
**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

KEVIN CZAJA

Plaintiff,

v.

**CITY OF CHICAGO,
COOK COUNTY ILLINOIS,
ANITA ALVAREZ,
EUGENE GOLDSMITH,
STEVEN JOHNSON,
JENUS KING, JOHN WILLNER,
WILLIE DANIELS, JR., PHILLIP BURTON,
GREYHOUND BUS COMPANY., DION JONES
CHRISTOPHER SMITH,
GREYHOUND LINES, INC., GERADO SILVA,
LASHONDA COOPER-WOODS,
ROBERT GROEBNER, AND
MAYOR RAHM EMANUEL.**

Defendants.

No. 13 CV 4512

**HONORABLE JUDGE
CHARLES NORGLÉ**

JURY DEMAND

PLAINTIFF’S FIRST AMENDED COMPLAINT

TABLE OF CONTENTS

I. INTRODUCTION2

II. JURISDICTION AND VENUE4

III. PARTIES4

IV. FACTUAL ALLEGATIONS6

V. CLAIMS FOR RELIEF.....9

 A. COUNT I.
 42 U.S.C. § 1983 – False Arrest and Imprisonment.....9

 B. COUNT II.
 42 U.S.C. 1983 – 2nd and 14th Amendments10

 C. COUNT III.
 Malicious Prosecution10

 D. COUNT IV.
 Intentional Infliction of Emotional Distress.....11

 F. COUNT V.
 42 U.S.C. § 1983 *Monell* Policy Claim Against the
 City of Chicago.....12

VI. PRAYER FOR RELIEF.....14

VII. JURY DEMAND15

Kevin Czaja (“Plaintiff”), by and through his attorneys, R. Tamara de Silva and Jonathan Lubin, respectfully states his Complaint against the City of Chicago, Mayor Rahm Emanuel, Cook County, Illinois, Chicago Police Officer E.N. Goldsmith, Officer J.M King, Officer J.E. Willner, Officer S.A. Johnson, Officer W.L. Daniels, Officer P.M. Burton, State’s Attorney of Cook County Anita Alvarez, Cook County Assistant State’s Attorneys Lashonda Cooper-Woods, and Robert Groebner, Greyhound Bus Company, Greyhound Lines, Inc., Greyhound security personnel Dion Jones, Christopher Smith, and Gerardo Silva, (“Defendants”) as follows:

INTRODUCTION

1. This is a civil rights action brought pursuant to 42 U.S.C. § 1983 et. Seq., the Judicial Code, 42 U.S.C. § 1355, 28 U.S.C. §§ 1331, 1343(a) and 1367, and the Second, Fourth, Fifth, Fourteenth Amendments of the Constitution of the United States as incorporated and applied to state governments and the Article I Section 6 of the Constitution of the State of Illinois.
2. This case is about the ability of an individual to lawfully exercise his rights under the Second Amendment without becoming a law enforcement target in Cook County. In *District of Columbia v. Heller*, the Supreme Court of the United States stated that the Second Amendment “guarantee[s] the individual right to possess and carry” arms. 128 S. Ct. 2783, 2797 (2008). In *McDonald v. City of Chicago*, the Supreme Court stated that the right to bear arms like other

fundamental rights is protected from infringement by state and local governments. 130 S. Ct. 3020 (2010).

3. The Plaintiff Kevin Czaja has spent almost seven weeks in Cook County jail because he was wrongfully charged with four counts of aggravated unlawful use of a firearm. Plaintiff was charged with being in possession of a firearm without a license even though he presented a valid conceal and carry license from Wisconsin. Plaintiff's unloaded firearm was carried in an enclosed case before he was stopped and held by Greyhound security personnel and then the Chicago Police, against his will and without probable cause or any discernable reason, other than he was in possession of a firearm.
4. The charges against the Plaintiff were dismissed when the Office of the Public Defender presented a motion to dismiss attaching proof of Plaintiff's valid conceal and carry license from Wisconsin, which Plaintiff had shown the officers before this arrest.
5. The miscarriage of justice in the Plaintiff's case is not an isolated instance but part of a systemic pattern of the wrongful targeting and prosecution of law-abiding gun owners in Cook County and those passing through Cook County in violation of their Second Amendment rights by the Chicago Police Department, the Mayor as well as Cook County and its State's Attorneys' Office. Mr. Czaja should never have been charged in the first instance but the Police officers and Assistant State's Attorney investigation ignored the evidence of his having a gun license.
6. The Plaintiff seeks damages for the injuries inflicted upon him and for his loss of liberty by the persons responsible for this miscarriage of justice.

JURISDICTION AND VENUE

7. This is a civil rights action brought pursuant to 42 U.S.C. § 1983 et. Seq., the Judicial Code, 42 U.S.C. § 1355, 28 U.S.C. §§ 1331, 1343(a) and 1367, and the Constitution of the United States.
8. This Court has jurisdiction pursuant to the Judicial Code, 28 U.S.C. §§ 1331, 1343(a) and 1367 and under the doctrine of pendent jurisdiction.
9. Venue is proper pursuant to Judicial Code, 28 U.S.C. § 1391(b) because the parties resided in this judicial district, or, the events giving rise to the claims asserted herein occurred here as well.

PARTIES

10. Kevin Czaja is, and for all relevant times was, a resident of the State of Wisconsin and is a citizen of the United States of America.
11. Chicago Police Officers E.N. Goldsmith (#18640), Officer J.M King (#14186), Officer J.E. Willner (#372), Officer S.A. Johnson (#10199), Officer W.L. Daniels (#18960), and Officer P.M. Burton (#9805) were at all times relevant to this Complaint employees of the City of Chicago, and operating under the color of law, custom, and ordinances of the City of Chicago.
12. In 2012, Anita Alvarez was the State's Attorney of Cook County and during this time responsible for the policies, practices and customs of that office.

13. Defendant Lashonda Cooper-Woods was an Assistant Cook County State's Attorney assigned to the Felony Review Unit. She engaged in the conduct complained of in the course and scope of her employment and is sued in an individual capacity.
14. Defendant Robert Groebner was an Assistant Cook County State's Attorney who engaged in conduct complained of in this action while in the scope of his employment and is sued in an individual capacity.
15. Defendant City of Chicago is an Illinois municipal corporation, and as such is responsible for the policies, practices and customs of the Chicago Police Department, its Office of Professional Standards, its Personnel Division, its Detective Division, as well as those of the Mayor, his office, and his City Council, and the Chicago Police Board. The City of Chicago is and was the employer of each of the Defendant Police Officers and government officials while employed by the City of Chicago and while acting within the scope of their employment.
16. In 2012, Mayor Rahm Emanuel was the Mayor of the City of Chicago and responsible for its gun policies and law enforcement practices towards gun owners.
17. Defendant Cook County is a governmental entity within the State of Illinois, which consists in part of its Cook County State's Attorney's Office and the Cook County Board. At all relevant times to this action, Cook County and

the Cook County State's Attorney's Office were the employers of Defendants Lashonda Cooper-Woods, Robert Groebner and Anita Alvarez.

18. Greyhound Bus Company and Greyhound Lines, Inc., (collectively "Greyhound") operated the Greyhound bus station where the Plaintiff was searched and detained unlawfully.
19. Defendants Dion James, Christopher Smith and Gerardo Silva were employees of Greyhound Bus Company and/or Greyhound Lines, Inc., during the relevant times to this action.

FACTUAL ALLEGATIONS

20. On April 20, 2012, Kevin Czaja was at a Greyhound bus station at 630 West Harrison Street in Chicago, traveling from Wisconsin to Indiana.
21. Plaintiff was not behaving in any way to arouse suspicion unto himself or to give anyone probable cause to stop and detain him or for that matter to arrest him.
22. Plaintiff was stopped and subjected to a search by Greyhound employees, who subsequently detained him in a room against his will while they called the Chicago Police Department.
23. Greyhound employees found ammunition in one of the Plaintiff's closed bags.
24. Mr. Czaja was issued and carried on his person a valid conceal and carry permit from the State of Wisconsin.

25. Mr. Czaja presented his valid conceal and carry license along with his driver's license to the Greyhound employees, who wanted to make a copy of it.
26. At this time, the Plaintiff was not in violation of any law. There was no probable cause to detain him and the Plaintiff had repeatedly requested to be allowed to leave but was not allowed to leave.
27. When the Chicago Police Officers arrived, several of the Defendants together opened a locked and closed Plano box belonging to the Plaintiff. This Plano box contained a gun that was unloaded.
28. Plaintiff's firearm was unloaded and in a closed and locked case when the Chicago Police opened the box without the Plaintiff's permission.
29. At no time was the Plaintiff in violation of any law as he was in possession and had been issued a valid conceal and carry license by Wisconsin, his firearm was unloaded and in a closed case.
30. The Chicago Police Officers arrested and charged the Plaintiff despite his being in possession of a gun license, and lawfully transporting the firearm and magazine and charged him with unlawful possession of a firearm, knowing that in doing so, they were falsifying the facts and contravening the truth.
31. Defendant Lashonda Cooper-Woods investigated the evidence against the Plaintiff by inventing a set of facts to support felony charges against the Plaintiff, which were on their face, deliberately false and went against the facts presented.

32. The Defendant Assistant States Attorneys were told about the Plaintiff's valid Wisconsin gun license and deliberately ignored it.
33. Plaintiff was arrested and remained in Cook County Jail where he was in a state of fear for his life and believed that he would never get out.
34. On June 7, 2012, all criminal counts against the Plaintiff were dismissed and the trial judge reprimanded the Defendant Cook County Assistant State's Attorney Robert Groebner.
35. Prior to this event, the Plaintiff had no criminal record and was traveling to Indiana to see his young son.
36. At no time was Plaintiff in violation of any law and at no time did any Chicago Police Officer have probable cause to arrest him.
37. Plaintiff was arrested for being in possession of a firearm, which he had a right to do under the Second Amendment of the United States Constitution and was not in any violation of any statute.
38. Plaintiff was arrested simply because he had a firearm and there is a policy to target and arrest those who are in lawful possession of firearms by the City of Chicago as part of a larger intolerance for lawful gun ownership.

Count I
(42 U.S.C. § 1983 – False Arrest and Imprisonment)

39. Plaintiff re-alleges paragraphs 1-38 as if fully rewritten herein.
40. The actions of the Defendant Chicago Police Officers, individually, jointly and in conspiracy with Greyhound and its employees in falsely arresting and imprisoning Plaintiff, and of these same Defendants together with Alvarez, Cooper-Woods and Groebner, individually and jointly, and in conspiracy in continuing said imprisonment for almost seven weeks, without probable cause, violated Plaintiff's Fourth and Fourteenth Amendment rights to be free from unreasonable seizures and deprived of liberty without due process of law.
41. Defendants Goldsmith, King, Willner, Johnson, Daniels, Burton and Cooper-Woods, failed to prevent Plaintiff's wrongful arrest and resultant imprisonment despite having the opportunity to do so, while Defendants Cooper-Woods, Groebner and Alvarez failed to prevent the continuation of the Plaintiff's wrongful arrest and resultant imprisonment despite having the opportunity to do so.
42. The actions of the Defendants in falsely imprisoning Plaintiff, continuing said false imprisonment, covering up their own misconduct and/or failing to prevent said unlawful arrest and imprisonment, and/or its continuation were the direct and proximate cause of Plaintiff's suffering and injury.

WHEREFORE, Plaintiff demands judgment against Defendants, Goldsmith, King, Willner, Johnson, Daniels, Burton, Cooper-Woods, Groebner and Greyhound

Defendants, Smith, Silva and James, and because these Defendants acted maliciously, willfully, wantonly, and/or with reckless disregard for Plaintiff's constitutional rights, for substantial punitive damages, plus the costs of this action, attorneys' fees and such other relief as this Court deems just and equitable.

Count II
(42 U.S.C. 1983 – Amendments II and XIV)

43. Plaintiff re-alleges paragraphs 1-42 as if fully rewritten herein.
44. Plaintiff demands judgment in excess of \$100,000 in compensatory damages against all Defendants, and punitive damages in an amount in excess of \$100,000 against Defendants, plus costs, attorneys' fees, and any other relief this Court deems just and equitable.

Count III
Malicious Prosecution

45. Plaintiff re-alleges paragraphs 1-44 as if fully rewritten herein.
46. Defendant Chicago Police Officers, Cooper-Woods, Groebner and Alvarez individually, jointly and in conspiracy initiated a malicious prosecution without probable cause against the Plaintiff, and these same Defendants, together with Alvarez, Cooper-Woods and Groebner, individually and jointly, and in conspiracy continued said prosecution, again without probable cause. Said prosecution was ultimately terminated in Plaintiff's favor. The Defendants' actions were done in a willful and wanton manner, and directly and proximately caused Plaintiff injury and suffering.

WHEREFORE, Plaintiff demands judgment against Defendants, Goldsmith, King, Willner, Johnson, Daniels, Burton, Cooper-Woods, Groebner and Alvarez because these Defendants acted maliciously, willfully, wantonly, and/or with reckless disregard for Plaintiff's constitutional rights, for substantial punitive damages, plus the costs of this action, attorneys' fees and such other relief as this Court deems just and equitable.

Count IV

Intentional Infliction of Emotional Distress

47. Plaintiff re-alleges paragraphs 1-46 as if fully rewritten herein.
48. Defendant Chicago Police Officers, individually, jointly and in conspiracy with Greyhound Bus Company, Greyhound Lines, Inc., and its employees in falsely arresting and imprisoning Plaintiff, and of these same Defendants together with Alvarez, Cooper-Woods and Groebner, individually and jointly, and in conspiracy in continuing said imprisonment, initiating a malicious prosecution, for suppressing evidence, destroying evidence and fabricating evidence such that the malicious prosecution and false imprisonment continued for almost seven weeks, and for failing to put a stop to it, engaged in outrageous conduct.
49. Defendants knew their conduct would cause Plaintiff severe emotional distress.
50. As a direct and proximate result of Defendants' outrageous conduct, Plaintiff was and continues to be injured, and has, and continues to experience severe

emotional distress, humiliation, shame, fear of decades of imprisonment, nightmares, sleep disruption, symptoms of post traumatic stress, anxiety, depression, and a recurring fear of re-arrest and re-prosecution.

WHEREFORE, Plaintiff demands judgment against Defendants, Goldsmith, King, Willner, Johnson, Daniels, Burton, Cooper-Woods, Groebner and Alvarez for compensatory damages, plus the costs of this action, and such other relief as this Court deems just and equitable.

Count V

42 U.S.C. § 1983 *Monell* Policy Claim Against the City of Chicago

51. Plaintiff re-alleges paragraphs 1-50 as if fully rewritten herein.
52. The actions of Defendant Chicago Police Officers, and Cooper-Woods, Groebner and Alvarez were done pursuant to one or more interrelated *de facto* policies, practices and/or customs of the Defendant Mayor and the City of Chicago.
53. At all times material to this action, the Defendant City of Chicago through its Police Department, Police Superintendents, Police Board, Mayors, City Council and/or Corporation Counsel's Office had interrelated *de facto* policies, practices and customs which included among other things:
 - a) destroying evidence, suppressing evidence and falsifying evidence to create probable cause such as destroying the

Plaintiff's conceal and carry license and concealing the fact that he had one;

- b) the filing of false police reports and giving false statements about evidence and facts such as when the police report in this case refers to a gun being in Plaintiff's "personal luggage," the photos of the evidence show a Plano case, and yet the arrest report charges an "uncased" firearm;
- c) the failure to properly train, supervise, discipline and monitor police officers about the above; and
- d) the police code of silence.
- e) City of Chicago, the Mayor and City Counsel seek to curtail the constitutional rights of people in Chicago to keep and bear arms under the Second and Fourteenth Amendments. For example, the City of Chicago recently enacted a number of ordinances to try and curtail gun ownership such as Municipal Code § 8-20-100 (a) which states in relevant part that, "no firearm may be sold, acquired or otherwise transferred within the city, except through inheritance of the firearm." This animus towards gun owners creates a hostile environment for lawful gun owners in Chicago and encourages their arrest and prosecution by police and the States Attorneys Office.

54. Said interrelated policies, practices and customs as set forth above, both individually and working together, were maintained and implemented with deliberate indifference towards the Plaintiff. These policies and practices led to the suppression of evidence and the initiation and continuation of a malicious prosecution, the pursuit of wrongful convictions, false arrests and imprisonment and were separately and together a direct and proximate cause of the unconstitutional acts and perjury committed by the named Defendants, their co-conspirators, and the injuries suffered by the Plaintiff.
55. The City of Chicago's failure to train and supervise, monitor and control the Defendant Police Officers was done with deliberate indifference and likewise acted as a direct and proximate cause of the injuries to the Plaintiff.
56. Additionally, the Defendant City of Chicago and the Mayor in their animus towards the Second Amendment create a hostile atmosphere towards legal gun owners that contributes to the policies and practices referred to above.

WHEREFORE, Plaintiff demands judgment against the City of Chicago for substantial compensatory damages, plus costs and attorneys' fees and whatever relief this Court finds equitable and just.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that this Honorable Court:

- A. Enter judgment for the Plaintiffs and against the Defendants for the stated violations of 42 U.S.C. § 1983 et. Seq., and the Second, Fourth, Fifth, and

Fourteenth Amendments of the Constitution of the United States as incorporated and applied to state governments, the Illinois State Constitution.

- B. Award Plaintiffs reasonable attorney fees and cost of suit;
- C. Award Plaintiffs compensatory and punitive damages where applicable; and
- D. Grant such other and further relief, as this Court deems equitable and just.

Respectfully submitted,

By: **/s/ R. Tamara de Silva** (Plaintiff's Lead Counsel)

R. Tamara de Silva
(Attorney #6244445)
650 N. Dearborn St., Suite 700
Chicago, Illinois 60654
(312) 913-9999
January 27, 2014

By: **/s/ Jonathan Lubin**

Jonathan Lubin
(Attorney #6297065)
39 S. LaSalle St., Suite 1400
Chicago, Illinois 60604
(312) 332-7374

VII. JURY DEMAND

Plaintiffs demand a jury to hear and decide all issues of fact.

Respectfully submitted, January 27, 2014

/s/R. Tamara de Silva

R. Tamara de Silva
Attorney # 6244445
[Attorney for the Plaintiff]
650 N. Dearborn St., Suite 700
Chicago, Illinois 60654
(312) 913-9999