

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

ARMANDO J. SANCHEZ, JR.,

Plaintiff

v.

CITY OF ALBANY POLICE OFFICER  
LUKE DEER, CITY OF ALBANY POLICE  
OFFICER MATTHEW SEEBER, CITY OF  
ALBANY POLICE SERGEANT JIMM  
LEWIS and JOHN DOES Nos. 1 THROUGH  
17,

Defendants.

Case No. 1:19-CV-0649 (GTS/ATB)

**42 U.S.C. § 1983 COMPLAINT  
FOR DAMAGES**

**FALSE ARREST AND UNLAWFUL  
IMPRISONMENT**

**USE OF EXCESSIVE FORCE**

**FAILURE TO INTERVENE**

**SUPERVISORY LIABILITY**

**DEMAND FOR JURY TRIAL**

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NOW COMES plaintiff ARMANDO J. SANCHEZ, JR., by and through his attorneys, E. STEWART JONES HACKER MURPHY, LLP, complaining of defendants, CITY OF ALBANY POLICE OFFICER LUKE DEER, CITY OF ALBANY POLICE OFFICER MATTHEW SEEBER, CITY OF ALBANY POLICE SERGEANT JIMM LEWIS and JOHN DOES Nos. 1-17, inclusive, alleging as follows:

**BACKGROUND AND JURISDICTION**

1. This is an action for money damages bought pursuant to 42 U.S.C. §§ 1983 and 1988 and the Fourth and Fourteenth Amendments to the United States Constitution. Jurisdiction is based upon 28 U.S.C. §§ 1331 and 1343.

2. The defendants made an unreasonable seizure of plaintiff in violation of his rights under the Fourth and Fourteenth Amendments of the United States Constitution and violated those same Amendments by using excessive force against plaintiff. Despite the presence of numerous other defendant officers, none intervened to prevent or stop these violations of plaintiff's rights. Defendant officers who were present in a supervisory capacity failed to appropriately supervise and direct the remaining defendant officers to prevent or stop these violations of plaintiff's rights.

**PARTIES**

3. The plaintiff is a resident of the State of New York.

4. At all times relevant hereto, defendants City of Albany Police Officer Luke Deer (hereinafter "Deer"), City of Albany Police Officer Matthew Seeber (hereinafter "Seeber"), City of Albany Police Sergeant Jimm Lewis (hereinafter "Lewis"), and John Does (hereinafter

“Does”) Nos. 1-17 were duly-appointed law enforcement officers of the police department of the City of Albany, acting under color of the statutes, ordinances, regulations, policies, customs and usages of the City of Albany.

**FACTS**

5. On March 16, 2019, while in the City of Albany, New York, defendants responded to a call of a noise complaint concerning a residence located at or around 523 First Street.

6. On said date, having committed no crime, plaintiff was lawfully in the City of Albany, New York, in the vicinity of 523 First Street, in a private home.

7. With no warrant or lawful cause to do so, defendants Seeber, Deer and an unknown number of Doe defendants approached the residence and demanded that the door be opened.

8. The door was a wooden-framed door with glass panes which allowed the officers to see directly into the residence.

9. An occupant of the residence, Lee Childs, spoke to defendants Seeber, Deer and unknown Doe officers through the closed door of the residence, asked the officers for a warrant and was told there was none.

10. Although observing no unlawful activity, defendant Seeber kicked open the door to the residence and sprayed pepper spray into the residence.

11. Defendants Deer, Seeber, and unknown Doe defendants immediately proceeded to tackle, beat, punch and kick Mr. Childs. Defendants Deer, Seeber, and unknown Doe officers

proceeded to place Mr. Childs under arrest and into custody, without legal cause.

12. Thereafter, all occupants of the residence were ordered by unknown defendant officers to vacate the premises.

13. Defendants Deer, along with unknown defendant officers then present, escorted Mr. Childs into the street, some 50 feet away, to a location near a waiting patrol car.

14. Plaintiff, having committed no illegal acts, obeyed the officers' orders and exited the residence and walked into the street in front of the residence, where he was further ordered by an unknown defendant to "Go! Get the fuck out!"

15. Plaintiff complied with Doe defendants' directives and continued to walk away, backwards, with his open hands raised above his head.

16. Defendant Deer, standing with several other defendant officers and Mr. Childs some 50 feet away by a patrol car, without reasonable suspicion of any criminal activity having been committed by plaintiff or any other good cause, suddenly turned and charged at plaintiff without warning or explanation.

17. While running towards plaintiff, defendant Deer began yelling at plaintiff: "Get the fuck out of here! Go! Now!"

18. At all times relevant, defendant Deer possessed an expandable police baton.

19. While running toward plaintiff, defendant Deer armed himself by placing the expandable police baton into his right hand.

20. At this juncture, defendant Deer had not expanded the baton, but possessed it in the collapsed position.

21. While proceeding at a run directly toward plaintiff, defendant Deer punched plaintiff in the neck with his open left hand, knocking plaintiff onto the ground onto his back, some 8 feet away from defendant Deer.

22. Plaintiff stood up, but before he had a chance to move further, defendant Deer charged at plaintiff again.

23. Defendant Deer, without pausing while charging and gripping his police baton as a cudgel, struck plaintiff repeatedly in the face and head.

24. During the assault by defendant Deer with the police baton, plaintiff continued to walk backward until the repeated blows by Deer knocked plaintiff onto his back on the street again.

25. Defendant Deer then immediately leapt upon plaintiff while plaintiff lay in the street on his back.

26. Defendant Deer resumed beating plaintiff in the face and head, using his collapsed baton as a cudgel.

27. Defendant Deer struck plaintiff repeatedly with the police baton.

28. Defendant Deer then extended his expandable police baton and used the butt end of the baton to strike plaintiff repeatedly in the head, using a stabbing motion.

29. At all times, plaintiff did not resist the actions of defendant Deer in any way.

30. Defendants Deer, Seeber and unknown Doe defendants then placed handcuffs on plaintiff.

31. Defendant Deer thereafter forcibly pulled plaintiff into a standing position by

yanking on plaintiff's dreadlocks and handcuffed wrists.

32. Defendants Deer, Seeber, and Does Nos. 1-15 then arrested plaintiff.

33. At all times during the events described above, defendant police were engaged in a joint venture. The individual police defendants assisted each other in performing the various actions described and lent their physical presence, support and the authority of their office, to each other during the described events.

34. At all times during the events described above, defendants materially aided and worked with each other.

35. At all times during the events described above, defendants Deer, Seeber, and Does Nos. 1-15 were supervised directly by defendants Lewis and Does Nos. 16-17.

36. Defendants Lewis, Seeber and Does Nos. 1-17 were in close proximity to defendant Deer while said Deer assaulted plaintiff and falsely imprisoned plaintiff.

37. Defendants Lewis and Does Nos. 16-17 were encharged with the duty to supervise the actions of defendants Deer, Seeber and Does Nos. 1-15.

38. The above actions of defendants caused substantial pain and physical injury to plaintiff, including but not limited to bruising, contusions, lacerations, shoulder injury, wrist injury, nerve damage, concussion, post-concussive syndrome, chronic pain and psychological and emotional trauma.

39. On or about March 16, 2019, defendants Seeber and Deer filed charges against plaintiff, falsely alleging Disorderly Conduct in violation of New York State Penal Law § 240.20(6), Obstruction of Governmental Administration in the Second Degree in violation of

Penal Law § 195.05, and Resisting Arrest in violation of Penal Law § 205.30.

40. Defendants Seeber and Deer filed these charges against plaintiff without probable cause and with the intent to justify the excessive use of force and unlawful arrest and imprisonment of plaintiff.

41. On or about April 2, 2019, the Albany County District Attorney's Office (hereinafter "the People") filed a motion to dismiss plaintiff's criminal charges under Criminal Procedure Law § 170.40 (1).

42. In said motion, the People affirmed that defendant Deer had assaulted plaintiff.

43. In the same motion, the People affirmed that, as it concerned plaintiff, there was "serious exculpatory evidence" in body camera footage worn by defendants Deer, Seeber, and Does Nos. 1-15, and requested that the charges against plaintiff be dismissed.

44. On or about April 3, 2019, Albany City Court Judge Holly Trexler dismissed all the charges filed against plaintiff.

45. As a direct and proximate result of the acts of the defendants, the plaintiff suffered the following injuries and damages:

- a. Violation of his constitutional rights under the Fourth and Fourteenth Amendments to the United States Constitution to be free from an unreasonable search and seizure of his person, malicious prosecution, and to not be subjected to excessive force;
- b. Physical damages, including medical expenses, pain and suffering and psychological and emotional trauma;

- c. Economic loss, including loss of income and other expenses; and
- d. The actions of the defendants violated the clearly established and well settled Federal constitutional rights of plaintiff, including freedom from the unreasonable seizure of his person, malicious prosecution, and freedom from the use of excessive, unreasonable force against his person.

**COUNT ONE**

**42 U.S.C. §1983  
False Arrest and Unlawful Imprisonment  
(Defendants Deer, Seeber and Does Nos. 1-15)**

46. Plaintiff realleges and incorporates by reference herein all preceding paragraphs of plaintiff's complaint.

47. Even though plaintiff committed no crime and posed no threat, defendants Deer, Seeber and Does Nos. 1-15, acting without probable cause, falsely arrested and unlawfully imprisoned plaintiff by chasing plaintiff, beating him, handcuffing him, arresting him, placing him into police custody, and imprisoning him.

48. As a direct and proximate result of this false arrest and unlawful imprisonment, plaintiff suffered damages.

49. Plaintiff claims damages for the injuries set forth above under 42 U.S.C. §1983 against defendant police officers and detectives for violations of his constitutional rights under the Fourth and Fourteenth Amendments to the United States Constitution while acting under color of law.

50. These damages include, but are not limited to, loss of his physical liberty;

physical damages, including medical expenses; pain and suffering and psychological and emotional trauma as well as economic loss, including loss of income and other expenses arising out of his injuries.

**COUNT TWO**

**42 U.S.C. §1983  
Use of Excessive Force  
(Defendants Deer, Seeber and Does 1-15)**

51. Plaintiff re-alleges and incorporates by reference herein all preceding paragraphs of plaintiff's complaint.

52. Defendants Deer, Seeber and Does 1-15, by the actions detailed above, including but not limited to spraying pepper spray, punching, striking, cudgeling, beating, handcuffing and yanking plaintiff, used excessive force in violation of plaintiff's rights under the Fourth and Fourteenth Amendments to the United States Constitution.

53. As a direct and proximate result of the use of excessive force, plaintiff was damaged by defendants.

54. These damages include, but are not limited to, loss of his physical liberty; physical damages, including medical expenses; pain and suffering and psychological and emotional trauma as well as economic loss, including loss of income and other expenses arising out of his injuries.

**COUNT THREE**

**42 U.S.C. §1983**

**Failure to Intervene  
(Defendants Seeber, Lewis, and Does Nos. 1-17)**

55. Plaintiff re-alleges and incorporates by reference herein all preceding paragraphs in plaintiff's complaint.

56. Defendants Seeber, Lewis and Does Nos. 1-17 had a duty to intervene to prevent the use of excessive force against plaintiff.

57. Defendants Seeber, Lewis and Does Nos. 1-17 viewed, heard, witnessed and otherwise were aware of and in proximity to the use of excessive force against plaintiff.

58. Defendant Seeber, Lewis and Does Nos. 1-17 had a reasonable opportunity to intervene to prevent the unlawful arrest and false imprisonment of plaintiff.

59. Defendants Seeber, Lewis and Does Nos. 1-17 had a duty to intervene to prevent the unlawful arrest and false imprisonment of plaintiff.

60. Defendants Seeber, Lewis and John Does Nos. 1-17 viewed, heard, witnessed and otherwise were aware of and in proximity to the unlawful arrest and false imprisonment of plaintiff.

61. Defendant Seeber, Lewis and John Does Nos. 1-17 had a reasonable opportunity to intervene to prevent the unlawful arrest and false imprisonment of plaintiff.

62. Defendants Seeber, Lewis and John Does Nos. 1-17 failed to intervene.

63. As a direct and proximate result of the above, plaintiff was damaged by defendants.

64. These damages include, but are not limited to, loss of his physical liberty; physical damages, including medical expenses; pain and suffering and emotional trauma as well

as economic loss, including loss of income and other expenses arising out of his injuries and resultant permanent disability.

**COUNT FOUR**

**42 U.S.C. §1983  
Supervisory Liability  
(Defendants Lewis and Does Nos. 16-17)**

65. Plaintiff re-alleges and incorporates by reference herein all preceding paragraphs in plaintiff's complaint.

66. Defendants Lewis and Does Nos. 16-17 were at all times relevant the direct supervisors of all remaining defendants.

67. Defendants Lewis and Does Nos. 16-17 were present for and directly aware of the imminent use of excessive force against plaintiff.

68. Defendants Lewis and Does Nos. 16-17 were present for and directly aware of the imminent unlawful arrest and false imprisonment of plaintiff.

69. Defendants Lewis and Does Nos. 16-17 were present for and directly aware of the actual use of excessive force and unlawful seizure and arrest of plaintiff by all remaining defendants.

70. Defendants Lewis and Does Nos. 16-17 had the opportunity to direct defendants to refrain from and/or cease the use of excessive force and unlawful seizure and arrest of plaintiff.

71. Defendants Lewis and Does Nos. 16-17 failed to properly supervise all remaining defendants to prevent or to stop the use of excessive force or the unlawful seizure and arrest of

plaintiff.

72. As a direct and proximate result of the above, plaintiff was damaged by defendants.

73. These damages include, but are not limited to, loss of his physical liberty; physical damages, including medical expenses; pain and suffering and emotional trauma as well as economic loss, including loss of income and other expenses arising out of his injuries.

**DEMAND FOR JURY TRIAL**

57. Plaintiff demands a jury trial on all causes of action.

WHEREFORE, plaintiff requests that this Court:

- a. Award compensatory damages to plaintiff against the defendants, jointly and severally;
- b. Award punitive damages against defendants, as determined by the jury;
- c. Award reasonable attorney's fees and costs to the plaintiff on all counts;
- d. Award costs of this action to the plaintiff; and
- e. Award such other and further relief as this Court may deem appropriate.

Dated: June 2, 2019

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