jury trial shall be directed.

e. Any person who deprives, interferes or attempts to interfere by threats, intimidation or coercion with the exercise or enjoyment by any other person of any substantive due process or equal protection rights, privileges or immunities secured by the Constitution or laws of the United States, or any substantive rights, privileges or immunities secured by the Constitution or laws of this State is liable for a civil penalty for each violation. The court or jury, as the case may be, shall

determine the appropriate amount of the penalty. Any money collected by the court in payment of a civil penalty shall be conveyed to the State Treasurer for deposit into the State General Fund.

f. In addition to any damages, civil penalty, injunction or other appropriate relief awarded in an action brought pursuant to subsection c. of this section, the court may award the prevailing party reasonable attorney's fees and costs."

47. Defendants are liable to Plaintiff for violating the CRA because of the unlawful actions alleged in this pleading.

COUNT III
(Common Law Assault and Battery)

48. Allegations contained in paragraphs 1 through 47 above are incorporated as though fully set forth here.

49. The acts and conducts of Defendants as alleged above where Plaintiff was subjected to assault and battery subject Defendants to liability under common law actions of assault and battery, and therefore liable to Plaintiff for her injuries and damages.

COUNT IV
(Common Law Sexual Assault)

50. Allegations contained in paragraphs 1 through 49 above are incorporated as though fully set forth here.

51. The acts and conducts of Defendant Horvath as alleged above where Plaintiff was subjected to sexual comments and assault while under Officer Horvath's subject Defendants to liability under common law action for sexual assault, and therefore liable to Plaintiff for her injuries and damages.

COUNT V
(Common Law Invasion of Privacy)

52. Allegations contained in paragraphs 1 through 51 above are incorporated as though fully set forth here.

53. The acts and conducts of Defendants as alleged above where Plaintiff was subjected to invasion of her privacy by Officer Horvath subject Defendants to liability under common law actions of invasion of her privacy, and therefore liable to Plaintiff for her injuries and damages.

COUNT VI
(Violations of NJ Constitution, Article I, Section 7)

54. Allegations contained in paragraphs 1 through 53 above are incorporated as though fully set forth herein.

55. The defendants are liable to Plaintiff for excessive use of force in violation of Article I, section 7 of the New Jersey Constitution.

56. The defendants are also liable to Plaintiff for unlawfully stop, search and seizure; for unlawfully arresting her and for unlawful false detention, all of which violate Article I, section 7 of the New Jersey Constitution which states in relevant part: "The right of the people to be secure in their persons, houses . . . and effects against unreasonable searches and seizures shall not be violated . . ."

57. Based on the allegations herein, it is evident that defendants violated the constitutional provision by their unlawful actions toward the Plaintiff.

VI. PRAYER FOR RELIEF

WHEREFORE Plaintiff respectfully request this Honorable Court grant the following relief:

- A. Award to Plaintiff damages and compensatory relief for the unlawful acts of Defendants, including but not limited to damages for emotional pain and suffering, punitive damages against the individual Defendants in their individual capacities, and all damages permitted by law under the Civil Rights Act against all Defendants.
- B. Grant Plaintiff, pursuant to 42 U.S.C. §1988 and the New Jersey Civil Rights Act, reasonable attorneys' fees and costs, and disbursements; and
- C. Expert fees, costs and expenses of litigation, and such other and further damages and equitable relief as this court may deem just and proper under the circumstances.

JURY TRIAL DEMAND

Plaintiff demands trial by jury on all factual issues in this matter.

Respectfully submitted,

/s/ Olugbenga O. Abiona

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Dated: July 29, 2015