

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

**MARGARET FERRIGNO and  
KRISTINE DeCAMPLI  
Plaintiff**

**v.**

**CITY OF PHILADELPHIA;  
OFFICER WILLIAM GRESS,  
BADGE NUMBER 4702, and  
OFFICER KYRA DAVIS,  
BADGE NUMBER 6641,  
individually and as police officers  
for the City of Philadelphia,  
c/o Law Department  
1515 Arch Street  
Philadelphia, PA 19102,  
Defendants**

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: Civil Action No. 09-  
JURY TRIAL DEMANDED  
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**COMPLAINT  
Introduction**

1. On June 28, 2009, Plaintiffs Margaret Ferrigno and Kristine DeCampli were lawfully on South Street in Philadelphia when, without cause, they were subjected to the unreasonable use of force, unlawful arrest and malicious prosecution by members of the South Street Detail of the Philadelphia Police Department. The mistreatment to which Ms. Ferrigno and Ms. DeCampli were subjected is the direct result of a long-standing policy, practice and custom of using pretextual criminal charges to arrest law-abiding individuals without cause in the South Street District. Plaintiffs bring this action seeking compensation for the violation of fundamental constitutional rights and a declaratory judgment that the City of Philadelphia has been deliberately indifferent to the unconstitutional use of criminal statutes to remove from public areas persons who have committed no crimes.

## **Jurisdiction**

2. This action is brought pursuant to 42 U.S.C. §1983. Jurisdiction is based upon 28 U.S.C. §§1331 and 1343 (1), (3), (4) and the aforementioned statutory provision. Plaintiffs further invoke the supplemental jurisdiction of this Court pursuant to 28 U.S.C. §1367(a) to hear and adjudicate state law claims.

## **Parties**

3. Plaintiffs Margaret Ferrigno and Kristine DeCampli are residents of the Commonwealth of Pennsylvania and at all times relevant to this action were present in Philadelphia, Pennsylvania.

4. Defendant City of Philadelphia is a municipality of the Commonwealth of Pennsylvania and owns, operates, manages, directs and controls the Philadelphia Police Department which employs Defendants William Gress and Kyra Davis.

5. Defendants William Gress and Kyra Davis (hereinafter the “defendant officers”) are police officers for the Philadelphia Police Department acting under color of state law. They are being sued in their individual capacities.

6. At all relevant times, all Defendants were acting in concert and conspiracy and their actions deprived Plaintiffs Margaret Ferrigno and Kristine DeCampli of their constitutional and statutory rights.

### **Factual Allegations**

7. In the early morning hours of June 28, 2009, Plaintiffs Margaret Ferrigno and Kristine DeCampli were at or near 4<sup>th</sup> and South Streets in Philadelphia. Plaintiffs were on public property complying with the law.

8. At that time and place, Plaintiff Margaret Ferrigno was approached by Defendant Davis who was in uniform as a Philadelphia police officer and asserting her authority to act under state law.

9. Defendant Davis, without cause or justification, ordered Ms. Ferrigno to move from where she was standing. Plaintiff complied with the officer's directive.

10. Despite Ms. Ferrigno's compliance with the directive, Defendant Davis, without cause or justification, placed her under arrest.

11. Plaintiff Kristine DeCampli saw her friend, Margaret Ferrigno, in police custody and approached Defendant Gress to ask what had happened.

12. Defendant Gress, who was in uniform as a Philadelphia police officer and asserting his authority to act under state law, arrested Ms. DeCampli without cause or justification.

13. Upon information and belief, Plaintiffs were viewed by the defendant officers as having challenged the officers' authority to remove persons who had committed no crimes from the area of the South Street District to resolve alleged "quality of life" offenses without regard to the constitutional rights of those subject to arrest.

14. Plaintiffs were not violating the law and were otherwise licensed and privileged to be on the public streets of Philadelphia.

15. Without cause or justification, Defendants Gress and Davis grabbed Plaintiffs and used unnecessary and unreasonable force, causing Plaintiffs injury and harm.

16. The defendant officers arrested Plaintiffs at least in part as a result of the City's long-standing policy, practice and custom of subjecting individuals to arrest without cause in the South Street District and elsewhere.

17. Without cause or justification, the defendant officers arrested Plaintiffs and applied handcuffs in an excessively tight manner, causing Plaintiffs additional injury and harm. There was no justification for the application of tight handcuffs other than to punish and harm Plaintiffs.

18. Without cause or justification and in the absence of probable cause, Plaintiffs were arrested and charged with criminal offense(s) under the laws of the Commonwealth of Pennsylvania and the County of Philadelphia.

19. The mistreatment to which Plaintiffs were subjected was the result of a policy, practice and/or custom to misuse police powers by undertaking pretextual arrests and prosecutions in the South Street District and elsewhere to resolve alleged "quality of life" offenses without regard to the constitutional rights of individuals including Plaintiffs;

20. The mistreatment to which Plaintiffs were subjected was the result of a policy, practice and/or custom to misuse penal statutes such as loitering, obstructing highways and disorderly conduct to remove from public areas persons, including the homeless, panhandlers, street musicians and others who have committed no crimes without regard to the constitutional rights of those individuals

21. Plaintiffs were placed into a police vehicle and transported to a police station.

22. At the police station, Plaintiffs were searched, verbally abused and detained for an extended period under deplorable conditions.

23. Without cause or justification, Plaintiffs were later released with Criminal Citations charging them with loitering and/or obstruction of highway. As a result, Plaintiffs were compelled to retain counsel and make repeated and compulsory courtroom appearances. Plaintiffs were subjected to a baseless criminal prosecution.

24. On August 4, 2009, Plaintiffs appeared for trial before the Honorable Karen Simmons of the Municipal Court of Philadelphia County. Plaintiffs were found not guilty of all charges.

25. Plaintiffs did not commit any offenses against the laws of the Commonwealth of Pennsylvania, the United States or the City of Philadelphia or engage in any conduct which justified the actions of the Defendants.

26. The unlawful arrest, search, detention and use of force in this case were the direct result of Defendants' pattern, practice and custom of subjecting citizens such as Plaintiffs to the use of force, arrest and prosecution in the absence of probable cause.

27. The defendant officers acted wilfully, deliberately, maliciously or with reckless disregard of Plaintiffs' constitutional and statutory rights.

28. As a direct and proximate result of the actions of all Defendants, Plaintiffs suffered and continue to suffer physical and psychological harms, pain and suffering, some or all of which may be permanent, as well as financial losses.

29. Defendants engaged in the aforesaid conduct for the purpose of violating Plaintiffs' constitutional rights by subjecting Plaintiffs to the unreasonable use of force, unlawful arrest, search, detention and malicious prosecution.

**FIRST CAUSE OF ACTION  
FEDERAL CIVIL RIGHTS VIOLATIONS**

30. Plaintiffs incorporate by reference paragraphs 1-29 of the instant Complaint.

31. As a direct and proximate result of all Defendants' conduct, committed under color of state law, Plaintiffs Margaret Ferrigno and Kristine DeCampli were deprived of the right to be free from the unreasonable use of force, unlawful arrest, unlawful search, unlawful detention and malicious prosecution. Plaintiffs were also deprived of the right to be secure in one's person and property, and to due process of law. As a result, Plaintiffs suffered and continue to suffer harm in violation of their rights under the laws and Constitution of the United States, in particular the Fourth and Fourteenth Amendments, and 42 U.S.C. §1983.

32. As a direct and proximate result of the acts of all Defendants, Plaintiffs sustained injuries, emotional harm, loss of liberty and financial losses.

33. Defendant City of Philadelphia has encouraged, tolerated, ratified and has been deliberately indifferent to the following patterns, practices and customs and to the need for more or different training, supervision, investigation or discipline in the areas of:

- a. The use of force and unlawful detentions and arrests by police officers;
- b. The proper exercise of police powers, including but not limited to the use of force, unlawful detention, unlawful arrest, malicious prosecution, particularly in connection with perceived challenges to or criticism of police authority;

- c. The monitoring of officers whom it knew or should have known were suffering from emotional and/or psychological problems that impaired their ability to function as officers;
- d. The failure to identify and take remedial or disciplinary action against police officers who were the subject of prior civilian or internal complaints of misconduct;
- e. Police officers' use of their status as police officers to employ the use of force and unlawful arrest, or to achieve ends not reasonably related to their police duties;
- f. The unjustified use of excessively tight handcuffs to punish detainees;
- g. The implementation of or acquiescence in a policy, practice and custom of undertaking arrests in the South Street District in the absence of probable cause;
- h. The use of police powers to undertake pretextual arrests and prosecutions in the South Street District and elsewhere to resolve alleged “quality of life” offenses without regard to the constitutional rights of individuals including Plaintiffs;
- i. The misuse of criminal statutes such as loitering, obstructing highways and disorderly conduct to remove from public areas persons, including the homeless, panhandlers, street musicians and others who have committed no crimes without regard to the constitutional rights of those individuals; and
- j. The failure of police officers to follow established policies, procedures, directives and instructions regarding the use of force and arrest powers under such circumstances as presented in this case.

34. The City of Philadelphia failed to properly sanction or discipline officers, who are aware of and conceal and/or aid and abet violations of constitutional rights of individuals by other Philadelphia Police Officers, thereby causing and encouraging Philadelphia police,

including the defendant officers in this case, to violate the rights of citizens such as Plaintiffs.

35. Defendants have by the above described actions deprived Plaintiffs of rights secured by the Fourth and Fourteenth Amendments to the United States Constitution in violation of 42 U.S.C. §1983.

**SECOND CAUSE OF ACTION  
SUPPLEMENTAL STATE CLAIMS**

36. Plaintiffs incorporate by reference paragraphs 1-35 of the instant Complaint.

37. The acts and conduct of the individual defendants in this cause of action constitute assault and battery, false arrest and imprisonment and malicious prosecution under the laws of the Commonwealth of Pennsylvania, and this Court has supplemental jurisdiction to hear and adjudicate these claims.



WHEREFORE, Plaintiffs request the following relief:

- a. Compensatory damages as to all defendants;
- b. Punitive damages as to the individual defendants;
- c. Reasonable attorney's fees and costs as to all defendants;
- d. Such other declaratory and further relief as appears reasonable and just including, but not limited to, a judgment that the City of Philadelphia has failed to properly train, supervise and discipline police officers regarding the misuse of police powers to undertake pretextual arrests and prosecutions in the South Street District and elsewhere to resolve alleged “quality of life” offenses without regard to the constitutional rights of individuals including Plaintiffs; and
- e. A jury trial as to each defendant and as to each count.

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