

Complaints and Other Initiating Documents

3:10-cv-01282 Lawlor v. Connelly

U.S. District Court

United States District Court for the District of Connecticut

Notice of Electronic Filing

The following transaction was entered by Pattis, Norman on 8/10/2010 at 1:49 PM EDT and filed on 8/10/2010

Case Name: Lawlor v. Connelly
Case Number: 3:10-cv-01282
Filer: Robert Lawlor
Document Number: 1

Docket Text:

COMPLAINT against John Connelly, filed by Robert Lawlor.(Pattis, Norman)

3:10-cv-01282 Notice has been electronically mailed to:

Norman A. Pattis normpattis@gmail.com, akelly@pattislaw.com, dpeat@pattislaw.com, gstemborski@pattislaw.com, krommel@pattislaw.com, ksmith@pattislaw.com, ktorre@pattislaw.com, mhurley@pattislaw.com, npattis@pattislaw.com

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Original filename:n/a

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[STAMP dcecfStamp_ID=1034868047 [Date=8/10/2010] [FileNumber=2386621-0] [b887260ca5f8981dbeb8d1643cd4f356e6eb3e5d790d2eed7ff76262c3624992d8f75a3a5bb6ab387e2cdda1d508244ea0fc2946f86abc6b78e64fd0b62e2751]]

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Officer Robert Lawlor

(b) County of Residence of First Listed Plaintiff Hartford
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
Norman A. Pattis, Pattis & Smith, LLC
649 Amity Road, Bethany, CT 06524
203-393-3017

DEFENDANTS

John Connelly

County of Residence of First Listed Defendant Hartford
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

- | | | | | | |
|--|--|---|--|---|---|
| <input type="checkbox"/> 110 Insurance
<input type="checkbox"/> 120 Marine
<input type="checkbox"/> 130 Miller Act
<input type="checkbox"/> 140 Negotiable Instrument
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment
<input type="checkbox"/> 151 Medicare Act
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits
<input type="checkbox"/> 160 Stockholders' Suits
<input type="checkbox"/> 190 Other Contract
<input type="checkbox"/> 195 Contract Product Liability
<input type="checkbox"/> 196 Franchise

<input type="checkbox"/> 210 Land Condemnation
<input type="checkbox"/> 220 Foreclosure
<input type="checkbox"/> 230 Rent Lease & Ejectment
<input type="checkbox"/> 240 Torts to Land
<input type="checkbox"/> 245 Tort Product Liability
<input type="checkbox"/> 290 All Other Real Property | PERSONAL INJURY
<input type="checkbox"/> 310 Airplane
<input type="checkbox"/> 315 Airplane Product Liability
<input type="checkbox"/> 320 Assault, Libel & Slander
<input type="checkbox"/> 330 Federal Employers' Liability
<input type="checkbox"/> 340 Marine
<input type="checkbox"/> 345 Marine Product Liability
<input type="checkbox"/> 350 Motor Vehicle
<input type="checkbox"/> 355 Motor Vehicle Product Liability
<input type="checkbox"/> 360 Other Personal Injury

<input type="checkbox"/> 441 Voting
<input type="checkbox"/> 442 Employment
<input type="checkbox"/> 443 Housing/Accommodations
<input type="checkbox"/> 444 Welfare
<input type="checkbox"/> 445 Amer. w/Disabilities - Employment
<input type="checkbox"/> 446 Amer. w/Disabilities - Other
<input checked="" type="checkbox"/> 440 Other Civil Rights | PERSONAL INJURY
<input type="checkbox"/> 362 Personal Injury - Med. Malpractice
<input type="checkbox"/> 365 Personal Injury - Product Liability
<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
<input type="checkbox"/> 370 Other Fraud
<input type="checkbox"/> 371 Truth in Lending
<input type="checkbox"/> 380 Other Personal Property Damage
<input type="checkbox"/> 385 Property Damage Product Liability

<input type="checkbox"/> 510 Motions to Vacate Sentence
Habeas Corpus:
<input type="checkbox"/> 530 General
<input type="checkbox"/> 535 Death Penalty
<input type="checkbox"/> 540 Mandamus & Other
<input type="checkbox"/> 550 Civil Rights
<input type="checkbox"/> 555 Prison Condition | <input type="checkbox"/> 610 Agriculture
<input type="checkbox"/> 620 Other Food & Drug
<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881
<input type="checkbox"/> 630 Liquor Laws
<input type="checkbox"/> 640 R.R. & Truck
<input type="checkbox"/> 650 Airline Regs.
<input type="checkbox"/> 660 Occupational Safety/Health
<input type="checkbox"/> 690 Other

<input type="checkbox"/> 710 Fair Labor Standards Act
<input type="checkbox"/> 720 Labor/Mgmt. Relations
<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act
<input type="checkbox"/> 740 Railway Labor Act
<input type="checkbox"/> 790 Other Labor Litigation
<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act

<input type="checkbox"/> 462 Naturalization Application
<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee
<input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC 158
<input type="checkbox"/> 423 Withdrawal 28 USC 157

<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 840 Trademark

<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 863 DIWC/DIWW (4CS(g))
<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 865 RSI (405(g))

<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 470 Racketeer Influence and Corrupt Organizations
<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 950 Constitutionality of State Statutes |
|--|--|---|--|---|---|

V. ORIGIN

- (Place an "X" in One Box Only)
- 1 Original Proceeding
 - 2 Removed from State Court
 - 3 Remanded from Appellate Court
 - 4 Reinstated or Reopened
 - 5 Transferred from another district (specify)
 - 6 Multidistrict Litigation
 - 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. 1331, 1343(3) and 1367(a)

Brief description of cause:
An Action claiming violations of rights under the Fourth and Fourteenth Amendments.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ _____ CHECK YES only if demanded in complaint.

JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

08/10/2010

SIGNATURE OF ATTORNEY OF RECORD

[Signature]

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFF _____ JUDGE _____ MAG. JUDGE _____

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

Officer Robert Lawlor,
Plaintiff,

v.

John Connelly,
Defendant.

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cv 10-1282

August 10, 2010

COMPLAINT

INTRODUCTION

1. This is an action claiming violations of the plaintiff's rights under the Fourth and Fourteenth Amendments to the United States Constitution.

2. Jurisdiction of this court is invoked under the provisions of Sections 1331, 1343(3) and 1367(a) of Title 28 and, 42 U.S.C. Section 1983.

3. The plaintiff, Officer Robert Lawlor was, at all times relevant to this action, an officer employed by the City of Hartford Police Department. The plaintiff is currently retired.

4. John Connelly was, at all times relevant to this action, and he remains, the State's Attorney for the Judicial District of Waterbury. He is sued in his individual and official capacities.

FIRST CAUSE OF ACTION: MALICIOUS PROSECUTION

5. Paragraphs 1-4 of the preceding section are incorporated herein.

6. On May 7, 2005, Officer Lawlor was investigating illegal firearms activity in a high-crime neighborhood in Hartford. He was on duty, and performing official functions.

7. Officer Lawlor saw a male operating the slide mechanism of a semi-automatic handgun while standing next to a vehicle in a parking lot that had been identified by police detectives as potential evidence in a murder under investigation. As Officer Lawlor approached this individual, the individual entered the front passenger section of the car. Another male entered the driver's compartment of the car, started the car and began to drive away.

8. Officer Lawlor ordered the operator to stop the car and turn off the ignition. The vehicle initially stopped and the operator turned off the ignition. Officer Lawlor thereafter ordered the occupants of the vehicle to place their hands on the dash.

9. Rather than obey this lawful police order, the driver restarted the ignition, placed the car in drive and began to accelerate. At the same time, the passenger lowered his hand to the floor of the car and then raised himself up in a manner which was consistent with raising a firearm.

10. Believing that the accelerating vehicle was going to strike his partner and that the passenger was about to discharge the firearm, Officer Lawlor used legal deadly force, firing his department issued handgun. His first shot struck the driver causing the driver to swerve away from the direction of Officer Lawlor's partner and leave the parking lot over a pile of debris.

11. The passenger in the vehicle unfortunately died. The driver suffered a superficial wound.

12. The investigation of this case was eventually turned over to Waterbury State's Attorney John Connelly, who applied for an investigatory grand jury pursuant to Connecticut statute. The application submitted to the Investigatory Grand Jury Panel for Judges contained materially incorrect information for which Mr. Connelly vouched in an affidavit.

13. The aforesaid panel approved and authorized a grand jury, thereby giving Mr. Connelly the power to compel the testimony of witnesses. As a prosecutor, Attorney Connelly had a duty not to fabricate evidence before a grand jury, to offer truthful testimony to the grand jury, and not to knowingly withhold evidence tending to exculpate Lawlor..

14. Attorney Connelly represented to the grand jury that he lacked any exculpatory evidence surrounding Officer Lawlor's action.

15. Attorney Connelly knowingly withheld exculpatory evidence and intentionally misrepresented the fact that he possessed exculpatory evidence by refusing to offer evidence that the suspect vehicle was operated in such a manner as to justify the use of deadly force. Attorney Connelly was aware that Officer Lawlor's partner told a supervisor that car was operated in a manner that presented grave danger on the night of the incident and this statement was materially inconsistent with the evidence Connelly presented to the grand jury.

16. Under well-established law, a police officer may use deadly force to defend himself or third parties from the deadly threat of an oncoming vehicle.

17. Had Attorney Connelly presented this exculpatory evidence regarding the threat posed by the fleeing automobile to the grand jury, Officer Lawlor would not have been arrested.

18. Attorney Connelly did not merely fail to present exculpatory evidence before the grand jury. Attorney Connelly also falsely represented to the grand jury that he possessed no exculpatory evidence, a fact he either knew to be false or recklessly represented.

19. In Kalina v. Fletcher, 522 U.S. 118 (1997), the United States Supreme Court held that a absolute immunity did not protect a prosecutor for making false statements of fact in support of an arrest warrant.

20. As in Kalina, Attorney Connelly presented false statements in support of an arrest warrant. He withdrew from the case shortly thereafter, and withheld the exculpatory material from the prosecutor then responsible for litigating the case, Michael Dearington. Attorney Connelly had a continuing obligation to present exculpatory information even after he transferred the file to Attorney Dearington.

21. Because of Attorney Connelly's false statement, Officer Lawlor was forced to endure the financial and emotional costs, including, fear, terror and great anxiety, of an arrest and subsequent criminal trial.

22. A jury, hearing all of the evidence, including that which Attorney Connelly maliciously and with intent withheld from the grand jury, acquitted Officer Lawlor in December 2009.

SECOND CAUSE OF ACTION: FAILURE TO DISCLOSE EXCULPATORY EVIDENCE

23. Paragraphs 1-22 of the preceding count are incorporated herein.

24. Attorney Connelly was acting in an investigatory function when presenting evidence to the investigatory grand jury and when transmitting the evidence to Dearington for use in an arrest warrant application.

25. Attorney Connelly possessed material, exculpatory evidence regarding Officer Lawlor's conduct in the shooting of the driver and the passenger in the motor vehicle.

26. Specifically, Attorney Connelly knew that one of the men Officer Lawlor shot was driving his vehicle toward Lawlor's partner in a manner that presented an imminent risk of death or serious physical injury to Officer Lawlor's partner.

27. Nevertheless, Attorney Connelly never disclosed this material, exculpatory evidence, as required by Brady v. Maryland, 373 U.S. 83 (1963).

28. Had Attorney Connelly disclosed the Brady material, Officer Lawlor would not have been arrested.

THIRD CAUSE OF ACTION: SUBSTANTIVE DUE PROCESS VIOLATION

29. Paragraphs 1-28 of the preceding count are incorporated herein.

30. Through maliciously and intentionally withholding exculpatory evidence, Attorney Connelly instigated and an investigation that led to an arrest warrant's being issued against an innocent man.

31. By causing the arrest of an innocent man, Attorney Connelly put Officer Lawlor into a dangerous situation that, but for Attorney Connelly's actions, Officer Lawlor would not have experienced.

32. Knowingly causing the prosecution of an innocent man is conscience-shocking conduct.

33. Under the state-created danger doctrine, Attorney Connelly violated Officer Lawlor's substantive due process rights.

34. As Attorney Connelly created the peril in which Officer Lawlor found himself, Attorney Connelly was under a duty to rescue Officer Lawlor.

35. Attorney Connelly was thus under a continual constitutional obligation to rescue Officer Lawlor from harm.

36. Attorney Connelly should have produced the exculpatory evidence to the investigatory grand jury. Had he done so, there would have been no basis for an arrest warrant.

37. Had Attorney Connelly presented exculpatory evidence to the Grand Jury, the Grand Jury would not have found probable cause and a reviewing magistrate would not have found probable cause to sign an arrest warrant.

WHEREFORE, the plaintiff claims damages as follows:


- A. Compensatory damages;
- B. Punitive damages against the individually named defendants only;
- C. Attorney's fees arising under 42 U.S.C. Section 1988;

- D. A declaratory ruling that the plaintiff was actually innocent of all charges;
- E. Such other relief as this Court deems appropriate.

JURY CLAIM

The plaintiff claims trial by jury as to all matters of fact.

THE PLAINTIFF

By 
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Fed. Bar: ct13120