

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

	:	JURY TRIAL DEMANDED
Ryan Cooper	:	
	:	
	:	Civil Action No.
Matthew Hart	:	
	:	
Brad Johnson	:	
	:	
Jennifer Kates	:	
	:	
Jessica Mammarella	:	
	:	
Milan Marvelous	:	
	:	
Angela Modugno	:	
	:	
Beth Pulcinella	:	
	:	
Gwen Witherspoon	:	
	:	
Erik Woodworth	:	
	:	
SPIRAL Q PUPPET THEATER, INC.	:	
	:	
v.	:	
	:	
Deputy Commissioner Robert Mitchell, Philadelphia Police Department, individually and as a law enforcement officer;	:	
	:	
Edward McLaughlin, Commissioner of Licenses and Inspection for the City of Philadelphia, individually and in his official capacity;	:	
	:	
Deputy Commissioner Sylvester Johnson, Philadelphia Police Department, individually and as a law enforcement officer;	:	
	:	
Dominic Verdi, Deputy Commissioner of Licenses and Inspection for the City of Philadelphia, individually and in his official capacity;	:	

JOHN AND JANE DOES #1-10 :
individually and as police officers and/or :
officials of the Department of Licenses and :
Inspections for the City of Philadelphia; :
: :
CITY OF PHILADELPHIA. :
:

COMPLAINT

Introduction including Facts

Plaintiffs are a group of political activists, community organizers and artists from Philadelphia and elsewhere who were prevented from expressing their political views at the Republican National Convention by the defendants in and around August, 2000. Prior to the Convention, organizers sought permits to allow meaningful free speech activity and were repeatedly rebuffed. During the Convention, Police Commissioner Timoney, District Attorney Lynn Abraham and the defendants carried out mass arrests without lawful basis, targeted individuals perceived as leaders for arrest, pushed for excessive bail and incarcerated protestors, including Plaintiffs, for the purpose of stopping protest at the peak of the Convention. The City of Philadelphia regarded satisfaction of their Republican guests as a key to future tourism and undertook to protect delivery of the Republican political platform from all competing views. This was a goal eagerly sought by the Republicans from the beginning—their initial agreement to bring the Convention to Philadelphia allowed them broad access to public spaces, access that was denied to competing views.

The defendants’ preparation against protest began months earlier. In April, 2000 Philadelphia police attended the A16 Demonstrations in Washington, D.C. related to the annual meeting of the IMF. Upon information and belief, in Spring and early Summer, 2000, law enforcement officials from the FBI, Pennsylvania State Police, officials of the Washington, D.C. Police Department and Philadelphia Police Department met in Philadelphia for the purpose of coordinating efforts to undermine, intimidate and thwart political speech in Philadelphia, contrary to the United States Constitution. In the months preceding the Republican National Convention, Philadelphia area activists and artists began the laborious process of preparing political speech in the form of banners, signs, puppets, street theater props and literature. At least as early as July, 2000, law enforcement conducted surveillance and harassed activists and artists at various locations, including Women’s International League for Peace and Freedom (WILPF) at 1213 Race St. and the Spiral Q Puppet Theater at 1307 Sansom Street, Philadelphia. During the Convention people perceived as potential leaders of protest activity in Philadelphia were targeted for arrest without any evidence of illegal activity. On July 20, 2000, Philadelphia police and the Department of Licenses and Inspections raided the Spiral Q Puppet Theater studio and office space under the pretext of building code violations and

advised that they were shutting down the space. All puppets, signs and theatrical props that were being prepared were immediately removed by activists who feared destruction of their work based upon similar experience around April 15, 2000 in Washington, D.C.. After a five hour standoff, the defendants, having lost control over the puppets and political speech of the Plaintiffs and under threat of legal action, relented and allowed the space to re-open.

On July 25, 2000, Pennsylvania State Police agents infiltrated a warehouse located at 4100 Haverford Avenue, Philadelphia, (the Puppet Warehouse), part of which had been rented by activists as a studio for puppet making, street theater rehearsal, meetings and preparations for demonstrations. Upon information and belief, the Pennsylvania State Police conducted this infiltration rather than the Philadelphia Police in order to avoid restrictions on the Philadelphia Police Department due to a previous agreement not to infiltrate activist groups. Prior to August 1, 2000, Pennsylvania State Police, in consultation with officials from the Washington, D.C. Police Department, compiled information, much of it inflammatory, unsubstantiated, and inaccurate, which became the basis for the Affidavit of Probable Cause to search the Puppet Warehouse. The first eighteen pages of the Affidavit of Probable Cause in support of the search warrant, offered information regarding diverse and unconnected groups that engage in protected First Amendment expression. The Affidavit portray prospective demonstrators as potential criminals. The affiant alleges acts of violence committed by others in different places in an effort to circumvent the requirements of the First and Fourth Amendments of the Constitution.

On August 1, 2000, in consultation with the Philadelphia District Attorney's Office and the Pennsylvania State Police, the Philadelphia Police Department executed a search warrant (or search warrants) at the Puppet Warehouse. All people, including Plaintiffs, and all forms of political speech (puppets, banners, literature, signs, etc.) were immobilized during execution of the search warrant. No one was permitted to remove any objects, including expressions of political speech and personal items and valuables, from the warehouse. All occupants of the warehouse, including Plaintiffs, were arrested despite there having been no identification of any of them as participants in any criminal activity. Plaintiffs were handcuffed, searched, confined under harsh conditions in hot buses for up to nine hours. They were then confined at the Police Administration Building, often for days, and then taken to County custody.

Without probable cause or legal justification, the plaintiffs were taken from the warehouse under police escort, handcuffed, photographed, identification bands with numbers were applied to their wrists, and they were placed on several buses with little or no ventilation. Not one of the individuals arrested, handcuffed, and placed on buses, had been identified by any of the state police troopers as having been involved or having plans to be involved in criminal activity. During the over nine hours in which the Plaintiffs were confined and handcuffed on buses, they were denied access to food, bathroom facilities, and provided only a small sip of water each, while the temperatures on the buses reached uncomfortable levels. Between 1 and 2 a.m., on August 2, 2000, the Plaintiffs were herded once again in handcuffs from the buses into the Police Department Headquarters at the roundhouse and placed in holding cells in anticipation of arraignment for criminal charges. After an excessive period of time, ranging from 2 -4 days, the Plaintiffs were arraigned on criminal charges. The

Plaintiffs were arraigned on charges of conspiracy to obstruct justice, obstruction of justice, possession of an instrument of crime and/or conspiracy to possess the instrument of crime, endangering another person, and conspiracy to endanger another person, disorderly conduct, conspiracy to engage in disorderly conduct, obstruction of a highway, and conspiracy to obstruct a highway. Defendants Sylvester Johnson and Mitchell, in consultation with other police officials, ordered the arrest of the Plaintiffs for the above mentioned charges. The City of Philadelphia and the above named defendants knew that there was no probable cause or legal basis for the arrests and subsequent prosecution on the above mentioned charges. Prior to trial, the undercover state troopers were presented photo arrays to determine if they could identify people arrested at the Warehouse as having engaged in criminal activity. They did not. All charges against the Plaintiffs were dismissed as a result. The actions of the above named Defendants in depriving the Plaintiffs of their rights to express themselves under the First Amendment of the United States Constitution were part of a strategy to detain and prevent the lawful assembly of protestors during the Republican National Convention. As a direct result of the policy decisions of the Defendants, Plaintiffs were subjected to harsh conditions of confinement prior to arraignment.

Shortly after the Plaintiffs were herded from the Puppet Warehouse, Defendant Verdi at the direction of his supervisor in Licenses and Inspections, Defendant McLaughlin, and in conjunction with the Philadelphia Police Department, conducted a search of the warehouse. Puppets, banners, flags, and signs were confiscated and destroyed. The Plaintiffs' personal items were confiscated by the Philadelphia Police Department. Certain items that were not specified in the warrant including personal papers, cell phones, and other personal items, not otherwise subject to the seizure under the laws and Constitutions of the United States and Pennsylvania, were also confiscated and have not been returned to the rightful owners. No evidence of alleged criminal activity seized by the Philadelphia Police Department or Licenses and Inspections was attributed to any individual Plaintiff. To the contrary, the flags, puppets, posters, banners, and signs that were seized were all directly connected to the Constitutionally protected free expression of political ideas. The defendant Deputy Commissioner Verdi and defendant Commissioner McLaughlin, authorized in conjunction with the Police Department, the destruction of puppets, signs, banners, and all forms of political expression protected by the First Amendment.

Jurisdiction

1. This is an action for money damages and injunctive relief brought pursuant to 42 U.S.C. §§ 1983, 1988 and the First, Fourth, Fifth and Fourteenth Amendments to the United States Constitution and under the constitutional and common law of the Commonwealth of Pennsylvania, against defendants who are or were policy makers, supervisors and police officers for the City of Philadelphia or Washington, D.C. in their individual and official capacities and against the City of Philadelphia. Jurisdiction is based upon 28 U.S.C. §§ 1331 and 1343(a)(3) and (4) and the aforementioned statutory provisions. Plaintiff further invokes the supplemental jurisdiction of this Court to hear and decide claims arising under state law pursuant to 28 U.S.C. § 1367(a).

Parties

2. Plaintiff, Ryan Cooper, is an adult resident of New Brunswick, New Jersey and at all times relevant to this complaint was in Philadelphia on August 1, 2000 to express his political views during the Republican National Convention.
3. Plaintiff, Matthew Hart, is an adult resident of Philadelphia, Pennsylvania and at all times relevant to this complaint was in Philadelphia on August 1, 2000 to express his political views during the Republican National Convention.
4. Plaintiff, Brad Johnson, is an adult resident of Baltimore, Maryland and at all times relevant to this complaint was in Philadelphia on August 1, 2000 to express his political views during the Republican National Convention.
5. Plaintiff, Jennifer Kates, is an adult resident of Philadelphia, Pennsylvania and at all times relevant to this complaint was in Philadelphia on August 1, 2000 to express her political views during the Republican National Convention.
6. Plaintiff, Jessica Mammarella, is an adult resident of Philadelphia, Pennsylvania and at all times relevant to this complaint was in Philadelphia on August 1, 2000 to express her political views during the Republican National Convention.
7. Plaintiff, Milan Marvelous, is an adult resident of Philadelphia, Pennsylvania and at all time relevant to this complaint was in Philadelphia on August 1, 2000 to express his political views during the Republican National Convention.
8. Plaintiff, Angela Modugno, is an adult resident of Akron, Ohio and at all times relevant to this complaint was in Philadelphia on August 1, 2000 to express her political views during the Republican National Convention.
9. Plaintiff, Beth Pulcinella, is an adult resident of Philadelphia, Pennsylvania and at all times relevant to this complaint was in Philadelphia on August 1, 2000 to express her political views during the Republican National Convention.
10. Plaintiff, Gwen Witherspoon, is an adult resident of Philadelphia, Pennsylvania and at all times relevant to this complaint was in Philadelphia on August 1, 2000 to express her political views during the Republican National Convention.
11. Plaintiff, Erik Woodworth, is an adult resident of Philadelphia, Pennsylvania and at all times relevant to this complaint was in Philadelphia on August 1, 2000 to express his political views during the Republican National Convention..
12. Plaintiff, Spiral Q Puppet Theater, Inc. is a private, non-profit corporation in its sixth year that seeks to mobilize communities, em power marginalized people through the construction of full-scale giant

puppet parades, toy theater and neighborhood pageantry. Its Director is Plaintiff Matthew Hart. Spiral Q Puppet Theater, Inc. assisted activists in construction of free speech materials within 1307 Sansom Street and at the Puppet Warehouse.

13. Defendant, Deputy Commissioner Robert Mitchell, is a Deputy Commissioner of the Philadelphia Police Department and was a policy maker and supervisory officer in Philadelphia Police Department during the Republican National Convention. He is being sued in his individual and official capacity.
14. Defendant, Commissioner Edward McLaughlin, is the Commissioner of the Philadelphia Police Department and was a policy maker and supervisory officer in the Department of Licenses and Inspection during the Republican National Convention. He is being sued in his individual and official capacity..
15. Defendant, Deputy Commissioner Sylvester Johnson, is a Deputy Commissioner of the Philadelphia Police Department and was a policy maker and supervisory officer in Philadelphia Police Department during the Republican National Convention. He is being sued in his individual and official capacity.
16. Defendant, Dominic Verdi, is a Deputy Commissioner of Licenses and Inspection and was a policy maker and supervisory officer in the Department of Licenses and Inspection during the Republican National Convention. He is being sued in his individual and official capacity.
17. Defendant City of Philadelphia is a municipality of the Commonwealth of Pennsylvania and owns, operates, manages, directs and controls the Philadelphia Police Department and the Department of Licenses and Inspections, which employed the individual Defendants, during all times relevant to this action.

First Cause of Action - Federal Constitutional Claims

(42 U.S.C. Section 1983 against the City of Philadelphia)

18. Paragraphs 1 through 17 are incorporated herein by reference as though fully set forth.
19. As a direct and proximate cause of Defendants' conduct, the Plaintiffs were deprived of their rights to freedom of speech, freedom of expression, and due process of law, to be free from false arrest, detention, unlawful search, malicious prosecution, and an unlawful taking of property, as well as unnecessary pre-arraignment detention, in violation of the First, Fourth, Fifth and Fourteenth Amendment of the United States Constitution and 42 U.S.C. 1983.
20. Defendant City of Philadelphia, along with other individual named defendants, adopted a policy and plan of action to deny the Plaintiffs their First Amendment Rights by engaging in

political surveillance which resulted in false arrest, illegal detention, destruction of political expression as manifested in the Puppets' banners, flags, and signs that were confiscated and destroyed.

21. As a direct and proximate cause of the acts and omissions by all the Defendants, Plaintiffs sustained pain and suffering, emotional distress, as well as a denial of their right to express their political ideas in a lawful manner as protected by the First Amendment.
22. The actions and conducts of all the Defendants were a direct result of a policy and practice of the City of Philadelphia, a policy to deny persons engaged in lawful protest activity, as related to the Republican National Convention, their First Amendment Rights, to prevent lawful political protest by conducting surveillance and gathering intelligence in conjunction with other law enforcement agents, and culminating in the false arrest and imprisonment depriving the persons, including the Plaintiffs, of their First, Fourth, Fifth, and Fourteenth Amendment of the United States Constitution.
23. The Defendants, by adopting this policy and/or failing to establish adequate policies, practices, training, and supervision, deprived the Plaintiffs of their Constitutional rights to freely express their dissenting political views. Defendants acted with malignant indifference towards the rights that is a direct result of this policy and/or lack of policy to ensure the protection of First Amendment Rights. The City of Philadelphia and its policy makers acted with deliberate indifference to the Plaintiffs' rights as protected by the First, Fourth, Fifth, and Fourteenth Amendment of the United States Constitution and 42 U.S.C. Section 1983.
24. The Plaintiffs as a direct and proximate cause of this implied or expressed agreement among policy makers for the City of Philadelphia were deprived of their Constitutional rights including but not limited to freedom of expression and freedom of association and as such experienced significant pain, discomfort, physical distress, psychological trauma, and other damages, as well as loss of property.
25. The conduct of the Philadelphia Police Officers who falsely arrested, charged, and maliciously prosecuted the Plaintiffs was a direct result of this policy of the City of Philadelphia to deny the those activists their rights to free speech by arresting, searching, and detain activists, and confiscating and destroying forms of political expression such as the Puppets, banners, signs, flags and placards during the Republican National Convention without probable cause.

Second Cause of Action

42 U.S.C. Section 1983 Against the Individually named Defendants

26. Paragraphs 1 through 25 are incorporated herein by reference as though fully set forth.
27. As a direct and proximate cause of the Defendants' Edward McLaughlin, Sylvester Johnson,

Robert Mitchell, Dominic Verdi and John and Jane Does #1-10 actions, separately and in concert with one another, deprived the Plaintiffs' rights to free speech, expression and association as well as the Plaintiffs' rights to be free from false arrest, unlawful detention, unnecessary pre-arraignment delay and malicious prosecution, as well as the right to possess their property including expressions of speech such as puppets, banners, posters, flags, and personal items, without an unlawful taking. The actions by the Defendants were in violation of the Plaintiffs' First, Fourth, Fifth and Fourteenth Amendments to the United States Constitution and 42 U.S.C. Section 1983.

Third Cause of Action - Conspiracy
(42 U.S.C. Section 1983)

28. Paragraphs 1 through 27 are incorporated herein by reference as though fully set forth.
29. The named Defendants, in addition to unidentified employees (John and Jane Does #1-10) of the City of Philadelphia, at all times relevant to the events described in the Complaint, were engaged in a joint venture. The named Defendants and/or agents acted in a concerted agreement against the Plaintiffs to falsely arrest, illegally search, unlawfully detain, and ultimately maliciously file criminal charges as well as the destroy personal property and political expressions in the forms of the puppets, signs, banners. There was no basis on which the Defendants could support the allegation that the Plaintiffs, individually or in concert with others, conspired to commit any criminal offense. The Plaintiffs suffered the loss of their right to political expression during the Republican National Convention and suffered pain, discomfort, psychological and emotional distress as well as the loss of property as a direct result of the agreement of the Defendants. This agreement express or implied by the Defendants was in violation of the Plaintiffs' rights as guaranteed under the First, Fourth, Fifth, and Fourteenth Amendments to the United States Constitution and 42 U.S.C. Section 1983.

Fourth Cause of Action - State Law Claims

30. Paragraphs 1 through 29 are incorporated herein by reference as though fully set forth.
31. The conducts of the Defendants, as set forth above, constitute false arrest and imprisonment, deprivation of property without due process of law, and malicious prosecution under the laws of the Commonwealth of Pennsylvania and in violation of Article I Section 8 of the Pennsylvania Constitution and free speech provisions of the Pennsylvania Constitution. This Court has pendent jurisdiction to hear these claims.

WHEREFORE, Plaintiff requests the following relief:

- a. Compensatory damages;

- b. Punitive damages against the individual defendants;
- c. Reasonable attorney's fees and costs;
- d. Interest;
- e. Injunctive relief;
- f. Such other and further relief as appears reasonable and just.

Paul J. Hetznecker, Esquire
Attorney No. 49990
1420 Walnut St., Suite 911
Philadelphia, PA 19102
(215) 893-9460
Fax: (215) 893-0255

Lawrence S. Krasner, Esquire
Attorney No. 49967
KRASNER & RESTREPO
239 S. Camac St.
Philadelphia, PA 19107
(215) 731-9500
Fax (215)731-0998