

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DERRICK WILSON,

Plaintiff,

vs.

Civil Action No.: 5:20-cv-01489-GTS-TWD

**COMPLAINT FOR DAMAGES
FEDERAL CLAIMS**

COUNTY OF ONONDAGA; Onondaga County District Attorney, WILLIAM J. FITZPATRICK, in his individual and official capacity; Onondaga County District Attorney STEPHEN DOUGHERTY, in his individual and official capacity; Onondaga County District Attorney MATTHEW DORAN, in his individual and official capacity; Onondaga County District Attorney MICHAEL FERRANTE, in his individual and official capacity; Northern District of New York Assistant United States Attorney CARLA FREEDMAN, in her individual and official capacity; City of Syracuse Police Officer, DAVID PROUD, in his individual and official capacity; City of Syracuse Police Officer CHRISTOPHER LUNDBORG, in his individual and official capacity; City of Syracuse Police Officer JOHN NOLAN, in his individual and official capacity; City of Syracuse Police Officer DANIEL BABBAGE, in his individual and official capacity; City of Syracuse Police Officer RANDY COLLINS, in his individual and official capacity; City of Syracuse Police Officer TIMOTHY GALINEU, in his individual and official capacity; City of Syracuse Police Officer WILLIAM KITTEL, in his individual and official capacity; City of Syracuse Police

1. EVIDENCE MANUFACTURING; DENIAL OF A FAIR TRIAL UNDER THE FIFTH, SIXTH, AND FOURTEENTH AMENDMENTS (42 U.S.C. § 1983);
2. MONELL CLAIM AGAINST CITY OF SYRACUSE (42 U.S.C. § 1983);
3. MONELL CLAIM AGAINST COUNTY OF ONONDAGA (42 U.S.C. § 1983) for the Actions of Dr Corrado
4. CIVIL CONSPIRACY (42 U.S.C. § 1983)

JURY TRIAL DEMANDED

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Officer MARY ELLEN GOSSIN, in her individual and official capacity; Onondaga County District Attorney's Office Investigator, DON HILTON, in his individual and official capacity; District Attorney's Office Investigator JAMES QUATRONE, in his individual and official capacity; Interim Director of Laboratories at Wallie Howard Jr., Center for Forensic Sciences, KATHLEEN CORRADO, in her individual and official capacity; Firearms Analyst at Wallie Howard Jr., Center for Forensic Sciences, JUSTINE KRESO, in her individual and official capacity; Forensic Analyst at Wallie Howard Jr., Center for Forensic Sciences, MATTHEW KURIMSKY, in his individual and official capacity; Independent Firearms Analyst, JOSEPH COMINOLLI, in his individual and official capacity.
and Does 1-100,

Defendants.

COMPLAINT

Plaintiff, DERRICK WILSON, as a pro se claimant, respectfully alleges upon information and belief:

NATURE OF ACTION

1. This civil rights action arises from the collusive fabrication of evidence by government official and forensic analyst, throughout a 17 year period, from April 23, 2000 -- December 5, 2017, in which all Defendants acted in concert, aided and abetted, and conspired with each other to manufacture false evidence against Derrick Wilson to frame Wilson for the April 23, 2000 shooting homicide of Waliek Hamer in Syracuse, New York.

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2. On June 18, 2014, Wilson was arrested for federal drug conspiracy and has been incarcerated based on the federal arrest and subsequent to sentencing in that matter from June 18, 2014 to the present date.
3. While incarcerated for the federal drug charge, Wilson was arrested on October 22, 2015, pursuant to a sealed indictment, in Onondaga County Court, for the 15 years old homicide of Waliek Hamer (People v. Derrick Wilson, Ind. No. 2015-0866-1). Trial commenced on November 27, 2017, and after representing himself pro se, Wilson was acquitted by a jury of this homicide on December 5, 2017.
4. By the government officials conspiring with each other and others to manufacture false evidence during the 15 years investigative stage of the Hamer prosecution, and presenting such false evidence at Wilson's state criminal trial, Defendants infringed upon Wilson's "absolute" constitutional right to a fair trial.
5. Defendants horrendous and unlawful conduct violated New York and Federal law and entitles Wilson to nominal compensatory and punitive damages under 42 U.S.C. sect. 1983, a federal statute authorizing a civil rights lawsuit based on such conduct.

JURISDICTION AND VENUE

6. This action arises under the U.S. Constitution and 42 U.S.C. sect. 1983. This Court has subject matter pursuant to 28 U.S.C. sects. 1331(?), 1343(3).
7. Under 28 U.S.C. sect. 1391(b) and (c), venue is proper in the Northern District of New York because the County of Onondaga and other defendants are situated or reside in that Judicial District.

PARTIES

8. Plaintiff Derrick Wilson ("PLAINTIFF") is a citizen of the United States, currently incarcerated in the Federal Bureau of Prisons. At all times relevant to this complaint he was a resident of New York.

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9. Defendant County of Onondaga ("ONONDAGA") is a municipal corporation within the State of New York.
10. At all times herein mentioned, the County of Onondaga District Attorney Office is an Agency, Entity, Department or Official Office of the County of Onondaga and is charged with enforcing, among others, official policies, customs and practices of the County of Onondaga.
11. At all times herein mentioned, the Wallie Howard Jr., Center for Forensic Sciences is an Agency, Entity, Department or Official Office of the County of Onondaga and is charged with enforcing, among others, official policies, customs and practices of the County of Onondaga.
12. At all times herein mentioned, the City of Syracuse Police Department is an Agency, Entity, Department or Official Office of the City of Syracuse and is charged with enforcing, among others, official policies, customs and practices of the City of Syracuse.
13. Defendant William J. Fitzpatrick ("DA FITZPATRICK") was and is the District Attorney of Onondaga County, and was at all times acting in both his official and individual capacity. Defendant, DA FITZPATRICK, Onondaga County District Attorney, is sued herein "only" during his "investigative and administrative phase" and excluding the "advocacy phase."
14. Defendant Stephen Dougherty ("ADA DOUGHERTY") was an Assistant District Attorney of Onondaga County, and was at all times acting in both his official and individual capacity. Defendant, ADA DOUGHERTY, then-Assistant District Attorney for Onondaga County, is sued herein "only" during his "investigative and administrative phase" and excluding the "advocacy phase."
15. Defendant Matthew Doran ("ADA DORAN") was an Assistant District Attorney of Onondaga County, and was at all times acting in both his official and individual capacity. Defendant, ADA DORAN, then-Assistant District Attorney for

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Onondaga County, is sued herein "only" during his "investigative and administrative phase" and excluding the "advocacy phase."

16. Defendant Michael Ferrante ("ADA FERRANTE") was an Assistant District Attorney of Onondaga County, and was at all times acting in both his official and individual capacity. Defendant, ADA FERRANTE, then-Assistant District Attorney for Onondaga County, is sued herein "only" during his "investigative and administrative phase" and excluding the "advocacy phase."
17. Defendant Carla Freedman ("AUSA FREEDMAN") was and is an Assistant United States Attorney in the Northern District of New York, and was at all times acting in both her official and individual capacity. Defendant, AUSA FREEDMAN, Assistant United States Attorney for the Northern District of New York, is sued herein "only" during her "investigative and administrative phase" and excluding the "advocacy phase."
18. Defendant David Proud ("SGT. PROUD") was and is a Sergeant employed by the Syracuse Police Department and was at all times acting in both his official and individual capacity.
19. Defendant Christopher Lundborg ("PO LUNDBORG") was employed by the Syracuse Police Department, and was at all times acting in both his official and individual capacity.
20. Defendant John Nolan ("DET NOLAN") was and is a detective for the Syracuse Police Department and was at all times acting in both his official and individual capacity.
21. Defendant Daniel Babbage ("DET BABBAGE") was and is a detective for the Syracuse Police Department and was at all times acting in both his official and individual capacity.
22. Defendant Randy Collins ("DET COLLINS") was and is a detective for the Syracuse Police Department and was at all times acting in both his official and individual capacity.

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23. Defendant Timothy Galineu ("DET GALINEU") was and is a detective for the Syracuse Police Department and was at all times acting in both his official and individual capacity.
24. Defendant Mary Ellen Gossin ("DET GOSSIN") was and is a detective for the Syracuse Police Department and was at all times acting in both her official and individual capacity.
25. Defendant William Kittel ("DET KITTEL") was and is a detective for the Syracuse Police Department and was at all times acting in both his official and individual capacity.
26. Defendant Don Hilton ("INV. HILTON") was a Sergeant employed by the Syracuse Police Department and is an investigator employed by the Onondaga County District Attorney's Office, and was at all times acting in both his official and individual capacity.
27. Defendant James Quatrone ("INV QUATRONE") was a detective employed by the Syracuse Police Department and is an investigator employed by the Onondaga County District Attorney's Office, and was at all times acting in both his official and individual capacity.
28. Defendant Kathleen Corrado ("DIR CORRADO") was and is a Interim Director of Laboratories in the employ of Onondaga County's Wallie Howard Jr., Center for Forensic Sciences, and was at all times acting in both her official and individual capacity.
29. Defendant Justine Kreso ("FA KRESO") was and is a forensic analyst in the employ of Onondaga County's Wallie Howard Jr., Center for Forensic Sciences, and was at all times acting in both her official and individual capacity.
30. Defendant Matthew Kurimsky ("FA KURIMSKY") was and is a forensic analyst in the employ of Onondaga County's Wallie Howard Jr., Center for Forensic Sciences, and was at all times acting in both his official and individual capacity.

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31. Defendant Joseph Cominoli ("COMINOLLI") was and is an independent forensic analyst in private practice, and was at all times acting in his individual capacity.
32. At all times relevant to this Complaint, all defendants acted under color of state law or with those who acted under color of state law.
33. DEFENDANT CITY OF SYRACUSE is a governmental organization of the State of New York.

DOE DEFENDANTS

34. PLAINTIFF DERRICK WILSON does not know the true names and capacities, whether individual, corporate, associate, or otherwise of DEFENDANTS DOES 1 through 100 inclusive, and therefore sue these Defendants by such fictitious names. DERRICK WILSON will amend his complaint to allege their true names and capacities when this has been ascertained.

JURISDICTION

35. This Court has jurisdiction over this lawsuit because the suit arises under 42 U.S.C. § 1983 and asserts facts showing that DEFENDANTS, and each of them, acted willfully, deliberately and pursuant to a policy, custom and practice, and with reckless disregard of Plaintiff's established Federal and State Constitutional rights.

VENUE

36. Venue is proper in this district under 28 U.S. C. § 1391 (b) (1) because DEFENDANTS are situated or reside in this district. Venue is also proper in this district under 28 U.S.C. § 1391 (b) (2) because the events, acts and omissions giving rise to this Complaint occurred in this district.

FACTUAL BACKGROUND

A. Homicide of Waliek Hamer

37. During the early morning hours of April 23, 2000 Waliek Hamer (Hamer) was fatally wounded by gunshots from an unknown assailant on South Salina Street in Syracuse, New York.

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38. Hamer was a patron at a late-night eatery called Grandma Burgers, located in an area the Syracuse Police Department (SPD) classified as Brighton Brigade gang territory. Upon exiting Grandma Burgers, Hamer was immediately gunned down on the sidewalk in front of the eatery at approximately 3:04 am. There were approximately 200 people inside and in the surrounding area of Grandma Burgers.
39. Members of the SPD arrived on the scene, secured the area, and began their investigation. SGT HILTON, SGT PROUD and INV QUATRONE (during this time period, Quatrone was acting in his official and individual capacity as a detective for the SPD), DET BABBAGE, among others participated in the ensuing investigation into the homicide of Hamer.
40. Within hours of initiating their investigation members of the SPD learned PLAINTIFF was present at Grandma Burgers around the time Hamer was murdered.
41. Once SGT PROUD and INV QUATRONE received information that PLAINTIFF was on the crime scene "around" the time Hamer was murdered SGT PROUD, INV QUATRONE and other unknown members of the SPD began conspiring with each other to fabricate evidence against PLAINTIFF and bribe and coerce witnesses to falsely implicate PLAINTIFF as the perpetrator of the Hamer homicide.
42. Members of the SPD were angry with PLAINTIFF and had motive to fabricate evidence against PLAINTIFF because PLAINTIFF had filed a 42 U.S.C. sec. 1983 civil action against the City of Syracuse, and five members of the SPD on November 6, 1998, for subjecting PLAINTIFF to, inter alia, an illegal cavity search. (Derrick Wilson v. City of Syracuse, Case No. 5:98-cv-01718-FJS-GS)
43. After filing his lawsuit in 1998 against the SPD, SGT PROUD, INV QUATRONE and numerous members to the SPD threatened and harassed PLAINTIFF incessantly.

44. Between November 1998 and April 23, 2000 SGT PROUD AND INV QUATRONE both threatened PLAINTIFF that they would kill him or make sure that he spent the rest of his life in prison.

B. Members of SPD Conspire to Fabricate Evidence of "Spontaneous Utterances" by PLAINTIFF

45. On May 19, 2000 SGT PROUD and PO LUNDBORG were working the "Sweep" Detail, conducting an investigation into PLAINTIFF for alleged drug activity. On this same day PLAINTIFF was arrested by SGT PROUD and PO LUNDBORG for unlawful possession of marijuana.

46. While effecting this arrest SGT PROUD choked and violently struck PLAINTIFF in the face.

47. PO LUNDBORG then falsified a report averring that on May 19, 2000 PLAINTIFF made the following spontaneous utterances, "You think I did that murder", "You guys are trying to make a case on me", "you are talking to everyone else except me about that , how come you don't talk to me?" and "I was there, but I didn't do it" "I didn't kill anybody".

48. PLAINTIFF never made these statements to PO LUNBORG

49. Moreover, PO LUNDBORG was particularly vexed with PLAINTIFF and had a motive to falsify evidence against PLAINTIFF because PO LUNDBORG was one of the five SPD defendants named in PLAINTIFF'S November 6, 1998 civil action.

50. During PLAINTIFF'S criminal jury trial for the Hamer homicide PO LUNDBORG falsely testified that PLAINTIFF made the spontaneous utterances detailed in para. 43, above.

C. Members of SPD and Onondaga County District Attorney's Office (OCDAO) Conspired With Each Other to Bribe and Coerce Brighton Brigade Gang Members to Falsely Implicate PLAINTIFF in the Hamer Homicide

51. In the immediate aftermath of the Hamer homicide investigation SGT PROUD, INV QUATRONE and other members of the SPD interviewed "WITNESS DOE

- 1"¹, "WITNESS DOE 2", "WITNESS DOE 3" and "WITNESS DOE 4"; all alleged members of the Brighton Brigade gang--per SPD gang intelligence.
52. On April 23, 2000 SPD Jeffrey Goodrow interviewed "WITNESS DOE 3" on the scene of the homicide. SPD Goodrow reported that "WITNESS DOE 3" informed him that "WITNESS DOE 3" was walking to Grandma Burgers to get some food and walked over to the scene when he heard someone was shot.
53. On April 23, 2000 Detective Gary Coelli interviewed "WITNESS DOE 4" on the scene of the homicide. Detective Coelli reported that "WITNESS DOE 4" informed him that "WITNESS DOE 4" got to the scene after the police were already there and that his brother "WITNESS DOE 3" "drove" him to the scene.
54. "WITNESS DOE 3" and "WITNESS DOE 4" were both escorted to the SPD Central Investigations Division (CID) for further interviewing, where both continued to give conflicting accounts of how they got to the scene, when they got to the scene and what they witnessed.
55. At some point during their interviews in CID, INV QUATRONE informed "WITNESS DOE 3" and "WITNESS DOE 4" that they would both be charged with the murder of Hamer unless they each identified PLAINTIFF as the person who shot and killed Hamer.
56. Under duress from INV QUATRONE'S threat of prosecution "WITNESS DOE 3" signed an affidavit on April 23, 2000 swearing that he witnessed the homicide and was 85% sure that PLAINTIFF was the person that shot and killed Hamer.
57. Under duress from INV QUATRONE'S threat of prosecution "WITNESS DOE 4" signed and affidavit on April 23, 2000 swearing that he witnessed the homicide and it was either PLAINTIFF or another individual named Barasheim Moody that shot and killed Hamer.

¹ Name of non-party individuals have been changed to "WITNESS DOE 1 thru 4" and will be disclosed pursuant to the Federal Rules of Civil Procedure, Rule 26 governing discovery.

58. On April 23, 2000 SPD Detective Mark Abraham interviewed "Witness Doe 2" and "Witness Doe 2" initially informed Det. Abraham that he was not at the scene when the homicide occurred. During the same interview "Witness Doe 2" changed his account, later informing Det. Abraham that he was on the scene when the homicide occurred but did not hear the gun shots nor witness the murder.
59. Between April 23, 2000 and May 7, 2000 INV QUATRONE met with "WITNESS DOE 1" in CID and bribed "WITNESS DOE 1" into falsely implicating PLAINTIFF as the person who shot and killed Hamer, by propositioning "WITNESS DOE 1" that if "WITNESS DOE 1" incriminated PLAINTIFF in the Hamer homicide and persuaded his friend "Witness Doe 2" to incriminate PLAINTIFF in the homicide, "WITNESS DOE 1" would receive a reduced sentence for the criminal charges he was facing.
60. On June 6, 2000 "Witness Doe 2" signed an affidavit, changing his account, swearing that he actually did witness PLAINTIFF shoot and kill Hamer.
61. Between May 7, 2000 and July 18, 2000 "WITNESS DOE 1" met with ADA DOUGHERTY and members of the SPD that were investigating the Hamer homicide and falsely stated that on May 20, 2000 PLAINTIFF told "WITNESS DOE 1" that he shot and killed Hamer.
62. Between May 7, 2000 through July 18, 2000 ADA DOUGHERTY searched for evidence and clues to corroborate "WITNESS DOE 1" statement.
63. On July 18, 2000 ADA DOUGHERTY administered for "WITNESS DOE 1" to take a polygraph test. While SPD Sgt Soblosky reported that the polygraph confirmed "WITNESS DOE 1" was telling the truth, ADA DOUGHERTY still had concerns about "WITNESS DOE 1's" credibility and could not find any evidence to corroborate his statement.
64. Between May 7, 2000 and July 18, 2000 ADA DOUGHERTY met with "WITNESS DOE 1" and his lawyer Paul Chapman, and bribed "WITNESS DOE 1" into providing false testimony at a grand jury that PLAINTIFF told "WITNESS DOE

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- 1" he killed Hamer; and for "WITNESS DOE 1" to ensure that his friends-- "WITNESS DOE 2", "WITNESS DOE 3", "WITNESS DOE 4" --who were expressing disinterest in testifying at a grand jury, would testify falsely at a grand jury that they witnessed PLAINTIFF shoot and kill Hamer.
65. For "WITNESS DOE 1's" assistance ADA DOUGHERTY promised "WITNESS DOE 1" a reduced sentence in the criminal charges he was facing.
66. Between July 18, 2000 and August 23, 2000 ADA DOUGHERTY received a phone message from "WITNESS DOE 1's" lawyer, Paul Chapman, in which Chapman conveyed to ADA DOUGHERTY, "His guy ["WITNESS DOE 1"] spoke to ["WITNESS DOE 2"]. He's all set for grand jury, but not ["WITNESS DOE 4"]. May need to bring his client over to speak to "WITNESS DOE 4" for grand jury." ADA DOUGHERTY memorialized this communication with Paul Chapman in his prosecutorial notes.
67. Between May 7, 2000 and August 23, 2000 ADA FITZPATRICK was briefed by ADA DOUGHERTY as to "WITNESS DOE 1's" statement. At the direction and instruction of DA FITZPATRICK, on August 23, 2000 ADA DOUGHERTY convened a grand jury proceeding titled "the investigation of the death of Waliek Hamer". Despite ADA DOUGHERTY having concerns about "WITNESS DOE 1" credibility and not being able to corroborate "WITNESS DOE 1's" statement, ADA DOUGHERTY still presented "WITNESS DOE 1" as a witness to the grand jury. Moreover, "WITNESS DOE 2", "WITNESS DOE 3" and "WITNESS DOE 4" also testified at this grand jury.
68. "Witness Doe 1" provided bribed and false evidence to this grand jury proceeding to the extent detailed in para 61, above.
69. "Witness Doe 2" provided bribed and false evidence to this grand jury proceeding to the extent detailed in para 60, above.
70. "WITNESS DOE 3" provided coerced and false evidence to this grand jury proceeding to the extent detailed in para 55-56, above.

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71. "WITNESS DOE 4" provided coerced and false evidence to this grand jury proceeding to the extend detailed in para 55, 57, above.
72. "Witness Doe 1" did receive a reduced sentence, in a separate criminal matter, due to the assistance he provided ADA DOUGHERTY, as detailed in para 59-65, above.
73. PLAINTIFF was not arrested and indicted for the Hamer homicide until fifteen (15) years later on October 22, 2015. At this time, ADA DORAN and ADA FERRANTE, presented to the September 2015 grand jury the same bribed, coerced and false testimony of "WITNESS DOE 3" and "WITNESS DOE 4" from 2000 as detailed in para 54-57, above.
74. At PLAINTIFF'S 2017 criminal trial for the Hamer homicide ADA Shaun Chase presented the bribed, coerced and false testimony of "WITNESS DOE 3" and "WITNESS DOE 4" to the jury, as detailed in para 54-57, above.

D. Members of SPD, OCDAO and AUSA Carla Freedman Conspire With Each Other to Bribe Jamal Harris into Falsely Implicating PLAINTIFF in the Hamer Homicide

75. Jamal Harris was interviewed numerous times in the year of 2000 by members of the SPD.
76. On May 12, 2000 Harris was escorted to the SPD CID unit by SGT PROUD. While in CID Harris signed an affidavit swearing that he did not witness PLAINTIFF having any involvement in the Hamer homicide.
77. Throughout a fourteen (14) years period (April 2000--June 2014) numerous members of the SPD made a multitude of propositions to Harris in order to bribe, coerce and induce Harris into changing his sworn statement from one not inculcating PLAINTIFF in the Hamer homicide to one falsely inculcating PLAINTIFF.
78. One specific SPD member was SGT PROUD, who is also a member of the SPD Gang Violence Task Force (GVTF).

79. Prior to the June 18, 2014 date of PLAINTIFF and Harris federal arrest on drug charges, SGT PROUD did attempt to bribe and coerce Harris into changing his May 12, 2000 sworn statement by propositioning Harris with, if Harris stated that he witnessed PLAINTIFF shoot and kill Hamer, Harris could use that statement as a "get out of jail free card".
80. On June 18, 2014 PLAINTIFF was arrested in the Northern District of New York with 12 others for federal drug conspiracy. Harris was arrested as an alleged coconspirator of this drug conspiracy.
81. SGT PROUD participated in the Federal/State Joint Task Force investigation that led to securing PLAINTIFF and Harris federal arrest.
82. Facing a life sentence in the federal drug case, shortly after his arrest, Harris decided to accept SGT PROUD'S bribe to change his May 12, 2000 sworn statement and now falsely implicate PLAINTIFF as the person who shot and killed Hamer.
83. On September 22, 2014 members of the federal government and SPD met in AUSA FREEDMAN'S office. Present at this meeting was AUSA FREEDMAN, DEA SA Anthony Hart, DEA SA Alicia Scanlon, BPA Edwin Rodriguez, FBI Martha Beltran, DET BABBAGE, and DET NOLAN.
84. At this September 22, 2014 meeting Harris changed his May 12, 2000 sworn statement and falsely implicated PLAINTIFF in the Hamer homicide, by averring he witnessed PLAINTIFF shoot and kill Hamer, and that he furnished PLAINTIFF with the murder weapon--a 9 mm Lorcin, and that the SPD had recovered the murder weapon back in the year of 2000.
85. On January 22, 2015, a second meeting was held in AUSA FREEDMAN'S office. Present at this meeting was AUSA FREEDMAN, ADA FERRANTE, DET NOLAN, DET GALINEU, DET GOSSIN and DET KITTEL, in which Harris again, falsely implicated PLAINTIFF in the Hamer homicide, as detailed in para 85.
86. On August 4, 2015, another meeting was held in AUSA FREEDMAN'S office "to finalize Harris cooperation agreement in the Hamer homicide". Present at this

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meeting was AUSA FREEDMAN, ADA DORAN, DET NOLAN, Harris and his attorney William Sullivan.

87. Between September 22, 2014 and August 4, 2015, and in full accord with SGT PROUD'S bribe for Harris to utilize a "get out of jail free card" by falsely implicating PLAINTIFF in the Hamer homicide, AUSA FREEDMAN, ADA DORAN and ADA FERRANTE, promised Harris that he would receive the following benefits for falsely implicating PLAINTIFF in the Hamer homicide:

a. Harris was facing a life sentence in federal drug conspiracy and whatever sentence he received less than life would depend on the nature and quality of the cooperation Harris provided to federal and state authorities regarding the homicide prosecution;

b. by testifying and providing information regarding the New York State prosecution of the death of Waliek Hamer, Harris will be given additional credit in federal court;

c. the State would only be asking the grand jury to indict Harris on Criminal Possession of a Weapon in the Second Degree, they would allow Harris to plead guilty to a lesser charge of Criminal Possession of a Weapon in the Third Degree, and whatever sentence Harris received in federal case the State would make sure his Criminal Possession of a Weapon in the Third Degree conviction was less than federal sentence and ran concurrent; and

d. the OCDAO would make every effort to have Harris housed locally at the Onondaga County Correctional Facility while the State case was pending.

88. Between June 18, 2014 and September 1, 2015 ADA FITZPATRICK was briefed by ADA DORAN and ADA FERRANTE as to the underlying facts regarding Harris false information. At the direction and instruction of ADA FITZPATRICK on September 1, 2015 Harris provided bribed and false testimony at a grand jury convened by ADA DORAN and ADA FERRANTE, as detailed in para 81-82.
89. During PLAINTIFF'S 2017 criminal trial for the Hamer homicide, Harris did falsely testify to the information detailed in para 81-82, above and falsely identified the 9 mm Lorcin as the firearm exhibited by the prosecution at trial, as detailed in para 80, above, and para 86, below.

E. Members of SPD, OCDAO, Wallie Howard Jr., Center for Forensic Sciences (CFS), AUSA FREEDMAN Conspire With Each Other to Manufacture False Gun and Ballistic Evidence

90. Between September 22, 2014 through September 25, 2014 members of the SPD GVTF, including SGT PROUD, DET GALINEU, DET BABBAGE, DET GOSSIN, DET KITTEL and DET COLLINS did computer research and falsely identified a photograph of a 9mm Lorcin (CFS Lab # 00-3932-1), that was recovered by the SPD on August 25, 2000 in an unrelated investigation, as the weapon PLAINTIFF used to murder Hamer in attempt to corroborate Harris bribed, coerced and false statement inculcating PLAINTIFF in the Hamer homicide.
91. On September 25, 2014 DET COLLINS requested for FA KURIMSKY to search and determine whether the CFS still possessed test fired ammunition relating to the 9mm Lorcin (CFS Lab # 00-3932-1), and FA KURIMSKY did inform DET COLLINS of CFS laboratory policy that test fired ammunition(s) are not treated as evidence five years after the year they are generated.
92. At this time, DR CORRADO, FA KRESO and FA KURIMSKY were all aware that SPD Vern Thompson forensically excluded the same 9mm Lorcin as the murder weapon in December of 2000.

93. Despite there being no chain of custody regarding the test fired ammunitions from the 9mm Lorcin, that they were never stored or treated as evidence, and that SPD Vern Thompson had already examined and forensically excluded the 9mm Lorcin as the murder weapon, 15 years later DR CORRADO, FA KRESO and FA KURIMSKY falsely identified random test fired ammunitions to be the test fired ammunitions from the 9mm Lorcin (CFS Lab # 00-3932-1, Item 1-1C.1).
94. On October 16, 2014 FA KURIMSKY, at the direction and instruction of INV HILTON and DR CORRADO, falsified microscopic comparison reports and comparison results between the projectiles and cartridge casings from the Hamer homicide investigation (SPD DR # 00-117355, CFS Lab # 00-2004, 00-2051, 00-2066) and the manufactured false test fire ammunitions from the 9mm Lorcin (CFS Lab # 00-3932-1, Item 1-1C.1).
95. On November 14, 2014, FA KRESO, at the direction and instruction of INV HILTON and DR CORRADO, falsified microscopic comparison reports and comparison results between the projectiles and cartridge casings from the Hamer homicide investigation (SPD DR # 00-117355, CFS Lab # 00-2004, 00-2051, 00-2066) and the manufactured false test fire ammunitions from the 9mm Lorcin (CFS Lab # 00-3932-1, Item 1-1C.1).
96. This information was reported back to AUSA FREEDMAN, ADA DORAN and ADA FERRANTE, during the January 22, 2015 meeting in AUSA FREEDMAN'S office, with members of the SPD GVTF also present.
97. Defendants' conduct violated the most basic principles of ballistic investigation and examination by egregiously deviating from acceptable ballistic investigation and examination, and CFS laboratory, protocol, demonstrating an intentional reckless disregard for proper procedures and policies. Defendants' ballistic investigation and examination, by its very nature, was predicated upon deception and a lack of objectivity in processing evidence.

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98. On September 3, 2015, FA KURIMSKY did provide false testimony at a grand jury convened by ADA DORAN and ADA FERRANTE, at the direction and instruction of DA FITZPATRICK, that he conducted a microscopic examination and comparison between the projectiles and cartridge casings from the Hamer homicide investigation with the manufactured false test fires from the 9mm Lorcin (CFS Lab # 00-3932-1, Item 1-1C.1), and that the results were "inconclusive".
99. During PLAINTIFF'S 2017 criminal trial for the Hamer homicide, FA KURIMSKY did falsely testify to the information detailed in para 95, 98, above.
100. During PLAINTIFF'S 2017 criminal trial for the Hamer homicide, the state prosecutor ADA Shaun Chase did introduce manufactured false evidence of photographs of the 9mm Lorcin (CFS Lab # 00-3932-1) into evidence as Government Trial Exhibits 30, 31, 32, 33.
101. During PLAINTIFF'S 2017 criminal trial for the Hamer homicide, the state prosecutor ADA Shaun Chase did introduce manufactured false ballistic evidence by introducing manufactured test fired shell casing ammunition into evidence as Government Trial Exhibit 34.

F. DA FITZPATRICK Participation in Investigation and Involvement in Conspiracy to Fabricate Evidence

102. Demand is hereby made for a protective order to maintain as evidence the following: (a) cartridge casings and projectiles recovered from the Hamer homicide scene and investigation, introduced into evidence as Government Exhibits 19, 20, 28, 29 in the state criminal trial (SPD DR # 00-117355; CFS Lab # 00-2004, 00-2051, 00-2066); and (b) the "purported" test fired ammunitions recovered from the 9mm Lorcin, introduced into evidence as Government Exhibit 34 in the state criminal trial (CFS Lab # 00-3932-1, Item 1-1C.1). Each piece of evidence is material to PLAINTIFF'S instant 42 U.S.C. sec. 1983 claim of Denial of Right to a Fair Trial by Fabrication of Evidence by Government Officials. Hence, the

necessity for the cause of action for injunctive relief to prevent ONONDAGA and any Defendant from destroying and spoiling any evidence in this case.

103. DA FITZPATRICK was aware of the facts pertaining to the conspiracy between members of the SPD and OCDAO to bribe and coerce Brighton Brigade members to falsely implicate PLAINTIFF in the Hamer homicide, as detailed in para 47-70, above, and ordered from ADA DOUGHERTY to convene the August 23, 2000 grand jury proceeding.
104. DA FITZPATRICK was aware of the facts pertaining to the conspiracy between members of the SPD, OCDAO, CFS, and AUSA FREEDMAN to fabricate gun and ballistic evidence, as detailed in para 86-97, above, and ordered for ADA DORAN and ADA FERRANTE to convene the September 2015 grand jury proceeding.
105. On or about October 22, 2015 DA FITZPATRICK gave a public press conference that was aired on local television networks in the Onondaga County area, announcing PLAINTIFF'S arrest for the 15 years old Hamer homicide, and falsely promulgated to the public that there was ballistic evidence that placed the murder weapon in PLAINTIFF'S hands, despite DA FITZPATRICK knowing that such evidence did not exist.

G. INV QUATRONE and Joseph COMINOLLI Conspire With Each Other To Prevent PLAINTIFF From Conducting His Own Microscopic Ballistic Analysis and Comparison

106. 101. Prior to PLAINTIFF'S 2017 criminal trial, Onondaga County Court Judge John J. Brunetti ordered that PLAINTIFF be allowed to obtain a ballistic expert to conduct a microscopic analysis and comparison between the projectiles and cartridge casings from the Hamer homicide investigation (SPD DR # 00-117355; CFS Lab # 00-2004, 00-2051, 00-2066) with the "purported" test fire ammunitions found in 2014 relating to the 9mm Lorcin from 2000 (CFS Lab # 00-3932-1, Item 1-1C.1).

107. PLAINTIFF'S court appointed attorney Tylyn Bozeman hired independent ballistic expert Joseph COMINOLLI to perform this duty on behalf of PLAINTIFF'S criminal defense.
108. PLAINTIFF met with COMINOLLI a few days prior to the November 27, 2017 commencement of trial and instructed COMINOLLI to perform the requested microscopic analysis and comparison.
109. COMINOLLI informed PLAINTIFF that he was friends with INV QUATRONE but their friendship would not compromise his obligation to perform his professional duties.
110. COMINOLLI then communicated with INV QUATRONE and thereafter never conducted the court ordered microscopic analysis and comparison.
111. Based upon the collusion between COMINOLLI and INV QUATRONE, PLAINTIFF was never able to conduct an independent investigation and microscopic examination, comparison into the ballistic evidence introduced by the defendants at trial, as Government Exhibit 34.

FEDERAL CLAIMS

FIRST CAUSE OF ACTION

(Evidence Manufacturing; Denial of a Fair Trial Under the Fifth, Sixth, and Fourteenth Amendments; 42 U.S.C. sec. 1983; All Defendants)

112. PLAINTIFF repeats and realleges each and every allegation contained in para 1 through 111 of this Complaint and incorporates them here.
113. Defendants, acting in concert, and aiding and abetting the other, bribed and coerced false testimony from witnesses, created numerous false reports, manufactured false gun and ballistic evidence, and alleging PLAINTIFF shot and killed Hamer.
114. The manufactured false and misleading information, evidence was likely to influence the jury's decision.

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115. Defendants relied on this false and misleading information and evidence to commence formal criminal proceedings against PLAINTIFF.
116. Defendants' actions deprived PLAINTIFF of is right to not be prosecuted on fabricated evidence, and to a fair trial under the Fifth, Sixth, and Fourteenth Amendments of the U.S. Constitution, and were the direct and proximate cause of PLAINTIFF'S injuries, i.e., violation of an absolute right to procedural due process.
117. That by virtue of the illegal actions of these defendants in the first cause of action, PLAINTIFF has suffered nominal damages in the amount to be determined by the jury but not less than ONE DOLLAR (\$1), and demands the same of these defendants, jointly and severally.
118. That, in addition, because the egregious, wanton and callous actions of these defendants and their grave indifference to the rights of the PLAINTIFF, PLAINTIFF also demands punitive damages from each defendant, jointly and severally, in an amount of not less than FIVE MILLION DOLLARS (\$5,000,000).
119. PLAINTIFF demands a jury trial on this cause of action.

WHEREFORE, PLAINTIFF prays for judgment as hereinafter set forth.

SECOND CAUSE OF ACTION

(Monell/42 U.S.C. sec. 1983; Claim Against ONONDAGA

For The Actions of DA FITZPATRICK)

120. PLAINTIFF repeats and realleges each and every allegation contained in para 1 through 119 of this Complaint, and incorporates them here.
121. At the time of PLAINTIFF'S prosecution ONONDAGA by practice, custom and affirmative ordinances or memorandums, delegated all final making authority with respect to (i) investigating facts relating criminal activity, (ii) initiation of formal criminal proceedings, and (iii) the presentation of evidence during criminal

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proceedings to the District Attorney of Onondaga County, DA FITZPATRICK. ONONDAGA officially vested DA FITZPATRICK with the authority to carry out the actions causing PLAINTIFF'S civil rights violations.

122. In that regard, DA FITZPATRICK'S, decisions in those areas, at the time they were made, for practical or legal reasons constitute ONONDAGA final decision, and was the moving force behind PLAINTIFF'S injuries.
123. In that regard, DA FITZPATRICK, in his role as final policymaker for ONONDAGA in the aforementioned areas, directly participated in, aided and abetted, and conspired with other defendants and unnamed individuals to manufacture false evidence against the PLAINTIFF and Denial of Right to a Fair Trial.
124. By virtue of the foregoing, ONONDAGA is liable for having substantially caused the foregoing violations of PLAINTIFF'S constitutional rights and his resultant injuries. PLAINTIFF has suffered nominal damages in an amount to be determined by a jury but not less than ONE DOLLAR (\$1).
125. That, in addition, because the egregious, wanton and callous actions of ONONDAGA and its grave indifference to the rights of the PLAINTIFF, PLAINTIFF also demands punitive damages in an amount of not less than FIVE MILLION DOLLARS (\$5,000,000).
126. 121. PLAINTIFF demands a jury trial on this cause of action.

THIRD CAUSE OF ACTION

(Monell/42 U.S.C. sec. 1983; Claim Against ONONDAGA
For The Actions of DR CORRADO)

127. PLAINTIFF repeats and realleges each and every allegation contained in para 1 through 126 and incorporates them here.
128. At the time of PLAINTIFF'S prosecution ONONDAGA by practice, custom and affirmative ordinances or memorandums, delegated all final making authority with respect to (i) preserving the authenticity of evidence, and (ii) examining and

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processing evidence for criminal trials, to the Interim Director of Laboratories of the CFS, DR CORRADO. ONONDAGA officially vested DR CORRADO with the authority to carry out the actions causing PLAINTIFF'S civil rights violations.

129. In that regard, DR CORRADO'S decisions in those areas, at the time they were made, for practical or legal reasons constitute ONONDAGA final decision, and were the moving force behind PLAINTIFF'S injuries.
130. In that regard, DR CORRADO, in her role as final policy maker for ONONDAGA in the aforementioned areas, directly participated in, aided and abetted, and conspired with other defendants and unnamed individuals to manufacture false evidence against the PLAINTIFF and Denial of Right to a Fair Trial.
131. By virtue of the foregoing, ONONDAGA is liable for having substantially caused the foregoing violations of PLAINTIFF'S constitutional rights and his resultant injuries. PLAINTIFF has suffered nominal damages in an amount to be determined by a jury but not less than ONE DOLLAR (\$1).
132. That, in addition, because the egregious, wanton and callous actions of ONONDAGA and its grave indifference to the rights of the PLAINTIFF, PLAINTIFF also demands punitive damages in an amount not less than FIVE MILLION DOLLARS (\$5,000,000).

FOURTH CAUSE OF ACTION

(42 U.S.C. sec. 1983 Civil Conspiracy; All Defendants)

133. PLAINTIFF repeats and realleges each and every allegation contained in para 1 through 132 of this Complaint and incorporates them here.
134. Defendants all explicitly and/or implicitly agreed to commit with each other and/or other unnamed conspirators, the wrongs detailed above, and to ultimately PLAINTIFF'S Denial of Right to a Fair Trial.

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135. Each defendant then committed overt acts, as detailed above, to accomplish the goal of conspiracy, including, but not limited to, fabrication of statements, reports, coercion and bribery of witnesses, fabrication of gun and ballistic evidence, concealing exculpatory evidence, and violating the most basic principles of ballistic investigation and examination.
136. Defendants' actions deprived PLAINTIFF of his right to not be prosecuted on fabricated evidence, and to a fair trial under the Fifth, Sixth, and Fourteenth Amendments of the U.S. Constitution, and were the direct proximate cause of PLAINTIFF'S injuries, i.e., violation of an "absolute" right to procedural due process.
137. That by virtue of the illegal actions of these defendants in the fourth cause of action, PLAINTIFF has suffered nominal damages in an amount to be determined by a jury but not less than ONE DOLLAR (\$1), and demand same of these defendants, jointly and severally.
138. That, in addition, because the egregious, wanton, and callous actions of these defendants and their grave indifference to the rights of the PLAINTIFF, PLAINTIFF also demands punitive damages from each defendant, jointly and severally, in an amount of not less than FIVE MILLION DOLLARS (\$5,000,000).
139. PLAINTIFF demands a jury trial on this cause of action.

WHEREFORE, in light of the foregoing, PLAINTIFF demands of the defendants, jointly and severally, as follows:

- (a) For all causes of action, nominal damages of not less than \$1 (One Dollar)
- (b) For all causes of action, punitive damages against the individual defendants, of not less \$5,000,000 (Five Million Dollars)
- (c) As for all causes of action: Jury Trial and

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(d) An order for such further and other relief as to this Court is just and proper under all circumstances.

DATED: 12-2-2020

/s/ Derrick Wilson

Derrick Wilson II Reg # 21481-052

Federal Correctional Complex

P.O. Box 5000

Yazoo City, MS 39194