

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

\*\*\*\*\*  
FELIPE RODRIGUEZ \*  
V. \* CIVIL NO. 3:08CV00089 (AWT)  
\*  
CITY OF WEST HAVEN, OFFICER \*  
WILLIAM CICCOSANTI AND OFFICER \*  
WILLIAM OAKLEY, in their individual \*  
capacities \* MAY 13, 2008  
\*\*\*\*\*

SECOND AMENDED COMPLAINT

1. This is an action for money damages to redress the deprivation by the defendant and co-defendants of rights secured to the plaintiff by the constitution and laws of the United States and the State of Connecticut. The defendant and co-defendants, without probable cause, unlawfully detained, searched, harassed, accused, arrested, charged and falsely made statements against the plaintiff.

2. Jurisdiction of this Court is invoked under the provisions of §§1331 and 1343(3) of Title 28 and Secs. 1983 and 1988 of Title 42 of the United States Code, and of the pendent jurisdiction of this Court with respect to other causes of action available under state law.

3. During all times mentioned in this complaint the plaintiff was and still is a resident of the United States residing in New Haven, Connecticut and is of full age, and is Hispanic of race.

4. During all times mentioned in this complaint, the defendant, the City of West Haven, was and is a municipal corporation duly chartered as such under the laws of the State of Connecticut.

5. At all times mentioned, the co-defendant, William Ciccocanti, was a police officer employed by the defendant, the West Haven Police Department and was the responding officer on duty at the time of the incident. Co-defendant Ciccocanti is Caucasian of race and white of color and is being sued in his individual capacity.

6. At all times mentioned, the co-defendant, William Oakley, was a police officer employed by the defendant, the West Haven Police Department and was the responding officer on duty at the time of the incident. Co-defendant Oakley is Caucasian of race and white of color and is being sued in his individual capacity.

7. On or about October 13, 2005, the plaintiff was knowingly, yet wrongfully arrested by the defendants for Breach of Peace in the Second Degree, Threatening in the Second Degree and Reckless Endangerment in the Second Degree.

8. Just prior to his arrest on the aforementioned date, the plaintiff's neighbor, Anthony Clarke, was verbally challenging the plaintiff about where his car was parked. It should be noted that plaintiff's vehicle was legally parked on a public street, but which happened to be in front of Mr. Clarke's residence.

9. Plaintiff was thereafter arrested by the defendant and co-defendants for alleged brandishing a weapon, which the plaintiff, in point of fact, never removed from the secure location he had it within his home.

10. The plaintiff had a valid Connecticut gun permit for said weapon.

11. In December of 2006, a nolle was entered as to the all of the false charges brought against plaintiff by the defendant and co-defendants.

12. Plaintiff was thereafter forced to hire a lawyer and defend himself against completely false and unfounded charges.

13. During all times mentioned in this complaint, the defendant and co-defendants acted under color and pretense of law and engaged in the improper and illegal conduct as aforescribed, causing severe injury to the plaintiff, and in the process of depriving the plaintiff of the right, privileges and immunities secured to him by the Fourth and Fourteenth Amendments of the United States Constitution, as well as the laws of the United States.

14. The acts and omissions of the defendant and co-defendants hereinafter described constituted a deprivation of the plaintiff's constitutional rights, privileges and immunities, and while these acts were carried out under color of law, they had no justification or excuse in law, and were instead gratuitous, illegal, improper and totally unrelated to any activity in which the municipal law enforcement officers should have appropriately and legally engaged in the course of protecting persons or property or insuring civil order.

15. In the manner described herein, the defendant the City of West Haven, which has a history, pattern and practice of depriving Hispanics and other minorities of their rights, maintained and condoned a custom of depriving individuals, such as the plaintiff, of their constitutional rights, through its traditions, policies, ordinances, regulations and decisions officially adopted and promulgated by and through the department.

16. The defendant and co-defendants deprived the plaintiff of his right to be free from warrantless arrest, arrest without probable cause, unreasonable arrest

and malicious prosecution. All these rights are secured to the plaintiff by the provisions of the Fourth and Fourteenth Amendments to the United States Constitution and Title 42 of the United States Code, Section 1983 and 1988; and the State of Connecticut, Art. 1, Sections 1 and 7 respectively.

17. In the manner herein described, all of the aforementioned defendant and co-defendants subjected the plaintiff to false arrest, unreasonable detention, denial of substantive due process of law, and denial of equal protection under law. All these rights are secured to the plaintiff by the provisions of the Fourth and Fourteenth Amendments to the United States Constitution and by Title 42 of the United States Code §§1983 and 1988 and State of Connecticut, Article 1, Sections 1 and 7 respectively.

COUNT TWO:

1-15. Paragraphs 1 through 15 of the First Count are hereby incorporated by reference and made Paragraphs 1 through 15 of the Second Count, as if fully set forth herein.

16. The defendant, through its agents, servants and/or employees, subjected the plaintiff's person to false arrest based upon blatantly false and baseless accusations, which, upon a thorough investigation, would have been decreed as such.

17. In addition, the aforementioned defendant, through the aforescribed extreme and outrageous acts of its agents, servants and/or employees, along with the individual co-defendants, were responsible for causing the intentional infliction

of emotional distress upon the plaintiff as they knew, or should have known, or should have reasonably anticipated that their actions, in wrongfully accusing, detaining, charging, arresting, incarcerating and subjecting the plaintiff to the criminal justice system as an accused criminal, would cause him to suffer severe emotional, psychological, as well as physical harm to his person.

COUNT THREE:

1-15. Paragraphs 1 through 15 of the First Count are hereby incorporated by reference and made Paragraphs 1 through 15 of the Third Count, as if fully set forth herein.

16. In addition, said aforementioned defendant through the aforescribed acts of its agents, servants and/or employees, along with each of the individual co-defendants, were responsible for causing the negligent infliction of emotional distress upon the plaintiff as they knew, or in the exercise of reasonable care should well have known, that their actions in wrongfully and publicly accusing, detaining, assaulting, charging, arresting, incarcerating and subjecting the plaintiff to the criminal justice system as an accused criminal would and did cause him to suffer severe emotional, psychological, as well as physical harm to his person.

COUNT FOUR:

1-15. Paragraphs 1 through 15 of the First Count are hereby incorporated by reference and made Paragraphs 1 through 15 of the Fourth Count, as if fully set forth herein.

16. The charges were issued against the plaintiff by the State's Attorney's office because of the direct request of the individual co-defendants.

17. The multiple charges of criminal conduct which were brought against the plaintiff were done so without any probable cause whatsoever.

18. As there was no legal basis to establish probable cause for the arrest of the plaintiff with respect to the aforementioned charges, the individual co-defendants' actions were malicious in nature.

19. In light of the aforescribed conduct, the actions of the individual co-defendants constituted the tort of malicious prosecution.



**CERTIFICATION**

I hereby certify that on this 13<sup>th</sup> day of May, 2008, a copy of the foregoing Plaintiff's Second Amended Complaint was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the court's CM/ECF System.

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Marc L. Glenn



MAR-06-2008

PLAINTIFF'S EXHIBIT  
CICCISANTI 2  
7-15-08 40

TO: 203 357 7915

P. 2/9

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DEPARTMENT OF POLICE SERVICES  
West Haven, Connecticut 06516  
INCIDENT REPORT



2008038028  
10/13/2005

Original Case Number

ORI Number: CT00015800

|   |  |                                    |  |                                    |  |                                    |  |   |  |                          |  |
|---|--|------------------------------------|--|------------------------------------|--|------------------------------------|--|---|--|--------------------------|--|
| <b>Incident Data</b>                          |  | Case Number<br>2008038028          |  | Address<br>123 ADMIRAL ST          |  | Call Date/Time<br>10/13/2005 23:20 |  | Report Date/Time<br>10/13/2005 23:45          |  | Remarks                  |  |
| Occurred At (Or From)<br>10/13/2005 23:15     |  | Occurred To                        |  | Officer Name<br>Ciccisanti William |  | Badge Number<br>174                |  | Division<br>Patrol                            |  | Beat / Unit<br>41        |  |
| Approved By                                   |  | Badge Number                       |  | Offense #1                         |  | Signal Code<br>15                  |  | UCR Code<br>13C                               |  | MCC Code<br>1318         |  |
| Assault - Intimidation (Stalking/Threatening) |  | Location<br>Residence/Home         |  | Target<br>N/A                      |  | Other Person #1 Data               |  | Parish Type                                   |  | Name<br>ANTHONY CLARKE   |  |
| Date of Birth<br>08/01/1958                   |  | Gender<br>Male                     |  | Race<br>Black                      |  | Complainant                        |  | Address<br>ADMIRAL STREET West Haven CT 06518 |  | Home Phone<br>2038065542 |  |
| Offender #1 Data                              |  | Arrested<br>YES                    |  | Name<br>FELIPE RODRIGUEZ           |  | Date of Birth<br>08/22/1982        |  | Gender<br>Male                                |  | Race<br>White            |  |
| Address<br>ADMIRAL STREET West Haven CT 06518 |  | Home Phone<br>2034798428           |  | Ethnicity<br>Hispanic Origin       |  | Offender #1 Description            |  | Height<br>505                                 |  | Weight<br>187            |  |
| Build<br>Medium                               |  | Clothing Description               |  | Facial Hair<br>Mustache            |  | Glasses                            |  | Eye Color<br>Brown                            |  | Hair Color<br>Black      |  |
| Skin Tone<br>Olive                            |  | Scars                              |  | Distinguishing Marks               |  | Victim #1 Data                     |  | Name  |  | Date of Birth            |  |
| Gender  |  | Race                               |  | Ethnicity                          |  | Address                            |  | Home Phone                                    |  | Extension                |  |
| Nicknames                                     |  | Victim #1 Non-Individual Data      |  | Non-Individual Name                |  | Address                            |  | Property #1 Data                              |  | Loss Type                |  |
| Loss Date                                     |  | Number Lost                        |  | Location Lost                      |  | Value                              |  | Description                                   |  | Detailed Description     |  |
| Item Make                                     |  | Item Model                         |  | Item Type                          |  | Serial Number                      |  | License #                                     |  | State                    |  |
| Year  |  | Make                               |  | Model                              |  | Type                               |  | Color   |  | Number of Plates         |  |
| VIN #   |  | Keys in Vehicle                    |  | Weapons in Vehicle                 |  | CT Message #                       |  | OCA #   |  | Towed To                 |  |
| Owner Verified - (If No See Comments)         |  | Comments                           |  | Recovery Disposition               |  | Recovered Date                     |  | Exception Recovered                           |  | Recovered By             |  |
| Notified By<br>WEST HAVEN POLICE              |  | Notified Date<br>10 OCT 19 AM 9:52 |  | Hourly Rate                        |  | Narrative                          |  | Signature                                     |  | DATE<br>10/13/05         |  |

RECEIVED  
OCT 19 AM 9:52  
WEST HAVEN POLICE

Signature  
THIS REPORT IS SIGNED UNDER THE POWERS PROVIDED BY  
STATE LAW FOR MAKING A POLICE CERTIFICATE

DATE  
10/13/05  
SUBSCRIBED AND SWORN TO BEFORE ME THIS  
10/13/05 DAY OF OCTOBER 2005

PLAINTIFF'S EXHIBIT  
2

DEPARTMENT OF POLICE SERVICES  
West Haven, Connecticut 06516  
INCIDENT REPORT



20050306126  
181322005

Page 2 of 2

Original Case Number

ORI Number: CT00015600

On 10/13/2005 at 2320 hours I was dispatched to Admiral Street, on the report of a Neighbor Dispute, with a handgun displayed. Upon arrival I was met at the end of Admiral Street, by the complaint ant Anthony Clarke who stated he had an argument with his neighbor, later known to me as Felipe Rodriguez, who displayed a handgun and began waving it at him. Clarke stated the Hispanic male wearing the white shirt and black hat ran into Admiral Street.

I knocked on the door 121 Admiral Street, and was met by a female later known as E. Thru the open door I observed the Hispanic male Clarke had described to me, walking towards the front door. I ordered the male to stop, which he complied. I then handcuffed the male for Officer Safety and asked if he had any weapons on him. I was advised by and the male now known as Felipe that Felipe was not carrying a weapon, it was in the drawer in his bedroom. At this time stated to me her husband has a Ct state permit for the weapon. Felipe was placed into the rear of a patrol unit by Officer Oakley.

I spoke to and requested she bring me to her husbands gun. e invited me into her home and led me to the bedroom where she opened the bottom drawer where I observed a Silver handgun with a wood handle. I removed the weapon from the drawer and made it safe by removing the six rounds from the barrel.

I then spoke with Anthony Clarke who was now able to provide me with all details of the incident which had occurred. Clarke stated he had come home from a trip to the casino with his family when he pulled to his home and observed a vehicle owned by the Rodriguez's parked in front of his home partially blocking his driveway. Clarke stated he walked to the neighbors home and knocked on the door. Clarke stated Felipe Rodriguez came to the door, where he asked Rodriguez to move the vehicle to allow access to his driveway. Clarke stated a verbal argument ensued between the pair, and Rodriguez stated " I am tired of you niggers" and turned back into the home, Clarke stated Rodriguez then returned to the front porch where he lifted his shirt on the right side and pulled a silver handgun with a light wood colored handle and began waving it towards Clarke. Clarke scared for his life as well as his family that was standing fifty feet away, retreated back to his home and called 911. Clarke stated he looked from his window and observed Rodriguez go back inside the home. Clarke provided me with a sworn written statement of the incident which had occurred.

I spoke with Felipe Rodriguez who stated he was at home when he heard a knock at his door and recognized his neighbor Anthony Clarke standing on his porch. Rodriguez stated Clarke began arguing with his about the location his vehicle was parked in. Rodriguez stated he believed Clarke was going to harm him and went to his bedroom to retrieve his weapon. Rodriguez stated he came to the porch and continued to have a verbal argument but never displayed his weapon. I advised Rodriguez he was under arrest. Rodriguez was then transported to West Haven Police Department where he was formally charged with Reckless and Endangerment in the Second Degree 53a-64, Threatening in the Second Degree 53a-62 and Breach Of Peace 53a-181.

The pistol seized was described as a Silver Ruger Police Service Six .357 Magnum Caliber with light wood handle, containing six Winchester .357 rounds, ready to be fired. serial number 158-68808. Which was logged into evidence in the West Haven Police Department Property Room.

Also seized from Felipe Rodriguez was a Connecticut State Pistol Permit (Permit Number 918626), which will be sent to the State Pistol Permit agency for review.

RECEIVED  
OCT 19 AM 9:52  
WEST HAVEN POLICE

Signature *[Signature]*

THIS REPORT IS VALID UNLESS THE SIGNATURE IS VERIFIED BY  
STATE LAW FOR MAKING A FALSE STATEMENT

DATE 10/13/05

REPORTED AND SWORN TO BEFORE ME THIS 13th DAY OF OCTOBER 2005

*[Signature]*

NOTARY PUBLIC  131 COM

DEPARTMENT OF POLICE SERVICE

SOUTH CENTRAL REGION CASE/INCIDENT REPORT

SUPPLEMENTARY

36028 10-13-05 5 2315 10/17/2005 1300  
 123 Admiral St  
 Person Ineligible To Possess Firearms  
 156 50 1300

| STATUS | LAST NAME   | FIRST NAME | DOB | SEX | HT | WT | HAIR | EYES | SCAR | TATTOO | PHOTO | TELEPHONE | ADDRESS                         |
|--------|-------------|------------|-----|-----|----|----|------|------|------|--------|-------|-----------|---------------------------------|
| C      | Kasowitz, M | p156       |     |     |    |    |      |      |      |        |       |           |                                 |
| A      | Rodriguez   | Felipe     | M   | L   | 08 | 22 | 62   |      |      |        |       | 478-8428  | 123 Admiral St, West Haven, Ct. |

The following individual: Rodriguez, Felipe is prohibited by Ct State Statute (CGS 53a-217 / 53a-217a) from possessing any handguns, firearms, or electronic devices for the reason(s):

- Protective Order
- Misdemeanor Disqualification
- Restraining Order
- Felony Conviction
- Domestic Violence Conviction
- Other

Court Docket Number for Protective Order, Restraining Order, or Court Order: \_\_\_\_\_

Contact Made: Date 10-13-05 Time 2315

Individual is:  In Possession  Firearm Seized:  Yes  No

On the following dates and time: 1) \_\_\_\_\_ 2) \_\_\_\_\_

Remarks: \_\_\_\_\_, attempts were made to locate individual and which were unsuccessful. I advised my supervisor and The Department of Public Safety, Connecticut State Police Licensing and Firearms Unit of the current status of the investigation.

Weapon seized and permit seized and forwarded to C.S.P. Weapons Div.

SCU COPY:  ISU COPY:

THIS REPORT IS SIGNED UNDER THE PENALTIES PROVIDED BY STATE LAW FOR MAKING A FALSE STATEMENT

SIGNED: [Signature] DATE: 10-17-05 PAGES: 1 SIGNED: \_\_\_\_\_