

ADVOKAT & ROSENBERG, ESQS.
Attorneys At Law
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Attorneys for Plaintiff

ANTHONY MCGILL,

Plaintiff,

vs.

UNION COUNTY
PROSECUTOR'S OFFICE,
THEODORE J. ROMANKOW,
UNION COUNTY PROSECUTOR,
UNION COUNTY SHERIFF'S
OFFICE, UNION COUNTY
SHERIFF RALPH G. FROELICH,
NEW JERSEY OFFICE OF THE
ATTORNEY GENERAL,
ATTORNEY GENERAL STUART
RABNER, THE NEW JERSEY
STATE POLICE, COL. JOSEPH
RICARDO FUENTES, EAST
HANOVER POLICE
DEPARTMENT, CHIEF STANLEY
HANSON, THE UNITED
STATES FEDERAL BUREAU
OF INVESTIGATION, CHRIS
GORE, JOHN ROE, JOHN
DOES B-Z, JANE ROES A-Z,

Defendants.

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
CIVIL ACTION NO 2:11-CV-3254(FSH-PS)

Civil Action

**AMENDED
COMPLAINT, JURY DEMAND
DESIGNATION OF TRIAL COUNSEL,
CERTIFICATION**

U.S. DISTRICT COURT
2011 SEP 20 A 9:57

Plaintiff, Anthony McGill, (D.O. B. April 30, 1991), residing at 39 McKinley Avenue, East Hanover, Morris County, New Jersey, by way of complaint says:

PARTIES

1. Anthony McGill, the plaintiff herein, resides at 39 McKinley Avenue, East Hanover,

Morris County, New Jersey. He was injured on or about May 21, 2007, as a result of the facts outlined herein.

2. At all times relevant to this Complaint, defendant, Union County Prosecutor's Office was an entity whose responsibility it was to maintain the safety of the State's residents and to abide by all laws therein.
3. At all times relevant to this Complaint, defendant Theodore J. Romankow, was the Union County Prosecutor and he is sued in his personal and official capacities.
4. At all times relevant to this Complaint, defendant, Union County Sheriff's Office was an entity whose responsibility it was to maintain the safety of the State's residents and to abide by all laws therein.
5. At all times relevant to this Complaint, defendant, Ralph G. Froelich, was the Union County Sheriff and he is sued in his personal and official capacities.
6. At all times relevant to this Complaint, defendant, New Jersey Office of the Attorney General was an entity whose responsibility it was to maintain the safety of the State's residents and to abide by all laws therein.
7. At all times relevant to this Complaint, defendant, Stuart Rabner was the New Jersey Attorney General, and he is sued in his personal and official capacities.
8. At all times relevant to this Complaint, defendant, New Jersey State Police, was an entity whose responsibility it was to maintain the safety of the State's residents and to abide by all laws therein.
9. At all times relevant to this Complaint, defendant, Col. Joseph Ricardo Fuentes was the Chief of the New Jersey State Police and he is sued in his personal and official capacities.

10. At all times relevant to this Complaint, defendant, East Hanover Police Department was an entity whose responsibility it was to maintain the safety of the State's residents and to abide by all laws therein.
11. At all times relevant to this Complaint, defendant, Stanley Hanson, was the Chief of the East Hanover Police Department, and he is sued in his personal and official capacities.
12. At all times relevant to this Complaint, defendant, the United States Federal Bureau of Investigation, was an entity whose responsibility it was to maintain the safety of the State's residents and to abide by all the laws therein.
13. At all times relevant to this Complaint, defendant, John Roe, was the Head of the United States F.B.I., and he is sued in his personal and official capacities.
14. Defendants known presently as John Does B-Z were at all times relevant herein individuals employed by any entity that participated in the investigation and/or arrest of the plaintiff as outlined in the facts contained herein, and they are sued in their personal and official capacities.
15. Defendants known presently as Jane Roes A-Z were at all times relevant herein entities that participated in the investigation and/or arrest of the plaintiff as outlined in the facts contained herein and whose responsibility it was to maintain the safety of the residents and to abide by all law.
16. At all times relevant to this Complaint defendant, Chris Gore, was assigned to the FBI and was working this investigation.

FACTS

17. On May 21, 2007, men with assault rifles, who were employed by the entities

identified herein, broke into the home where the plaintiff resided with his family in East Hanover, New Jersey. The men rushed into the house yelling, "where is Kyle, where is Kyle?" The plaintiff told these strangers that he did not know who Kyle was and that his name was Anthony McGill. The plaintiff also told these men that he was sixteen (16) years old.

One of the men was pointing a rifle at the plaintiff's chest. These strangers then proceeded to throw the plaintiff into the bathroom door and against the wall. Then the plaintiff was hand-cuffed with zip ties around his wrists, after which he was thrown down a flight of stairs. The plaintiff was screaming for the men to watch his knees because he recently had surgery. The plaintiff again told the strangers his age (16) and that he wanted his grandpa (who also lived at the home). However, the men simply told the plaintiff to "shut the F__k up!", and they continued to push and drag him. Again the plaintiff told them about his knee surgery, and that he did not know anyone by the name of "Kyle". The strangers however continued to tell him that they felt he was just "F__king lying". Next the men pushed the plaintiff behind a car and on the driveway. They ordered him to sit down, but his knee surgery prohibited him from doing so. The men however, proceeded to tell the plaintiff that he better shut up or he would be put in "solitary confinement and not see the light of day." The home where this took place was completely damaged. The plaintiff was severely/permanently injured; felt as though he was in shock; he remains in fear and he has undergone significant disruptions in his normal routines in life, in addition to other damages.

COUNT I
ASSAULT

18. Each of the foregoing paragraphs is incorporated as if fully set forth herein.

19. As a result of the assault and battery committed by the defendants and/or their agents the plaintiff was seriously injured and has received, and will continue to receive, medical treatment, and did also suffer, and will continue to suffer, economic loss.

WHEREFORE, the plaintiff demands judgment against the defendants as aforesaid, jointly and severally, in their personal and/or official capacity, for the following relief:

RELIEF

- a An Order awarding compensatory damages in an amount to be determined at trial.
- b An Order awarding consequential and additional damages in an amount to be determined at trial.
- c An Order awarding punitive damages in an amount to be determined at trial.
- d An Order awarding counsel fees in an amount to be determined at trial.
- e An Order awarding other damages, attorney's fees, and additional fees under 42 U.S.C. Section 1988, costs of suit and interest where appropriate.
- f An Order awarding prejudgment interest to be determined at trial, and
- g An Order directing such other and further relief as the Court may deem just and proper, including, but not limited to, appropriate property damage, costs and disbursements.

COUNT II
42 U.S. § B 1983 Substantive Due Process: Special Relationship
(Against any and all employees, in their personal capacities)

20. Each of the foregoing paragraphs is incorporated as if fully set forth herein.

21. At all times, defendants had a special relationship with the plaintiff, which imposed

upon defendants an affirmative duty to care for and protect the plaintiff from harm under the Fourteenth Amendment to the United States Constitution.

22. Defendants breached that duty. Defendants' actions and omissions were a substantial departure from the exercise of reasonable professional judgment, practice, and standards, and amounted to deliberate indifference to plaintiff's welfare.
23. Defendants failed to ensure the safety and well-being of the plaintiff, thus proximately causing them substantial and unnecessary physical, emotional, developmental psychological, and/or psychiatric harm.
24. The actions and inactions that resulted in this harm include but are not limited to: those outlined within this Complaint.
25. By virtue of the foregoing, defendants deprived plaintiff of various rights protected by the Due process Clause of the Fourteenth Amendment, including but not limited to: the right to personal security and reasonably safe living conditions; the right to protection from harm; the right not to be harmed physically, emotionally, developmentally or otherwise.
26. Defendants arbitrarily and capriciously deprived plaintiff of his due process rights in the absence of any countervailing state interest.
27. Plaintiff's substantive due process rights were clearly established constitutional rights at the time of defendants' acts and omissions, and a reasonable individual would have known that their acts and omissions would violate these clearly established constitutional rights.

WHEREFORE, the plaintiff demands judgment against the defendants as aforesaid, jointly and severally, in their personal and/or official capacity, for the following relief:

RELIEF

- a. An Order awarding compensatory damages in an amount to be determined at trial.
- b. An Order awarding consequential and additional damages in an amount to be determined at trial.
- c. An Order awarding punitive damages in an amount to be determined at trial.
- d. An Order awarding counsel fees in an amount to be determined at trial.
- e. An Order awarding other damages, attorney's fees, and additional fees under 42 U.S.C. Section 1988, costs of suit and interest where appropriate.
- f. An Order awarding prejudgment interest to be determined at trial, and
- g. An Order directing such other and further relief as the Court may deem just and proper, including, but not limited to, appropriate property damage, costs and disbursements.

COUNT III

**42 U.S.C. § 1983 B Substantive Due Process: State-Created Danger
(Against any and all employees, in their personal capacities)**

27. Each of the foregoing paragraphs is incorporated as if fully set forth herein.
28. The Fourteenth Amendment to the United States Constitution guarantees plaintiff the substantive due process right to be free from state-created dangers.
29. Defendants violated this right by causing imminent and foreseeable risk of danger and harm.
30. The physical, emotional, developmental, psychological, and/or psychiatric harm that plaintiff suffered was foreseeable, and directly, and proximately caused by defendants' unconstitutional acts and omissions.
31. Defendants acted with callous and willful disregard for plaintiff's safety.

32. Defendants arbitrarily and capriciously deprived plaintiff of his due process rights in the absence of any countervailing state interest.
33. Plaintiff's substantive due process rights to be free from state-created dangers were clearly established constitutional rights at the time of defendants' acts and omissions, and a reasonable individual would have known that their acts and omissions would violate these clearly established constitutional rights.

WHEREFORE, the plaintiff demands judgment against the defendants as aforesaid, jointly and severally, in their personal and/or official capacity, for the following relief:

RELIEF

- a. An Order awarding compensatory damages in an amount to be determined at trial.
- b. An Order awarding consequential and additional damages in an amount to be determined at trial.
- c. An Order awarding punitive damages in an amount to be determined at trial.
- d. An Order awarding counsel fees in an amount to be determined at trial.
- e. An Order awarding other damages, attorney's fees, and additional fees under 42 U.S.C. Section 1988, costs of suit and interest where appropriate.
- f. An Order awarding prejudgment interest to be determined at trial, and
- g. An Order directing such other and further relief as the Court may deem just and proper, including, but not limited to, appropriate property damage, costs and disbursements.

COUNT IV

**42 U.S.C. § 1983 Procedural Due Process
(Against any and all employees, in their personal capacities)**

34. Each and every allegation of the Complaint is incorporated herein as if fully set

forth.

35. The foregoing actions and inactions of defendants resulted in plaintiff being deprived of constitutionally protected liberty interests without due process of law, which was a substantial factor leading to, and proximate cause of, the physical, emotional, developmental, psychological, and/or psychiatric harm plaintiffs have suffered.
36. Plaintiff was vested, with certain state-created liberty interests protected by the federal Due Process Clause, including the right to be free from physical or psychological harm.
37. Plaintiff was vested, with certain state-created liberty interest protected by the federal Due Process Clause.
38. Plaintiff was vested, by virtue of various statutory and regulatory obligations imposed upon defendants, with certain state-created liberty interests protected by the federal Due Process Clause.
39. Defendants' actions and inactions were inconsistent with the exercise of reasonable professional judgment and amount to deliberate indifference to the procedural due process rights of plaintiff. Defendants acted with deliberate indifference and callous disregard to repeated indications and signs that the plaintiff was not kept safe. As a result, plaintiff was deprived of the procedural due process rights conferred upon them by the Fourteenth Amendment to the United States Constitution.
40. Defendants arbitrarily and capriciously deprived plaintiff of his due process rights in the absence of any countervailing state interest.

41. Plaintiff's procedural due process rights and state law entitlements were clearly established at the time of the alleged acts and omissions, and a reasonable individual would have known that the alleged acts and omissions would violate these clearly established rights.

WHEREFORE, the plaintiff demands judgment against the defendants as aforesaid, jointly and severally, in their personal and/or official capacity, for the following relief:

RELIEF

- a. An Order awarding compensatory damages in an amount to be determined at trial.
- b. An Order awarding consequential and additional damages in an amount to be determined at trial.
- c. An Order awarding punitive damages in an amount to be determined at trial.
- d. An Order awarding counsel fees in an amount to be determined at trial.
- e. An Order awarding other damages, attorney's fees, and additional fees under 42 U.S.C. Section 1988, costs of suit and interest where appropriate.
- f. An Order awarding prejudgment interest to be determined at trial, and
- g. An Order directing such other and further relief as the Court may deem just and proper, including, but not limited to, appropriate property damage, costs and disbursements.

COUNT V

**New Jersey Tort Claims Act B Negligence
(Against all Defendants)**

42. Each of the foregoing paragraphs is incorporated as if fully set forth herein.
43. Plaintiff has complied with the notice requirements of the Tort Claims Act.
N.J.S.A. 59:1-1 et seq.

44. Defendants owed numerous duties to the plaintiff.
45. Defendants had a general duty to ensure that plaintiff received adequate safety.
46. Defendants also had a duty to screen, approve, license and monitor the defendants to ensure that plaintiff remained reasonably safe.
47. By their acts and omissions, defendants violated the care of duty owed to plaintiff. Defendants acted with gross negligence and/or recklessly. Defendants' acts and omissions were outside of their scope of employment, and did not involve the mere exercise of professional judgment of discretion.
48. By their acts and omissions, defendants proximately caused permanent injuries to the plaintiff, including substantial physical, emotional, developmental, psychological, and/or psychiatric harm. Defendants' acts and omissions were a material element and/or a substantial factor in bringing the harm about to the plaintiff. The harms sustained by the plaintiff were a reasonably foreseeable result of defendants' acts and omissions.
49. By the foregoing, defendants are liable for plaintiff's injuries pursuant to N.J.S.A. 59:1-1 et seq. Defendants are jointly and severally liable for the injuries sustained by the plaintiff.

WHEREFORE, the plaintiff demands judgment against the defendants as aforesaid, jointly and severally, in their personal and/or official capacity, for the following relief:

RELIEF

- a. An Order awarding compensatory damages in an amount to be determined at trial.
- b. An Order awarding consequential and additional damages in an amount to be determined at trial.

- c. An Order awarding punitive damages in an amount to be determined at trial.
- d. An Order awarding counsel fees in an amount to be determined at trial.
- e. An Order awarding other damages, attorney's fees, and additional fees under 42 U.S.C. Section 1988, costs of suit and interest where appropriate.
- f. An Order awarding prejudgment interest to be determined at trial, and
- g. An Order directing such other and further relief as the Court may deem just and proper, including, but not limited to, appropriate property damage, costs and disbursements.

COUNT VI
Fourteenth Amendment and 1983

- 50. Plaintiff incorporates all previous paragraphs as if set forth herein at length.
- 51. As a result of the conduct described aforesaid, the defendant(s)' conduct has violated the plaintiff's common law rights and their rights under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. Section 1983.

WHEREFORE, the plaintiff demands judgment against the defendants as aforesaid, jointly and severally, in their personal and/or official capacity, for the following relief:

RELIEF

- a. An Order awarding compensatory damages in an amount to be determined at trial.
- b. An Order awarding consequential and additional damages in an amount to be determined at trial.
- c. An Order awarding punitive damages in an amount to be determined at trial.
- d. An Order awarding counsel fees in an amount to be determined at trial.
- e. An Order awarding other damages, attorney's fees, and additional fees under 42 U.S.C. Section 1988, costs of suit and interest where appropriate.

- f. An Order awarding prejudgment interest to be determined at trial, and
- g. An Order directing such other and further relief as the Court may deem just and proper, including, but not limited to, appropriate property damage, costs and disbursements.

COUNT VII
Failure to Protect – All Defendants

- 52. Plaintiff incorporates all previous paragraphs as if set forth herein at length.
- 53. Defendants failed to satisfy its responsibilities to protect the plaintiff. Said failure proximately caused the plaintiffs' injuries.

WHEREFORE, the plaintiff demands judgment against the defendants as aforesaid, jointly and severally, in their personal and/or official capacity, for the following relief:

RELIEF

- a. An Order awarding compensatory damages in an amount to be determined at trial.
- b. An Order awarding consequential and additional damages in an amount to be determined at trial.
- c. An Order awarding punitive damages in an amount to be determined at trial.
- d. An Order awarding counsel fees in an amount to be determined at trial.
- e. An Order awarding other damages, attorney's fees, and additional fees under 42 U.S.C. Section 1988, costs of suit and interest where appropriate.
- f. An Order awarding prejudgment interest to be determined at trial, and
- g. An Order directing such other and further relief as the Court may deem just and proper, including, but not limited to, appropriate property damage, costs and disbursements.

Count VIII
Willful Disregard-All Defendants

- 54. Plaintiff incorporates all previous paragraphs as if set forth herein at length.
- 55. The conduct of the defendants was outrageous, wanton and willful, in reckless indifference to the rights, safety, and interest of the plaintiffs, and taken with conscious disregard of their duties and obligations.
- 56. Said conduct proximately caused the injuries to the plaintiffs.

WHEREFORE, the plaintiff demands judgment against the defendants as aforesaid, jointly and severally, in their personal and/or official capacity, for the following relief:

RELIEF

- a. An Order awarding compensatory damages in an amount to be determined at trial.
- b. An Order awarding consequential and additional damages in an amount to be determined at trial.
- c. An Order awarding punitive damages in an amount to be determined at trial.
- d. An Order awarding counsel fees in an amount to be determined at trial.
- e. An Order awarding other damages, attorney's fees, and additional fees under 42 U.S.C. Section 1988, costs of suit and interest where appropriate.
- f. An Order awarding prejudgment interest to be determined at trial, and
- g. An Order directing such other and further relief as the Court may deem just and proper, including, but not limited to, appropriate property damage, costs and disbursements.

COUNT IX
Negligent Compliance with the Law – All Defendants

- 57. Plaintiff incorporates all previous paragraphs as if set forth herein at length.

58. Defendants negligently failed to comply with its own regulations and/or state laws and requirements concerning the care and welfare of the plaintiff.

59. Said failure proximately caused the plaintiff's injuries.

WHEREFORE, the plaintiff demands judgment against the defendants as aforesaid, jointly and severally, in their personal and/or official capacity, for the following relief:

RELIEF

- a. An Order awarding compensatory damages in an amount to be determined at trial.
- b. An Order awarding consequential and additional damages in an amount to be determined at trial.
- c. An Order awarding punitive damages in an amount to be determined at trial.
- d. An Order awarding counsel fees in an amount to be determined at trial.
- e. An Order awarding other damages, attorney's fees, and additional fees under 42 U.S.C. Section 1988, costs of suit and interest where appropriate.
- f. An Order awarding prejudgment interest to be determined at trial, and
- g. An Order directing such other and further relief as the Court may deem just and proper, including, but not limited to, appropriate property damage, costs and disbursements.

COUNT X

Vicarious Liability – All Defendants

60. Plaintiff incorporates all previous paragraphs as if set forth herein at length.

61. Defendants are vicariously liable for the acts and/or failures of the defendants.

62. Said liability was the proximate cause of the plaintiff's injuries.

WHEREFORE, the plaintiff demands judgment against the defendants as aforesaid, jointly and severally, in their personal and/or official capacity, for the following relief:

RELIEF

- a. An Order awarding compensatory damages in an amount to be determined at trial.
- b. An Order awarding consequential and additional damages in an amount to be determined at trial.
- c. An Order awarding punitive damages in an amount to be determined at trial.
- d. An Order awarding counsel fees in an amount to be determined at trial.
- e. An Order awarding other damages, attorney's fees, and additional fees under 42 U.S.C. Section 1988, costs of suit and interest where appropriate.
- f. An Order awarding prejudgment interest to be determined at trial, and
- g. An Order directing such other and further relief as the Court may deem just and proper, including, but not limited to, appropriate property damage, costs and disbursements.

COUNT XI

Breach of Contract – All Defendants

63. Plaintiff incorporates all previous paragraphs as if set forth herein at length.
64. Defendants have committed a breach in contract, either express or implied, as against the parties contained herein.
65. Said contract breach was the proximate cause of the injuries sustained by the plaintiff.

WHEREFORE, the plaintiff demands judgment against the defendants as aforesaid, jointly and severally, in their personal and/or official capacity, for the following relief:

RELIEF

- a. An Order awarding compensatory damages in an amount to be determined at trial.
- b. An Order awarding consequential and additional damages in an amount to be

determined at trial.

- c. An Order awarding punitive damages in an amount to be determined at trial.
- d. An Order awarding counsel fees in an amount to be determined at trial.
- e. An Order awarding other damages, attorney's fees, and additional fees under 42 U.S.C. Section 1988, costs of suit and interest where appropriate.
- f. An Order awarding prejudgment interest to be determined at trial, and
- g. An Order directing such other and further relief as the Court may deem just and proper, including, but not limited to, appropriate property damage, costs and disbursements.

COUNT XII
Violation of Rights

- 66. Plaintiff incorporates all previous paragraphs as if set forth herein at length.
- 67. Defendants deprived the plaintiff of their constitutional right to be free from harm and his rights under 42 U.S.C. Section 1983.

WHEREFORE, the plaintiff demands judgment against the defendants as aforesaid, jointly and severally, in their personal and/or official capacity, for the following relief:

RELIEF

- a. An Order awarding compensatory damages in an amount to be determined at trial.
- b. An Order awarding consequential and additional damages in an amount to be determined at trial.
- c. An Order awarding punitive damages in an amount to be determined at trial.
- d. An Order awarding counsel fees in an amount to be determined at trial.
- e. An Order awarding other damages, attorney's fees, and additional fees under 42 U.S.C. Section 1988, costs of suit and interest where appropriate.

- f. An Order awarding prejudgment interest to be determined at trial, and
- g. An Order directing such other and further relief as the Court may deem just and proper, including, but not limited to, appropriate property damage, costs and disbursements.

JURY DEMAND

Plaintiff(s) hereby demands trial by jury as to all issues.

DESIGNATION OF TRIAL COUNSEL

In accordance with Rule 4:25-4, you are hereby notified that JEFFREY M. ADVOKAT, ESQ., is assigned to try this case.

CERTIFICATION OF NO OTHER ACTIONS

Pursuant to Rule 4:5-1, it is hereby stated that the matter in controversy is not the subject of any other action pending in any other court or of a pending arbitration proceeding to the best of my knowledge or belief. Also, to the best of my belief, no other action or arbitration preceding is contemplated. Further, other than the parties set forth in this pleading, I know of no other parties that should be joined in the above action. In addition, I recognize the continuing obligation of each party to file and serve on all parties and the Court an amended certification if there is a change in facts stated in this original certification.

ADVOKAT & ROSENBERG, ESQS.
Attorney for Plaintiff



JEFFREY M. ADVOKAT, ESQ.

DATED: 9/19/11