

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

ELZENA and GEORGE BOWERS as next	)	
friend of their minor child GEORGE RISPER,	)	
	)	
<i>Plaintiffs,</i>	)	
	)	No. 94 CV 2795
-vs-	)	
	)	<i>(Judge Plunkett)</i>
CITY OF CHICAGO,	)	
	)	
<i>Defendant.</i>	)	

**FIRST AMENDED COMPLAINT**

Pursuant to Rule 15(a), plaintiffs file this amended complaint and, by counsel, allege as follows:

1. This is a civil action arising under 42 U.S.C. §1983. The jurisdiction of this Court is conferred by 28 U.S.C. §1343 and 28 U.S.C. §1367.
  
2. Plaintiffs Elzena and George Bowers bring this action as the next friend of their minor child George Risper, who is fourteen years of age. Plaintiff Risper is African-American and is an honor student at the Seward Communication Arts Academy of the Chicago Public Schools, where he is a member of the eighth grade basketball team.
  
3. Defendants Michael J. Monaco and Stephen L. Cummings were at all times relevant to this complaint acting under color of their authority as police officers of the City of Chicago.

4. Defendant City of Chicago is an Illinois municipal corporation.

### **FACTS**

5. At about 5:45 p.m. on March 31, 1994, plaintiff George Risper and other Seward students were standing in front of the Seward Communication Arts Academy. The children were waiting for a school bus to transport them to McKinley Park for a championship basketball game. Plaintiff was the only African-American in the group of children.
6. At all times relevant, the children were orderly and well behaved under the supervision of an adult chaperone.
7. While the children were peaceably waiting for the bus, defendants Monaco and Cummings arrived on the scene in a marked Chicago police car.
8. Upon noticing that an African-American was among the group of children and wholly without lawful justification, defendant Monaco directed a variety of offensive, insulting, and derogatory language of a racial nature at plaintiff.
9. After telling plaintiff to "Get out of here. You don't belong here, you motherfuckin' nigger," defendant Monaco stopped his vehicle in front of plaintiff, jumped out of the car, walked directly to plaintiff, and subjected him to a further stream of racial and ethnic abuse.
10. Defendant Monaco made the following statements, *inter alia*, to plaintiff Risper:

- "Punk ass nigger. I told you to get out of here."
- "You don't belong here."
- "Get the fuck out of here, you punk ass nigger."

11. Defendant Cummings, the other Chicago police officer who had arrived in the police car with defendant Monaco, listened impassively as defendant Monaco spouted the above described racial and ethnic abuse.
12. While subjecting plaintiff to this stream of verbal abuse, and without any lawful justification, defendant Monaco began to push plaintiff in the chest and about the shoulders using excessive and unreasonable force.
13. After pushing plaintiff ten to twenty feet along the sidewalk, defendant Monaco grabbed plaintiff by his school jacket and body slammed plaintiff against a concrete sewer cover. While plaintiff lay on his back, defendant Monaco kicked plaintiff about his side and repeated his order to "Get the fuck out of here."
14. Monaco's attack on plaintiff came to an end when plaintiff got up and began to run home.
15. Defendant Cummings, who had emerged from the police car, stood silently by as defendant Monaco engaged in the wrongdoing referred to in paragraphs 12 and 13 above.
16. While defendant Cummings was standing by the marked squad car acquiescing in defendant Monaco's misconduct, the adult chaperone

referred to in paragraph 6 above approached defendant Cummings and requested that he intercede. Defendant Cummings refused to take any action, telling the chaperone "I'm sorry, ma'am, I'm sorry."

17. As defendant Monaco was returning to the police car, one of plaintiff's classmates asked Monaco for his name.
18. Defendant refused to identify himself, stating in a loud voice "My name is bulldog. And don't you forget it."
19. Later in the evening of March 31, 1994, plaintiff, his parents, and several other citizens went to the Ninth District Chicago police station to complain about the misconduct of defendants Monaco and Cummings. None of the Chicago police officers on duty assisted plaintiff in filing a complaint.
20. After the incident, and as a direct and proximate result of the above described wrongdoing of defendants, plaintiff Risper incurred pain and suffering, was embarrassed, humiliated, began to have trouble sleeping, experienced painful recurring memories of the incident, and has generally been subjected to severe emotional distress.

### **CLAIM I: FOURTH, THIRTEENTH AND FOURTEENTH AMENDMENTS**

21. Claim I of this action is asserted against defendants Monaco and Cummings and arises under 42 U.S.C. §1983.
22. The actions of defendant Monaco were motivated by racial animus towards plaintiff Risper and caused plaintiff to be deprived of rights

secured by the Fourth, Thirteenth and Fourteenth Amendments to the Constitution of the United States, in violation of 42 U.S.C. §1983.

23. Defendant Cummings, because he stood by and acquiesced in defendant Monaco's unlawful acts, is jointly responsible with defendant Monaco for depriving plaintiff of rights secured by the Fourth, Thirteenth and Fourteenth Amendments to the Constitution of the United States.

## **CLAIM II: MUNICIPALITY LIABILITY FOR A "CODE OF SILENCE"**

24. Claim II of this action is asserted against defendant City of Chicago and arises under 42 U.S.C. §1983.
25. At all times relevant, it has been the custom of Chicago police officers to remain impassive while witnessing the misconduct of another police officer. It has also been the custom of Chicago police officers to feign ignorance of the misconduct of other police officers.
26. At all times relevant, the City of Chicago has known about the above described customs and has known that its police officers are unwilling to come forward to implicate other police officers in wrongdoing. The City of Chicago has also known that this "code of silence" encourages, facilitates, and causes additional wrongdoing.
27. At all times relevant, the City of Chicago has been deliberately indifferent to this "code of silence."
28. The deliberate indifference of the City of Chicago to the "code of silence" among its police officers amounts to a municipal policy, custom, or

practice.

29. As the direct and proximate result of the City's deliberate indifference to the "code of silence," defendant Cummings stood by while defendant Monaco engaged in the constitutional wrongdoing alleged in this complaint.
30. The City's deliberate indifference to the "code of silence" caused plaintiff Risper to be deprived of rights secured by the Fourth, Thirteenth, and Fourteenth Amendments to the Constitution of the United States.

### **CLAIM III: ILLINOIS BATTERY**

31. Claim III of this complaint is an Illinois common law action for battery asserted against defendant Monaco and his employer, the City of Chicago. The jurisdiction of this Court arises under 28 U.S.C. §1367.
32. The actions referred to in paragraphs 12 and 13 above by defendant Monaco were undertaken within the scope of his employment as a police officer of the City of Chicago.
33. The actions referred to in paragraphs 12 and 13 above by defendant Monaco were undertaken willfully, wantonly and maliciously, without probable cause and caused plaintiff Risper to be subjected to contact of an insulting nature.

### **CLAIM IV: ILLINOIS HATE CRIME**

34. Claim IV of this complaint arises under the private right of action included in the Illinois Hate Crime statute, 720 ILCS 5/12-7.1 and is asserted against defendant Monaco and his employer, the City of Chicago.
35. The battery referred to in Claim IV of this complaint was committed by defendant Monaco by reason of plaintiff's race, color, ancestry, and national origin and thereby constituted a hate crime, as defined by 720 ILCS 5/12-7.1(a).
36. Plaintiffs hereby demand trial by jury on all counts.

WHEREFORE plaintiffs pray that judgment be entered in favor of their minor child George Risper against defendants in an amount in excess of one hundred thousand dollars as compensatory damages and against all defendants save the City of Chicago in an amount equal to one year's salary as punitive damages.

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