

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
URBANA DIVISION**

BENJAMIN MANN,)	
)	
Plaintiff,)	
)	No. 14-cv-2200
v.)	
)	
CITY OF CHAMPAIGN, ILLINOIS, and Police)	
Officers CHRISTOPHER C. AIKMAN, DAVID)	
BUTLER, NATHANIEL M. EPLING, KRISTINA)	
HAUGEN, MARSHALL HENRY, MATT R.)	
RUSH, and CULLY T. SCHWESKA,)	
)	
Defendants.)	

COMPLAINT

Plaintiff, BENJAMIN MANN (hereinafter “Benjamin”), by his attorneys, Hale Law LLC, for his complaint against Defendants OFFICER CHRISTOPHER C. AIKMAN (hereinafter “Aikman”), OFFICER DAVID M. BUTLER (hereinafter “Butler”), OFFICER NATHANIEL M. EPLING (hereinafter “Epling”), OFFICER KRISTINA HAUGEN (hereinafter “Haugen”), OFFICER MARSHALL HENRY (hereinafter “Henry”), OFFICER MATT R. RUSH (hereinafter “Rush”), OFFICER CULLY T. SCHWESKA (hereinafter “Schweska”), and the CITY OF CHAMPAIGN ILLINOIS allege as follows:

Jurisdiction and Venue

1. This action is brought pursuant to 42 U.S.C § 1983 to redress the deprivation under color of law of Plaintiff’s rights as secured by the United States Constitution.
2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1367, and venue is proper under U.S.C § 1391(b). On information and belief, all

parties reside in this judicial district, and the events giving rise to the claims asserted herein occurred within the City of Champaign.

Parties

3. The Plaintiff Benjamin Mann is a citizen of the United States and resides in the City of Champaign, Champaign County, Illinois.

4. Defendants OFFICER CHRISTOPHER C. AIKMAN, OFFICER DAVID M. BUTLER, OFFICER NATHANIEL M. EPLING, OFFICER KRISTINA HAUGEN, OFFICER MARSHALL HENRY, OFFICER MATT R. RUSH, and OFFICER CULLY T. SCHWESKA (collectively referred to herein as “Defendant Officers”) are sued in their individual and official capacities, and were employed at all relevant times as police officers by the City of Champaign, Illinois. At all times relevant hereto, Defendants were acting under color of law and within the course and scope of their employment as police officers for the City of Champaign.

5. Defendant City of Champaign is a municipal corporation incorporated under the laws of the state of Illinois located in Champaign County, and operates the Champaign Police Department, and at all times relevant to the events complained of, was the employer of the Defendant Officers.

Facts Common to All Counts

6. On March 15, 2014, Benjamin went to a pre-birthday celebration for his then girlfriend, Ashanti Sturkey, along with Ashanti’s sister and her sister’s boyfriend.

7. An argument between Benjamin and Ashanti ensued and Benjamin decided to walk home.

8. After walking for about an hour, Benjamin finally arrived at the residence he

shared with Ashanti around 2 a.m. on March 16, 2014.

9. When Benjamin knocked on the door, she did not let him in. Benjamin requested that she throw out his car keys so he could leave, however, Ashanti refused and stated that she had called the police to deal with the exchange of property.

10. Benjamin thus remained on the porch and called his mother in an attempt to get a ride.

11. Around 2:18 a.m., Benjamin observed two squad cars moving slowly toward the house with dimmed front lights and the spotlights on. Benjamin then moved off of the porch to the front yard and began waving both his arms in order to direct the officers to his residence.

12. Officer Henry and Officer Rush were first to arrive on the scene. When the officers got out of their vehicles, they began moving towards Benjamin quickly and in an aggressive manner, with their hands on their guns.

13. The immediate and overly aggressive response by Officers Henry and Rush to Benjamin's innocent and non-threatening demeanor was consistent with the pattern and practice of these officers' behavior on numerous other arrests. Moreover, it was consistent with the de facto policy of the Champaign Police Department to allow its officers to use excessive force during interactions with the public without fear of any meaningful discipline.

14. In addition, despite the aggressive approach by Officers Henry and Rush, they both intentionally did not activate their squad car camera so that their standard practice of using excessive force would not be videotaped and subject to objective review.

15. Officers Henry and Rush yelled at Benjamin to "turn around and put your hands

behind your back.” Benjamin complied with the officers’ unjustified commands, however he asked the officers what was going on and whether he was being arrested.

16. The officers did not respond to Benjamin’s questions; instead, Officer Rush grabbed a hold of Benjamin’s wrists, which were already behind Benjamin’s back, placed handcuffs on his left wrist, and began punching him in the stomach. This force was used without warning and without provocation.

17. Officers Rush and Henry knew at the time that they began senselessly beating Benjamin that their police department would never take meaningful action against them so long as they asserted a story, no matter how unbelievable, that Benjamin was resisting arrest. It was for this reason that they intentionally left one of Benjamin’s hands uncuffed at this time.

18. Despite Benjamin’s full compliance with the officers’ commands, Officers Rush and Henry struck him in the back of the head, causing him to hit the concrete and land on his stomach.

19. Officers Henry and Rush continued to beat Benjamin as they yelled, “stop resisting.” Again, these commands made no sense because Benjamin was never resisting. The commands, in fact, were part of Defendants Officers’ conspiracy to cover up their misconduct, a conspiracy that was made possible by the City of Champaign’s de facto policy of failing to provide meaningful discipline and credible oversight to its officers.

20. The beating continued as Officer Henry then placed his knee on the back of Benjamin’s head and neck while Officer Rush repeatedly punched Benjamin in the face. Benjamin screamed out in agonizing pain and begged the officers to cease the assault to no avail.

21. As Benjamin's face was turned to his right, Officer Henry then sprayed Benjamin in the face with OC spray for approximately five or six seconds. Benjamin was instantly blinded and unable to breathe.

22. Officers Rush and Henry then both knee struck Benjamin several times in his common perineal area while yelling at him to "stop resisting." Again, these nonsensical commands were part of a cynical cover-up of the Defendant Officers' misconduct.

23. The officers continued to beat Benjamin by punching and kicking him and then proceeded to turn him around and knee him in the groin. This caused tremendous pain to Benjamin and still causes him discomfort in his groin area to this day.

24. At or before 2:21 a.m., Officers Aikman, Butler, and Schweska joined in and participated in beating Benjamin. Among their other involvement in beating, Officers Aikman, Butler, and Schweska held Benjamin down while other officers, including Rush and Henry, continued to beat Benjamin without any justification. Officer Schweska himself kneed Benjamin repeatedly, causing him extreme pain.

25. At some point, Officer Rush even beat Benjamin about his body and extremities several times with an expandable baton. None of the Defendant Officers, including Officer Haugen, voiced any objections during this process even though they were within the immediate vicinity of Officer Rush as he opened the baton and beat Benjamin.

26. Ashanti, having witnessed the unprovoked beating of Benjamin, yelled at the officers to stop and let Benjamin into the house, however, they told her to get back in the house and shut the door.

27. The beating that Benjamin endured at the hands of Officers Aikman, Butler, Henry, Rush, Schweska, and possibly others, was so severe that he could no longer see or

walk.

28. Realizing that they got carried away with their unlawful beating of Benjamin, Defendant Officers met on scene and agreed on an aged old plan to cover up their unlawful conduct. They agreed that they would falsely claim that Benjamin's injuries were the result of him resisting arrest and that they would prepare their paperwork to that effect.

29. Instead of conducting a reasonable police investigation into allegations of resisting arrest by canvassing the scene for neutral witnesses, Defendant Officers did everything in their power to cleanse their reports of any witness information that might assist Benjamin in his criminal defense.

30. For example, Defendant Officers intentionally omitted from their official police reports that several eyewitnesses – including Brad Wright and Michael Wright – viewed the entire incident and would be able to testify that Defendant Officers' narrative was false.

31. This obviously inadequate investigation into allegations of resisting arrest was taken pursuant to the de facto policy and practice of the Champaign Police Department where all officers, including Defendant Officers, know that their supervisors will turn the other way and never question why they failed to take statements from eyewitnesses at the scene.

32. This complete and intentional failure of investigation is even more glaring when considering the fact that the alleged complaining witness in this whole event, Ashanti, told Officer Haugen immediately on the scene that she witnessed Defendant Officers use excessive force.

33. As a punitive measure and as a further unnecessary use of force, Defendant Officers made sure that Benjamin's handcuffs were so tight that it dug into his wrists and caused him further unnecessary pain and injury.

34. Despite Defendant Officers' best efforts at covering up their misconduct, squad car video 31 shows the result of Benjamin's unjustified beating at the hands of Defendant Officers. The video shows two of Defendant Officers dragging Benjamin to Officer Epling's patrol car. It took two officers to carry him, as he was unable to stand without assistance.

35. The video further shows that Benjamin had to be laid on top of the patrol car to be searched and when officers attempted to once again move him into the patrol car, he fell over and had to be pulled up by his jacket in order to be placed inside the patrol car.

36. The beating was so severe that a supervisor that responded to the scene instructed that Benjamin be taken immediately to the emergency room. Officer Epling escorted Benjamin to Carle Hospital.

37. Once inside the patrol car, squad car video 45 depicts a barely conscious Benjamin in the back of the car physically unable to sit up independently.

38. Because of the vicious beating that Benjamin had endured, he needed a wheelchair to escort him inside the emergency room. Once in the emergency room, Benjamin was screaming and complaining of pain in his hands.

39. Officer Epling finally loosened Benjamin's handcuffs after he arrived at the hospital with Benjamin. At least as of this time, Officer Epling noticed that the handcuffs were so tight around Benjamin's wrists that the skin surrounding the cuffs became extremely swollen around the metal and that he had cuts on his wrists.

40. Hoping to cover up their misconduct, Defendant Officers falsely charged Benjamin with felony resisting a police officer under 720 ILCS 5/31-1(a-7).

41. Benjamin was kept in jail for two days until he was arraigned and bail was set. Knowing that these charges were false, Defendant Officers avoided testifying about the resisting charges at the arraignment hearing, sending a lieutenant with no firsthand knowledge to testify about the events instead. All along, Defendant Officers knew these charges were false and that there was no way they could ever testify in support of these charges without committing perjury.

42. Nevertheless, Defendant Officers allowed the prosecution to continue for months against Benjamin in the hopes that he would be too scared to proceed to trial and might plead guilty.

43. This plan unraveled when Benjamin insisted that the false charges be taken to trial and the state was left with no choice but to dismiss the charges on July 28, 2014, for lack of a complaining witness or any evidence at all.

Count I—42 U.S.C. § 1983: Excessive Force

44. Plaintiff re-alleges all of the preceding paragraphs and incorporates them in this count.

45. Defendant Officers Aikman, Butler, Henry, Rush, and Schweska's actions as described above constituted a seizure of the Plaintiff and were objectively unreasonable in light of the facts and circumstances surrounding the event. Therefore the Defendants' conduct was a violation of Plaintiff's Fourth Amendment right to be free from excessive use of force as applied to the states through the Fourteenth Amendment.

46. As a direct and proximate result of the Defendant's actions, Plaintiff has suffered

physical, emotional and monetary damages.

47. WHEREFORE, Plaintiff respectfully requests that this court enter judgment in his favor and against Defendants Aikman, Butler, Henry, Rush and Schweska, in both their individual and official capacities and award compensatory and punitive damages in the amount deemed just and appropriate by the trier of fact, plus the cost of this action, including attorney fees, and for any other relief this court deems just and appropriate under the circumstances.

Count II: False arrest

48. Plaintiff re-alleges all of the preceding paragraphs and incorporates them in this count.

49. Defendants violated Plaintiff's rights protected by the Fourth Amendment of the United States Constitution and the laws of Illinois when they assaulted and confined Benjamin, resulting in the restraint of his personal liberty and freedom of movement without probable cause.

50. Defendant Officers did not have probable cause to make an arrest as Ashanti, the alleged victim, called the police to engage in a peaceful transfer of property, stated that she did not understand why police were assaulting Plaintiff, as he was doing nothing wrong, and Benjamin complied with all of the officer's demands.

51. Defendant Officers' actions were the direct and proximate cause of Benjamin's injuries.

52. WHEREFORE, Plaintiff respectfully requests this court enter judgment in favor of Plaintiff and against Defendant Officers and award compensatory and punitive damages in the amount deemed just and appropriate by the trier of fact, plus the cost of

this action, and such other relief as this court deems equitable and just.

Count III: Failure to Intervene

53. Plaintiff re-alleges all of the preceding paragraphs and incorporates them in this count.

54. Police officers have an obligation to protect citizens from constitutional violations by other fellow officers. Therefore, an officer who witnesses other officers violating an individual's constitutional rights is liable to the victim for failing to intervene.

55. Officers Aikman, Butler, Haugen, Henry, Rush and Schweska had a duty to intervene when witnessing Plaintiff's unprovoked and brutal beating. Defendant Officers either partook in the beating and/or failed to intervene in order to protect Plaintiff from the violation of his civil rights.

56. WHEREFORE, Plaintiff respectfully requests this court enter judgment in favor of Plaintiff and against Defendant Officers and award compensatory and punitive damages in the amount deemed just and appropriate by the trier of fact, plus the cost of this action, and such other relief as this court deems equitable and just.

**Count IV—42 U.S.C § 1983: Municipal Policy Claim
(Against the City of Champaign)**

57. Plaintiff re-alleges all of the preceding paragraphs and incorporates them in this count.

58. Defendant City of Champaign is responsible for the creation and adoption of rules and regulations for the governance of the City.

59. The City of Champaign retains policy makers that train and supervise its police officers about the use of force.

60. The unconstitutional actions of Officers Aikman, Butler, Epling, Haugen, Henry,

Rush, and Schweska, as alleged above, were done pursuant to the policy and practice of the City of Champaign of failing to adequately and meaningfully train, supervise, or discipline its police officers. Such a failure amounts to deliberate indifference on the part of the City and on the part of its leading officials.

61. At all times relevant to this complaint, all Defendant Officers were acting under color of law and pursuant to the policies set forth by the City of Champaign.

62. The City's failure to properly train, discipline, monitor, control and supervise its police officers was the direct and proximate cause of the injuries to Benjamin.

63. WHEREFORE, Plaintiff respectfully requests that this court enter judgment in his favor and against the City of Champaign and to award damages in an amount deemed fair, plus attorney's fees and whatever additional relief this court finds equitable and just.

**Count V—Malicious Prosecution
State Law Claim**

64. Plaintiff re-alleges all of the preceding paragraphs and incorporates them in this count.

65. Defendants Aikman, Butler, Epling, Haugen, Henry, Rush and Schweska, individually and jointly, and in conspiracy, instituted and continued a malicious criminal prosecution against Benjamin without probable cause.

66. These actions were done in a malicious manner.

67. The criminal proceeding was terminated in favor of Benjamin when all charges were dismissed on July 28, 2014.

68. The Defendant's actions were the direct and proximate cause of the injury to Benjamin as detailed above.

69. WHEREFORE, Plaintiff respectfully requests that this court enter judgment in

favor of Plaintiff and against Defendant Officers and award compensatory and punitive damages in the amount deemed just and appropriate by the trier of fact, plus the cost of this action, and such other relief as this court deems equitable and just.

**Count VI—Intentional Infliction of Emotional Distress
State Law Claim**

70. Plaintiff re-alleges all of the preceding paragraphs and incorporates them in this count.

71. Defendants Aikman, Butler, Henry, Rush, and Schweska intentionally engaged in conduct that is extreme and outrageous. Through their actions, Defendants intended to inflict severe emotional distress on Benjamin or knew that there was a high probability that their conduct would result in severe emotional distress.

72. As a direct and proximate cause of Defendant's extreme and outrageous conduct, Benjamin was injured, has experienced, and continues to experience emotional anguish including sleep disruptions and anxiety.

73. WHEREFORE, Plaintiff respectfully requests that this court enter judgment in his favor and against Defendant Officers and award compensatory and punitive damages in the amount deemed just and appropriate by the trier of fact, plus the cost of this action, and other such relief as this court deems equitable and just.

**Count VII—Conspiracy
State Law Claim**

74. Plaintiff re-alleges all of the proceeding paragraphs and incorporates them in this count.

75. Defendants Aikman, Butler, Haugen, Henry, Rush and Schweska along with other co-conspirators, including supervisory officers, acted jointly in falsely imprisoning,

maliciously prosecuting and intentionally inflicting emotional distress on Benjamin.

76. In furtherance of the conspiracies, the named Defendants committed the overt acts set forth above and the conspiracies were continuous.

77. WHEREFORE, Plaintiff respectfully requests this court enter judgment in favor of Plaintiff and award damages, jointly and severally from Defendants, plus the cost of this action, and such other relief as this court deems equitable and just.

VIII: Respondeat Superior

78. Plaintiff re-alleges all of the proceeding paragraphs and incorporates them in this count.

79. Defendant Officers were, at all times relevant to this complaint, employees of the Defendant City of Champaign.

80. Defendant Officers were acting within the scope of their employment and their actions are imputed to the Defendant City of Champaign under state law pursuant to *respondeat superior*.

81. WHEREFORE, Plaintiff respectfully requests that this court enter judgment in favor of Plaintiff and award him damages, plus the cost of this action, and such other relief as this court deems equitable and just.

IX: Statutory Indemnification

82. Plaintiff re-alleges all of the proceeding paragraphs and incorporates them in this count.

83. Plaintiff seeks statutory indemnification under Illinois law against the City of Champaign because the Defendant Officers were engaged in the performance of their duties when Plaintiff was injured; The City is the municipality on whose behalf the police

department is performing its duties.

84. Illinois law provides that public entities are directed to pay any tort judgment for which their employees are liable within the scope of their employment activities.

85. The Defendant Officers are or were employees of the City of Champaign Police Department who acted within the scope of their employment in committing the misconduct described herein.

86. WHEREFORE, Plaintiff respectfully requests that the City of Champaign indemnify the police officers for any judgment of compensatory damages rendered against them and recover the costs of this action, attorney's fees, and such other relief this court deems equitable and just.

JURY DEMAND

Plaintiff, Benjamin Mann, hereby demands a trial by jury pursuant to Federal Rule of Civil Procedure 38(b) for all issues so triable.

Dated: August 25, 2014

Respectfully submitted,

BENJAMIN MANN

BY:

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