

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
No. 1:21-cv-10711-ADB

W.KENDALL

AMENDED COMPLAINT-AS OF COURSE

v.

JOHN DOE
RICHARD ROE
CITY OF BOSTON BPD

1. Plaintiff, W.Kendall, is black male resident of the state of Massachusetts, who was born in Trinidad & Tobago. Plaintiff is a member of the protected class. At all times relevant to this action, plaintiff maintained residence in Dorchester, County of Suffolk.
2. Defendant John Doe, is a white male citizen of the United States whose address is unknown to plaintiff. Plaintiff will seek leave to amend this complaint to state such address, when he is informed of same through the discovery process. At all times relevant to this action, Doe was employed as a law enforcement official by the City of Boston in the BPD and acted under color of law. Doe is being sued in his official and individual capacities.
3. Defendant Richard Roe, is a white male citizen of the United States, whose address is unknown to plaintiff. Plaintiff will seek leave to amend this complaint to state such address, when he is informed of same through the discovery process. At all times relevant to this action, Roe was employed as a law enforcement official by the City of Boston in the BPD and acted under color of law. Roe is being sued in his official and individual capacities.
4. Defendant City of Boston, is a corporation duly organized under the laws of the state of Massachusetts, with a headquarters located at 1 City Hall Square, Boston, Ma. The city operates, manages and controls the Boston Police Dept. and is responsible for training of its officials, implementing and enforcing policies and superintending and monitoring the activities of its officials. The City of Boston employed defendants Doe and Roe in its BPD.

5. At all times relevant to this action, the defendant City of Boston, maintained a custom,
6. policy/practice, whereby a significant number of officers of the Boston Police Department (BPD), acting under colour of law, would racially harass, stop, detain, interrogate without reasonable suspicion, black persons, especially, black males. The said policy/practice was open and notorious, well-known to supervisory officials of the City of Boston, which officials have declined to carefully, monitor, supervise, superintend and train law enforcement officers. The defendant COB has approved of, condoned, and ratified, the illegal and racist conduct of its officers.
7. Officers of the BPD, in the course of their daily duties, would act in accordance with the said custom, policy, by racially harassing black people, stopping them, interrogating, searching them and detaining them without reasonable suspicion.
8. On or about 13th. February, 2018, the plaintiff was walking at/near the intersection of Columbus Avenue and Malcolm X Blvd., public ways, in the late a.m./early p.m., when the defendants Doe and Roe, without reasonable suspicion and acting under color of law, accosted the plaintiff. One of the officers (Doe), stepped into plaintiff's path of travel and physically impeded his progress.. The plaintiff told the officer that he wished to proceed unless he was under arrest. The officer told plaintiff that he was not free to go. The other officer (Roe) stood directly behind plaintiff, thereby preventing plaintiff from retreating.
9. Based on his experience with officers of the BPD and anecdotal information as to the custom, practice, policy of officers of the BPD, of harassing, stopping, searching, assaulting and beating black males, without probable cause, plaintiff believed that the officers wished to provoke a physical confrontation by which they would manufacture a rationale to assault, beat, handcuff plaintiff, then charge him with assault and battery on a police officer and other cover charges.
10. Plaintiff, a black male septuagenarian who has resided for a long time in the City of Boston, was aware of the proclivity of white male officers to harass, intimidate, assault, beat, handcuff and publicly humiliate black males and that the said officers would not receive any discipline or punishment from the municipality and supervisory officials on account of the violation of the rights of black males. Plaintiff was aware from experience, from anecdotal information and documentary sources, that as a matter of routine, officers who harassed, arrested and beat, black males,

- without reasonable suspicion or probable cause, would submit false reports, commit perjury and file cover charges, against the black victims of their misconduct.
11. Plaintiff was cognizant of the fact that the victims of police misconduct, such as plaintiff, would have to engage counsel to represent them, be subjected to the stress and trauma, humiliation and indignity, engendered by criminal prosecution of baseless cover charges, with possible loss of employment or interruption of professional licensure or worse.
 12. In committing the acts alleged, the defendants were racially motivated and were acting in accordance with the custom, policy/practice, above-described, of racially harassing, detaining and interrogating black persons, without reasonable suspicion.
 13. The plaintiff did not consent to or condone, the unlawful stop, detention and interrogation and in fact, vigorously protested against the violation of his rights, including but not limited to the custodial interrogation by the defendants.
 14. The defendants released plaintiff from their custody, only after plaintiff was coerced into offering an explanation of his business and was compelled to produce 'identification' papers and hand them over to the officers.
 15. Over a period of years, the mayors of the defendant City of Boston and the Police Commissioners, pursuant to a custom, policy and practice of failing to properly investigate citizen complaints of racial harassment and unlawful stops and detentions, have permitted individual officers, such as defendants Doe and Roe, to continue to engage in violation of the constitutional rights of black citizens.
 16. For a substantial period of time, police officers of the BPD, have engaged in the repeated and blatant violations of the rights of black citizens, including but not limited to: without reasonable suspicion nor probable cause, stopping black people, especially black males, harassing, interrogating, searching, both their persons and personal effects, such as bags, pocketbooks, handcuffing in public view, humiliating, beating and falsely arresting and imprisoning and criminally prosecuting, black people. The Mayors and Police Commissioners, consistent with custom, policy and practice, have failed to implement effective policies of training supervision and thorough investigation of wrongdoing, to halt the racially motivated transgressions, as above described, of police officers, such as defendants Doe and Roe, resulting in the commission of further racially motivated violations of the constitutional rights of black citizens.

17. The said violations of the rights of black people, have been open and notorious and have been widely memorialized, including, in journals, periodicals and in Report(s) of the ACLU. In October, 2014, the ACLU promulgated a Report, which, inter alia, showed that: the BPD has engaged in racially based policing, as demonstrated by data from reports of 200, 000 + encounters between BPD officers and civilians from 2007-2020. The data show that police targeted Blacks in 63.3 % of encounters-while black males make up less than a quarter of Boston's population. The 200,000 + encounters, involved stops, frisks, searches, interrogations and observations that did not result in documented arrests or criminal charges. BPD officers gave essentially no justification for conducting most of these 200,000 + encounters. In three out of four of them-roughly 150,000-the officer simply listed 'investigate person' as the reason for targeting someone.
18. It is common knowledge, long been known and publicized in daily newspapers, including the New York Times, scholarly articles and journals, that black people, who have been subjected to acts of racial harassment/discrimination, have been caused to suffer high blood pressure, become depressed, experience anxiety, strokes, various neuroses, become suicidal and die. For example, an article which appeared in the New York Times in November, 1996, entitled "Death by Discrimination", described a study, performed by an M.I.T. professor, who adverted to data showing a link between racial harassment experienced by black people, and various sequelae, including hypertension, stroke, suicide and death. Providing similar data, links and conclusions, was an article which appeared in the NYT on 12th.November, 2017, entitled "Less Racism, Doctor's Orders". The article was the result of a study performed by an internal Medical Resident of the Brigham & Women Hospital and Harvard Medical School. The following paragraph appears in the latter article:
"..More than 700 studies on the link between discrimination and health have been published since 2000. This body of work establishes a connection between discrimination and physical and mental well-being".
19. The defendants and all of them were required to be familiar with the precepts of equal protection of the law, the provisions of Executive Order 526, knew and/or should have known of these studies and publications and knew that black people, such as plaintiff, would suffer severe emotional distress, as a result of the unconstitutional custom, policy and practice, in which they engaged.

20. The depredations and injuries suffered by plaintiff, were as a direct and result of the mayors, police commissioners and City of Boston's policies, customs and practices, as above described.
21. The omissions of the mayors, Police commissioners and the City of Boston, to properly, train and supervise officers and to comprehensively investigate complaints of racially motivated violations, constitute a municipal policy or custom of the defendant City of Boston's BPD and is tantamount to deliberate indifference to the rights of black people who have been savaged by the racist conduct of police officers, such as defendants Doe and Roe. Defendants Doe and Roe, were emboldened in committing violations the rights of the plaintiff, confident that there would be no comprehensive investigation of same nor that discipline therefor, would be imposed by the defendant City of Boston's BPD and relied on the policy, practice and custom, as above described, in violating the rights of the plaintiff.
22. Plaintiff caused to be sent to the defendant COB, a Notice of Claim, in which was set forth the facts of the unlawful, racially motivated harassment and detention.
23. All conditions precedent to the commencement of this action, have occurred and have been fulfilled.
24. Defendant has not responded, in any fashion, to the Notice of Claim.

CLAIMS FOR RELIEF (DOE, ROE, City of Boston)

**Count 1: VIOLATIONS OF 42 U.S.C. S.1983
FOURTH AND FOURTEENTH AMENDMENTS
DECLARATION OF RIGHTS, ART.14**

25. Plaintiff repeats and re-avers all of the averments of paragraphs 1 through 24, with the same force and effect as if fully set forth herein.
26. By reason of the foregoing, defendants Doe, Roe and City of Boston, violated plaintiff's rights arising under the fourth and fourteenth amendments to the constitution of the United States and Art.14 of the Declaration of Rights, secured by S.1983.

CLAIMS FOR RELIEF (all defendants)

Count 2: Equal Protection, VIOLATIONS OF 42 U.S.C. S.1983

27. Plaintiff repeats and re-avers all of the averments of paragraphs 1 through 24, with the same force and effect as if fully set forth herein.
28. By reason of the foregoing, defendants and all of them violated the plaintiff's right to equal protection, secured by S.1983.

COUNT 3: VIOLATIONS OF 42 U.S.C. S.1983:
FAILURE TO TRAIN, SUPERVISE, AUDIT AND DISCIPLINE

29. Plaintiff repeats and re-avers, all of the averments of paragraphs 1 through 24, with the same force and effect as if fully set forth herein.
30. By reason of the foregoing, defendant City of Boston was deliberately indifferent to the need to properly train, supervise, audit and discipline BPD officers, relative to the constitutional rights of citizens and violated the rights of citizens and the plaintiff, secured by S.1983.

COUNT 4: VIOLATIONS OF 42 U.S.C. S.1981

31. Plaintiff repeats and reavers all of the averments of paragraphs 1 through 24 as if fully set forth herein.
32. By reason of the foregoing, defendants and all of them, violated plaintiff's rights, guaranteed by 42 U.S.C. S.1981.

COUNT 5-VIOLATIONS OF G.L.c.12, S.11I

33. Plaintiff repeats and re-avers all of the averments of paragraphs 1-24, with the same force and effect as if fully set forth herein.
34. By reason of the foregoing, defendants and all of them violated plaintiff's rights under G.L.c.12, S. 11I, by threats, intimidation and coercion.

COUNT 6- **FALSE ARREST**

35. Plaintiff repeats and re-avers, all of the averments of paragraphs 1 through 24, with the same force and effect as if fully set forth herein.
36. By reason of the foregoing, defendants and all of them, subjected plaintiff to false arrest.

COUNT 7-FALSE IMPRISONMENT

37. Plaintiff repeats and re-avers, all of the averments of paragraphs 1 through 24, with the same force and effect, as if fully set forth herein.
38. By reason of the foregoing, defendants subjected plaintiff to false imprisonment.

COUNT 8- **ASSAULT**

39. Plaintiff repeats and re-avers, all of the averments of paragraphs 1 through 24, with the same force and effect as if fully set forth herein.
40. By reason of the foregoing, defendants and all of them, subjected the plaintiff to assault.

COUNT 8- INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

41. Plaintiff repeats and re-avers, all of the averments of paragraphs 1 through 24, with the same force and effect as if fully set forth herein.
42. By reason of the foregoing, defendants and all of them, by virtue of threats, intimidation and coercion, invidiously, subjected plaintiff to barbaric treatment, in violation of national and international norms.

COUNT 9-NEGLIGENCE

43. Plaintiff re-alleges and re-avers all of the averments of paragraphs 1 – 24 as if fully set forth herein.
44. By reason of the foregoing, defendant City of Boston, was negligent in its training, supervision, auditing and disciplining officers of the BPD, causing and contributing to cause, the harms which plaintiff has suffered.
45. As a direct and proximate result of the foregoing, plaintiff was caused to suffer pain in body and mind, was forced to expend monies for medical care and attendance, was prevented from transacting his business and was otherwise damaged.

WHEREFORE, plaintiff requests that this court: Enter judgment on liability on behalf of plaintiff; award compensatory damages, punitive damages, costs including attorney's fees, declare that the City of Boston has engaged in unconstitutional and racist practices against black people, in violation of state law and international norms; issue a cease and desist order and enter such other and further Order as may be just and equitable.

JURY TRIAL DEMAND

Respectfully Submitted,

/s/W.Kendall
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Roxbury, Ma. 02119
(617) 442-6130
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CERTIFICATE OF SERVICE

I, W.Kendall, hereby certify that on 7th.June, 2021, I made service of the foregoing Amended Complaint-As of Course,First class mail, postage pre-paid upon Atty.Anjomi, City of Boston Law Dept., Room 615, City Hall, Boston, Ma. 02201 .

/s/W.Kendall
W.Kendall