

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

ABEL SANCHEZ, : Case No. 3:08-cv-706(JBA)
v. :
: January 3, 2010
DENNIS O'CONNELL, :
FRANCISO ORTIZ, :
JEFF HOFFMAN, :
THE CITY OF NEW HAVEN :
Individually.

SECOND REVISED COMPLAINT

PARTIES

1. ABEL SANCHEZ is a resident of Connecticut.
2. DENNIS O'CONNELL is a citizen of Connecticut whose business address is 1 Union Avenue, New Haven, CT 06519 and who is employed as an officer by the New Haven Department of Police Services. Defendant O'CONNELL was acting under color of state law when he engaged in the conduct alleged in this complaint.

3. JEFF HOFFMAN is a citizen of Connecticut whose address is 1 Union Avenue, New Haven CT 06519 and who is employed as a lieutenant by the New Haven Department of Police Services. Defendant HOFFMAN was acting under color of state law when he engaged in the conduct alleged in this complaint.
4. FRANCISO ORTIZ is a citizen of Connecticut who was formerly the Chief of Police of the New Haven Department of Police Services. Defendant ORTIZ was acting under color of state law when he engaged in the conduct alleged in this complaint.
5. The CITY OF NEW HAVEN is a municipality located in the state of Connecticut.

JURISDICTION

Jurisdiction is asserted pursuant to 42 U.S.C. section 1983 and 28 U.S.C. sections 1331, 1343(a) (3) and 1367(a).

NATURE OF THE CASE

1. This is an action for money damages and declaratory relief to redress the deprivation of rights secured to the plaintiff by the Fourth, Eighth

and Fourteenth Amendments to the United States Constitution and for assault. The defendant O'CONNELL used excessive force to arrest the plaintiff and caused the plaintiff physical and emotional injuries. The defendants JEFF HOFFMAN, and FRANCISCO ORTIZ were responsible for supervising, training and disciplining the defendant O'CONNELL, but failed to do so, proximately causing plaintiff's injuries. The defendant CITY OF NEW HAVEN, maintained a policy or practice of not investigating police abuse complaints sufficiently and not taking action to stop officers from committing further acts of abuse that amounted to deliberate indifference to the rights of persons similarly situated to the plaintiff, and therefore the CITY OF NEW HAVEN is liable to the plaintiff under *Monell v. New York Department of Social Services*, 436 U.S. 658 (1978).

FIRST CAUSE OF ACTION – CONSTITUTIONAL RIGHTS VIOLATION

The defendant O'CONNELL violated the plaintiff ABEL SANCHEZ's right to liberty and due process of law under the Fourteenth Amendment to the United States Constitution, violated his Fourth Amendment rights, and/or inflicted cruel and unusual punishment in violation of the Eighth Amendment. Specifically:

1. Defendant Dennis O'Connell arrested the plaintiff Abel Sanchez on or about January 6, 2008.
2. The defendant used excessive and wanton force to arrest the plaintiff, specifically; he punched him in the face, kicked him while he was down on the ground, and sprayed the plaintiff's eyes and nose with chemical spray while the plaintiff was already handcuffed and offering no resistance.
3. There was no arrest warrant for the plaintiff.
4. The Plaintiff SANCHEZ, suffered pain, physical injury and emotional trauma as a result of the actions of the defendant O'CONNELL.
5. The Plaintiff SANCHEZ filed a civilian complaint against defendant O'CONNELL alleging the physical abuse described above.
6. At all relevant times, it was clearly established and Defendant O'CONNELL knew or should have known that it is a violation of federal law to abuse an unresisting person in the manner complained of above.

SECOND CAUSE OF ACTION – ASSAULT AND BATTERY

The defendant assaulted the plaintiff by using excessive force upon him, causing serious physical and psychological injuries to him. Specifically:

1. Officer O'Connell arrested the plaintiff on or about January 6, 2008.
2. There was no arrest warrant for the plaintiff.
3. Officer O'Connell used unreasonable, excessive, painful and damaging force upon the plaintiff's person by repeatedly punching him in the face, kneeling him in the ribs, throwing him to the ground, kicking his face, and spraying his eyes and ears with chemical spray while the plaintiff was handcuffed inside a police vehicle.
4. At all relevant times, it was clearly established and Defendant O'CONNELL knew or should have known that it is a violation of state law to abuse an unresisting person in the manner complained of above.

THIRD CAUSE OF ACTION FAILURE TO TRAIN OR SUPERVISE

The defendants JEFF HOFFMAN, FRANCISCO ORTIZ, and CITY OF NEW HAVEN, are liable to the plaintiffs for the injuries inflicted by Defendant DENNIS O'CONNELL, specifically:

1. At all times relevant to this suit the defendants HOFFMAN and ORTIZ were acting under color of law.
2. Defendants HOFFMAN and ORTIZ had a duty to supervise and train defendant O'CONNELL and failed to do so despite knowledge of several physical abuse complaints filed against O'CONNELL.
3. Defendants HOFFMAN and ORTIZ' failure to supervise, discipline or train O'CONNELL appropriately proximately caused the injuries to the plaintiffs.
4. Defendant CITY OF NEW HAVEN, had in place a policy or practice of failing to investigate police abuse complaints sufficiently and failing to take effective action against officers after abuse complaints were substantiated, that proximately caused the Plaintiff's injuries. The

policy or practice of the CITY OF NEW HAVEN of failure to respond appropriately to complaints of police abuse amounted to deliberate indifference to the rights of persons situated similarly to the Plaintiffs.

The CITY OF NEW HAVEN is liable to plaintiffs under *Monell v. New York Department of Social Services*, 436 U.S. 658 (1978).

5. At all relevant times, it was clearly established and defendant HOFFMAN knew or should have known that it is a violation of federal law for a supervisor to fail to train, supervise, or correct his subordinates when the misconduct of those subordinates poses an unreasonable risk of harm to individuals like plaintiff.
6. At all relevant times, it was clearly established and defendant ORTIZ knew or should have known that it is a violation of federal law for a supervisor to fail to train, supervise, or correct his subordinates when

the misconduct of those subordinates poses an unreasonable risk of harm to individuals like plaintiff.

7. At all relevant times, it was clearly established and defendant CITY OF NEW knew or should have known that it is a violation of federal law for a municipality to show deliberate indifference to the rights of persons situated similarly to the plaintiffs by maintaining a policy or practice of failing to investigate allegations of police brutality and failing to discipline, supervise or train police officers who have numerous brutality complaints when the misconduct of those offices poses an unreasonable risk of harm to individuals like plaintiffs.

REQUEST FOR RELIEF

The plaintiffs request:

1. Expungement of the record against plaintiffs on all charges stemming from their arrests by Dennis O'Connell.
2. Compensatory damages of \$9,500,000.
3. Punitive damages.
4. Costs and Attorney Fees.
5. Trial by jury.

The Plaintiff

By /s/Paul A. Garlinghouse_
Paul A. Garlinghouse
their Attorney
129 Church Street, Suite 804
New Haven, CT 06510
(203) 865-0139
Fed. Bar No. CT25143