

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

████████████████████

Plaintiff,

SUMMONS

vs.

Case No.:

CITY OF GENEVA,
CITY OF GENEVA POLICE DEPARTMENT,
BRIAN EDWARD CHOFFIN in both his individual
capacity and his official capacity as a Detective of the
City of Geneva Police Department, and
JOHN AND JANE DOE

Defendants.

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED TO ANSWER THE COMPLAINT IN THIS ACTION AND TO SERVE A COPY OF YOUR ANSWER, OR, IF THE COMPLAINT IS NOT SERVED WITH THIS SUMMONS, TO SERVE A NOTICE OF APPEARANCE ON THE PLAINTIFF'S ATTORNEY WITHIN 20 DAYS AFTER THE SERVICE OF THIS SUMMONS, EXCLUSIVE OF THE DAY OF SERVICE (OR WITHIN 30 DAYS AFTER THE SERVICE IS COMPLETE IF THIS SUMMONS IS NOT PERSONALLY DELIVERED TO YOU WITHIN THE STATE OF NEW YORK), AND IN CASE OF YOUR FAILURE TO APPEAR OR ANSWER, JUDGMENT WILL BE TAKEN AGAINST YOU BY DEFAULT FOR THE RELIEF DEMANDED IN THE COMPLAINT.

DATED: August 4, 2017

/s/ Van Henri White

VAN HENRI WHITE, ESQ.
Attorney for the Plaintiff
18 Grove Place
Rochester, New York 14605
Phone: (585) 271-6780

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Plaintiff,

COMPLAINT

vs.

Case No.:

CITY OF GENEVA,
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City of Geneva Police Department, and
JOHN AND JANE DOE

Defendants.

██████████ (hereinafter the “Plaintiff”) complaining of the above captioned Defendants by his attorney, Van Henri White Esq., respectfully alleges:

JURISDICTION AND VENUE

1. The Plaintiff brings this action pursuant to 42 U.S.C. Section 1985, 1986, and 1983 to redress the deprivation under color of law of his rights as secured by the United States Constitution.

2. This Court has jurisdiction pursuant to 28 U.S.C. Section 1331 and 28 U.S.C. Section 1343.

3. Pursuant to 28 U.S.C. Section 1391 (b), venue is proper in the Western District of New York, the judicial district in which the claims arose.

PARTIES

4. ██████████ (hereinafter referred to as “the Plaintiff”) was at all times relevant to this Complaint a resident the City of Geneva and the State of New York.

5. That at all times hereinafter mentioned, the City of Geneva (hereinafter referred to as “the City”) was and still is a domestic municipal corporation, duly organized and existing under and by virtue of the laws of the State of New York.

6. That at all times hereinafter mentioned, City of Geneva Police Department (hereinafter referred to as “GPD”) is a department/division of the City duly organized and existing under and by virtue of the Geneva City Charter and the laws of the State of New York.

7. Upon information and belief, that at all times hereinafter mentioned, the City of Geneva and the Geneva Police Department employed the officers, investigators, staff, and others referred to in this Complaint.

8. Brian Choffin (hereinafter referred to as “Defendant Choffin”) at all times relevant to this Complaint was a duly appointed and acting police officer of the G.P.D. with the rank of Detective, acting under color of law in his individual capacity within the scope of employment pursuant to the statutes, ordinances, regulations, policies, customs, and usage of the City of Rochester and the State of New York. He is sued in his individual capacity.

FACTS

9. On or about October 16, 2015, the Plaintiff (who Plaintiff is of African-American heritage) was arrested by Defendant Choffin. The arrest related to an allegation that the Plaintiff was involved in an attempted Burglary.

10. At the time of the Claimant’s arrest, Detective Choffin was aware that the Claimant had a substance abuse problem.

11. In fact, at the time of the Plaintiff’s arrest, Defendant Choffin was aware that the Plaintiff was under severe drug intoxication and that the Plaintiff’s health was compromised and that his life was in imminent danger.

12. Rather than transporting the Plaintiff to a hospital for emergency treatment, Defendant Choffin took the Plaintiff to the Ontario County Jail.

13. Because the Plaintiff was denied adequate medical attention, Plaintiff suffered severe emotional and physical trauma – including the fact that he nearly stopped breathing two times.

14. Defendant's Choffin's conduct (as described above) was malicious, wanton, and reckless. In fact, when the Plaintiff's mother told Defendant Choffin that she was going to call the Plaintiff's lawyer, Defendant Choffin threatened the Plaintiff's mother by saying "you call his lawyer and I will make sure he [the Plaintiff] hangs by his balls."

15. Moreover, Defendant's Choffin's conduct (as described above) was driven by racial animous and hostility. When explaining his treatment of the Plaintiff, Defendant Choffin told the Plaintiff's mother "that's what you get for being a nigger lover...."

FOR A FIRST CAUSE OF ACTION

(Section 1983 Claims Against Defendant Choffin)

16. Plaintiff repeats and realleges each and every allegation contained in paragraphs one (1) through fourteen (14), with the same force and effect as if set forth here at length.

17. When Defendant Choffin (an employee of the City of Geneva and an employee of the GPD) failed to secure the necessary medical treatment for the Plaintiff on October 16, 2015, he was acting under color of state law.

18. No reasonable officer, in 2015, would have believed this conduct was lawful or reasonable.

19. Defendant Choffin's failure to secure medical attention for the Plaintiff was malicious, wanton, and callous as it was done in complete disregard of Plaintiff's clearly

established rights under the Fourth, Fifth, Sixth, and Fourteenth Amendments to the United States Constitution.

20. Defendant Choffin's conduct was so closely related to the deprivation of these clearly established constitutional rights as to be the moving force that caused the Plaintiff to be denied due process and to suffer a loss of liberty.

21. As a result of Defendant's Choffin's actions, the Plaintiff suffered great mental distress, as well as severe emotional and physical pain. The damages so inflicted, exceeds the jurisdictional limits of the courts below.

FOR A SECOND CAUSE OF ACTION

(Section 1983 *Monell* Claims As Against the City and the G.P.D.)

22. Repeats and realleges each and every allegation contained in paragraphs one (1) through twenty (20), with the same force and effect as if set forth here at length.

23. The City and the G.P.D., under color of law, have/had a custom and practice of withholding medical care from suspects whom they have arrested or taken into custody.

24. These policies, customs and/or practices manifested themselves in the deliberate act (as described above) by Defendant Choffin.

25. In addition, in several cases (reported and unreported) in criminal and civil cases clearly demonstrate that the City and the G.P.D. maintained a custom, policy, or practice which allowed this type of behavior (i.e. not securing medical care for persons in their custody) either directly or by condoning it, and/or knowingly ignoring it.

26. In short, the City's and the G.P.D.'s lack of regulation, guidance, and oversight in this area, has essentially created a custom and promoted a culture of indifference to the health care and constitutional rights of person in their custody.

27. Moreover, the acts of Defendant Choffin (on October 15, 2015) reveals a striking failure of the City and the G.P.D. to properly train, provide guidance, and supervise its staff, employees, and agents with respect to its own General Orders and Guidelines which, upon information and belief, were promulgated to protect these cherished constitutional rights.

28. Because of the City's and the G.P.D.'s acts and omissions (as set forth above), the Plaintiff suffered severe mental injury and anguish in connection with the deprivation of his constitutional and statutory rights guaranteed by the Fourth, Fifth, Sixth, Fifth and Fourteenth Amendments of the Constitution of the United States and protected by 42 U.S.C. Section 1983.

WHEREFORE, Plaintiff demands judgment against the Defendants, on the two causes of action listed above, for a sum that exceeds the jurisdictional amount of the courts below and for costs and disbursements.

Dated: August 4, 2017

/s/ Van Henri White

VAN HENRI WHITE
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