

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO**

ELLEN ABDUR-RAHIM,)	
HARRISON KALLNER, and)	
CONNOR LEFEVERS,)	
)	
Plaintiffs,)	Civil Action No.
vs.)	
)	
THE CITY OF COLUMBUS,)	Judge
KIM JACOBS, in her official capacity)	
as Chief of Police, JEFFREY LIPP, in his)	
official capacity as Police Lieutenant, and)	
THREE UNNAMED COLUMBUS)	Jury Trial Demanded
POLICE OFFICERS in their individual)	
and official capacities,)	
)	
Defendants.)	

COMPLAINT

INTRODUCTION

On the evening of January 30, 2017, peaceful demonstrators—students, immigrants, activists, and others—gathered near the Ohio Statehouse to conduct a First Amendment assembly to express their objection to President Trump’s newly released Travel Ban. The Columbus Police at first permitted the demonstration to take place, but after some time they ordered the still-peaceful demonstrators to disperse, and eventually deployed pepper spray over the heads of the demonstrators to force them to leave.

In addition, the police gratuitously attacked several demonstrators by shooting them with pepper spray directly in the face—intentionally, and at very close range. Police body camera footage captured police officers’ voices selecting one demonstrator in advance for this abuse, saying “I call that guy first,” and “I can get him in the face.” Soon after, as all of the demonstrators were dispersing and fleeing the pepper spray, the police followed some of them,

and aimed bursts of pepper spray directly into their eyes from only inches away, burning their eyes, faces, and throats. Police body camera footage afterwards captured the police celebrating their infliction of this pain: “I wanted that chick to get it,” and, “that one real bitchy chick, she got it good,” ...and laughing.

The Plaintiffs bringing this suit are three of the individuals whom the police specifically attacked and injured. Plaintiffs ask this Court for redress for their injuries and for equitable relief for the excessive use of police force and the violation of their freedoms of speech and assembly.

JURISDICTION AND VENUE

1. Because this civil rights action arises under the United States Constitution, this Court has jurisdiction under Article III of the Constitution and under 28 U.S.C. §§ 1331 and 1343(3) and (4). The relief sought is authorized by the United States Constitution and by 42 U.S.C. § 1983. This Court has supplemental jurisdiction over the state law claims under 28 U.S.C. §1367.
2. This judicial district is an appropriate venue for this cause of action pursuant to 28 U.S.C. § 1391(b)(1) and (b)(2). The actions giving rise to this suit took place in this judicial district. Defendant City of Columbus is located within this judicial district, and Defendants Chief Jacobs, Lieutenant Lipp, and the Three Unnamed Columbus Police Officers work in this judicial district as well.

PARTIES

Plaintiffs

3. **Ellen Abdur-Rahim** (“Ellen”) is a 29-year-old resident of Columbus, Ohio. She works as a teaching intern with the Children’s Defense Fund Freedom School in Columbus.

4. While Ellen was attempting to disperse from a peaceful assembly in Columbus on January 30, 2017, one of the Three Unnamed Columbus Police Officers attacked her, grabbing her shoulder while simultaneously pepper spraying her in the face from just a few inches away.
5. **Harrison Kallner** (“Harrison”) is a recent high school graduate who lives in New Albany, Ohio. Harrison, who is 18, will begin an undergraduate program at Occidental College in Los Angeles, CA, this fall.
6. While Harrison was attempting to disperse from a peaceful assembly in Columbus on January 30, 2017, one of the Three Unnamed Columbus Police Officers pepper sprayed Harrison in the eyes and face from only two feet away, while Harrison was expressing a First Amendment-protected message.
7. **Connor Lefevers** is an 18-year-old high school student who lives with his mother and siblings in Worthington, Ohio.
8. While Connor was participating in a peaceful assembly in Columbus on January 30, 2017, one of the Three Unnamed Columbus Police Officers targeted Connor and intentionally pepper sprayed him in the face from just a few feet away.

Defendants

9. **Defendant City of Columbus** (“the City”) is a municipal corporation located in Franklin County, Ohio.
10. **Defendant Kim Jacobs** is the Chief of Police of Columbus, Ohio. As the Chief of Police, Jacobs is responsible for creating and enforcing the Columbus Police Department’s policies. She is sued in her official capacity.

11. **Defendant Jeffery Lipp** is a Lieutenant in the Columbus Police Department. He was the chief commanding officer present at the January 30, 2017 demonstration that is the subject of this Complaint. He is sued in his official capacity.
12. **Defendants Three Unnamed Columbus Police Officers** are three police officers in the Columbus Police Department. These officers were on duty and present at the January 30, 2017 demonstration that is the subject of this Complaint. Each of the Three Unnamed Columbus Police Officers pepper sprayed the group of peaceful demonstrators, and also specifically targeted and sprayed at least one of the Plaintiffs at close range. They are each sued in their official and individual capacities.
13. At all times relevant to this Complaint, all Defendants were acting under color of state law.

FACTS

The January 30, 2017 Immigrants' Rights Rally

14. On January 27, 2017, President Donald Trump issued Executive Order 13769, known as the Travel Ban, and large First Amendment demonstrations broke out across the nation in support of immigrants and Muslims.
15. On the evening of January 30, 2017, one such demonstration took place in Columbus, Ohio.
16. The purpose of this peaceful demonstration ("the Assembly") was to express dissent to the Travel Ban and support for immigrant and Muslim people affected by the Ban.
17. The Assembly was open to the public, and widely advertised on social media including Twitter and Facebook.

18. Defendants the City, Chief Jacobs, Lieutenant Lipp, and the Three Unnamed Columbus Police Officers were aware of the Assembly as it was being planned.
19. Defendants conducted social media surveillance on the Assembly, and created policies, plans, and protocols governing how the police would manage the Assembly.
20. Defendants' policies, plans, and protocols governing police behavior at the Assembly included the use of pepper spray and other use of force against non-violent demonstrators.
21. The evening of the Assembly, hundreds of people gathered peacefully on and near the green of the Ohio Statehouse, including immigrants, families with children, and others.
22. Plaintiff Ellen Abdur-Rahim arrived at the Assembly at about 6:00 p.m., with several of her friends. She joined the group in chanting and singing protest songs. At one point, she took a megaphone and addressed the entire group, speaking about race relations in Columbus.
23. Plaintiff Harrison Kallner also arrived at the Assembly in the 6:00 hour, with two friends. Harrison carried a sign reading, "Resist / I will not be represented by fascism, bigotry, or white supremacy."
24. Plaintiff Connor Lefevers arrived at the Assembly with his mother at about 6:30 p.m.
25. Between 6:00 and 7:30 p.m., the group of demonstrators, then comprised of a few hundred individuals including Plaintiffs, remained near the Statehouse, peacefully standing, speaking, praying, chanting, and holding signs.
26. At about 7:30 p.m., this group, including Plaintiffs, began a planned march. The group marched from the corner of South High St. and East State St., southward down

- S. High St., along the east side of the sidewalk. They arrived at the Franklin County Courthouse, where they again stopped briefly to speak, chant, and sing. They then turned around and marched back to the Statehouse along the same route.
27. Gradually, the group shrunk in size, as time passed and people left the Assembly to go home.
 28. At about 8:15 p.m., the group arrived back near the intersection of S. High and E. State, immediately south of the Statehouse. By this time, many of the original demonstrators had gone home, and about 100 or fewer demonstrators, including Plaintiffs, remained.
 29. Columbus police, including the Three Unnamed Columbus Police Officers, converged to face the now-smaller group, forming a police line directly south of the rally, blocking the remaining demonstrators off at S. High Street.
 30. The police line and the demonstrators faced one another while the demonstrators peacefully sang, chanted, and at one point, knelt in silent prayer.
 31. Between 8:15 and 9:00 p.m., police issued orders to disperse, but many people, including Plaintiffs, remained.
 32. At all times relevant to this Complaint, the demonstrators, including Plaintiffs, remained peaceful: no demonstrator ever made a verbal or physical threat or engaged in or appeared to engage in violence or other harm to people or property.
 33. On information and belief, at about 8:25 p.m. one individual was briefly detained by the police, then let go without charges within ten minutes.
 34. On information and belief, no one else was arrested, detained, or charged with any crime in connection with the Assembly.

35. At about 8:30 p.m., at least seven police officers in the line of officers facing the demonstration, including the Three Unnamed Columbus Police Officers, pulled out canisters of military-grade pepper spray and put on gas masks.
36. At this, the remaining demonstrators chanted, “shame.”
37. At about 9:00 p.m. the police checked in with their commanding Deputy Police Chief, who directed them to comply with the City’s and Chief Jacobs’ policy and protocol of using pepper spray against the peaceful protesters.
38. Lieutenant Jeffrey Lipp came to the front of the police line, and instructed the officers carrying pepper spray, including the Three Unnamed Columbus Police Officers, to spray the demonstrators by making “one quick spray, above the crowd, a two-second spray.”
39. At this moment, the demonstrators were chanting, “no hate, no fear—refugees are welcome here.”
40. Ellen stepped up to the police line and said, “these are high school kids,” referring to many of the people who remained at the Assembly.
41. At 9:04 p.m., without further warning, at least seven police officers including the Three Unnamed Columbus Police Officers shook their canisters of pepper spray and shot them in orange streams above most of the demonstrators, the closest of whom were less than ten feet away.
42. Plaintiffs and everyone remaining at the Assembly were immediately hit with large clouds of the pepper spray.
43. Choking and coughing, Plaintiffs and all of the demonstrators immediately turned around and dispersed, fleeing from the police line.

44. The pepper spray used was 5.3MM Premium Defense Spray, manufactured by Fox Labs International. It has a Major Capsaicinoid concentration of 2%, and according to its manufacturer, is designed to deliver 5.3 million Scoville Heat Units. It discharges approximately three grams of material each half-second, and is powerful enough to deliver spray up to 20 feet away.

Targeted Police Attack on Ellen Abdur-Rahim

45. From the time when the group of demonstrators returned from their march to their initial gathering place near the Statehouse, up until the police first deployed pepper spray, Ellen stood near the front and center of the group, facing the police line.
46. At the moment when the police first discharged their pepper spray, Ellen had been holding her fist in the air, in a symbol of support for immigrants.
47. When the first cloud of pepper spray descended upon Ellen, she doubled over and covered her face with her hijab. She immediately turned away from the police line and walked away, heading northwest through the dispersing crowd.
48. As Ellen walked away, one of the Three Unnamed Columbus Police Officers, Officer Doe #1, followed her through the crowd. When he approached her, she turned her body slightly towards him, still hunched over and trying to cover her face. The Officer put his right hand on her shoulder, raised his left arm holding his pepper spray canister, and, still holding her shoulder, he pointed the canister directly into her eyes and shot a burst of pepper spray at her eyes from only inches away.
49. Covering her face, Ellen ran to escape the Officer, heading northeast across the intersection.

50. Later, Officer Doe #1 saw Ellen on the sidewalk, pointed to her, and said to his fellow police officers, “that chick, I wanted that chick to get it and she got it.” Another officer responded, “she got it good!” and the group of officers laughed.
51. A minute later, another officer said to Officer Doe #1, referring to Ellen, “that one real bitchy chick, she got it good.” Officer Doe #1 responded, “oh yeah!”
52. On information and belief, Officer Doe #1 targeted, followed, and pepper-sprayed Ellen in the eyes because of her First Amendment activities at the Assembly.
53. As a result of the spraying, Ellen suffered burns on her eyes, face, and chest, and her contact lenses temporarily fused to her eyes.
54. Columbus Emergency Medical Services (EMS) eventually responded to the area, where some demonstrators were tending to those who were most injured on the surrounding sidewalks. Ellen asked one of the EMS providers for help, but they refused her treatment.

Targeted Police Attack on Harrison Kallner

55. From the time when the group of demonstrators returned from their march to their initial gathering place near the Statehouse, up until the police first deployed pepper spray, Harrison was positioned away from the group, standing on top of a garbage can near a Subway restaurant on the west sidewalk of S. High St., parallel to the police line. Harrison was there when the police first discharged their pepper spray.
56. When the initial cloud of pepper spray descended, Harrison, coughing and choking, jumped down from the garbage can and onto the sidewalk, and began to move quickly away, heading northeast, along with the dispersing crowd.

57. Harrison noticed several police officers with pepper spray canisters, including the Three Unnamed Columbus Police Officers, following the fleeing demonstrators.
58. One of the Three Unnamed Columbus Police Officers, Officer Doe #2, approached Harrison. Harrison, hands palms-upward in a gesture of helplessness and confusion, said, “why are you fucking spraying us?”
59. In response, Officer Doe #2 raised his pepper spray canister, pointed it into Harrison’s eyes, and sprayed Harrison in the eyes from a distance of about two feet.
60. On information and belief, Officer Doe #2 sprayed Harrison as a response to Harrison’s First Amendment activities.
61. As a result of the pepper spray, Harrison suffered burns to the eyes, throat, and face.
62. Harrison later sought first aid from some of the demonstrators who were less injured. One woman, who was breastfeeding, provided Harrison with her breast milk, which she used to flush Harrison’s eyes.
63. Harrison was eventually able to find an ambulance and rest inside for several minutes, away from the bright police lights. But the EMS providers were not equipped to treat pepper spray injuries.

Targeted Police Attack on Connor Lefevers

64. From the time when the group of demonstrators returned from their march to their initial gathering place near the Statehouse, up until the police first deployed pepper spray, Connor was standing directly in the front and center of the group, facing the police line. He stood less than ten feet from the closest police. He was wrapped in a colorful scarf, holding up a “peace” sign with his hands and silently smiling at the police.

65. During this time, the Three Unnamed Columbus Police Officers verbally taunted Connor. Among other comments, after putting on riot gear, one of the Three Unnamed Columbus Police Officers said to Connor, “now might be a good time for you to leave; you don’t look too good.”
66. The Three Unnamed Columbus Police Officers, together, planned to target and injure Connor.
67. Referring to Connor, they said, “he doesn’t look too good does he; he looks pale.” They said to one another, referring to pepper spraying Connor, “I call that guy first,” and “I can get him in the face.”
68. On information and belief, this taunting and advance targeting was a response to Connor’s First Amendment activities.
69. Accordingly, when the front line of police officers deployed their initial burst of pepper spray, one of the Three Unnamed Columbus Police Officers, Officer Doe #3, singled out Connor. The Officer aimed his canister over the heads of the group as Lieutenant Lipp had directed, then almost immediately lowered his arm down to face level, pointing his canister directly at Connor, and sprayed Connor point-blank in the eyes from a distance of just a few feet. Having hit Connor directly in the face with the spray, Officer Doe #3 then raised his arm back up to above-the-head level, and continued to spray in a horizontal back-and-forth arm movement above the heads of the rest of the group.
70. Officer Doe #3 conspicuously and intentionally targeted Connor’s face.
71. As a result of the close-range, direct spray, Connor immediately lost his ability to see, suffered intense pain, and became disoriented. He had trouble moving.

72. Two police officers, including Officer Doe #3, then pushed Connor, and dragged him to the east side of S. High St. where they abandoned him without medical attention. He remained there hunched over and screaming.
73. After being sprayed and dragged away by Officer Doe #3, Connor was picked up by his mother, who took him to a local hospital where he received treatment for pepper spray burns to his eyes, face, and chest.

Discussion of Plaintiffs' Rights and Injuries

74. Defendants each deprived Plaintiffs of their rights to freedom of speech and assembly, and subjected them to excessive force and unlawful seizure.
75. Plaintiffs suffered injuries to their liberty interests in addition to intense physical pain and suffering.
76. The actions of the Three Unnamed Columbus Police Officers were intentional and malicious, and violated clearly established law.
77. Defendants the City, Chief Jacobs, and Lieutenant Lipp each had an affirmative duty to train and supervise the Three Unnamed Columbus Police Officers and other police officers, which they failed to do, including by failing to discipline any officer after their excessive use of force. Lieutenant Lipp had an additional affirmative duty to prevent the Three Unnamed Columbus Police Officers from engaging in their unlawful pepper spraying of Plaintiffs, which he failed to do. These failures, and the City's and Chief's policies and practices allowing unlawful use of force, resulted in Plaintiffs' injuries.

CAUSES OF ACTION

COUNT ONE

Constitutional and Civil Rights Pursuant to 42 U.S.C. § 1983

**Violation of Fourth Amendment Rights
Based on the Use of Excessive Force and Unlawful Seizure
(Against all Defendants)**

78. The foregoing allegations are incorporated as if re-alleged herein.
79. Defendants Three Unnamed Columbus Police Officers, through their individual intentional, malicious acts in pepper spraying the Plaintiffs directly in the face and eyes, violated the Fourth Amendment prohibition on the excessive use of force and injured Plaintiffs as a result.
80. Defendants Chief Jacobs, Lieutenant Lipp, and the City through their policies and practices in ordering, directing, approving, and failing to prevent the unlawful use of force, and failing to train, failing to supervise, and failing to discipline their officers, also caused Plaintiffs' injuries and violated the Fourth Amendment's prohibition on unlawful use of force.
81. As a direct result of these constitutional violations committed by Defendants, the Plaintiffs have suffered serious personal injuries and are entitled to relief under the federal constitution and 42 U.S.C. § 1983.

**COUNT TWO
Constitutional and Civil Rights Pursuant to 42 U.S.C. § 1983
Violation of First Amendment and Ohio Constitution
Retaliation Based on Speech and Assembly
(Against all Defendants)**

82. The foregoing allegations are incorporated as if re-alleged herein.
83. Peaceful protesting and assembly are fundamental constitutional activities protected by the First Amendment to the United States Constitution.
84. Defendants Three Unnamed Columbus Police Officers' intentional and malicious actions of pepper spraying each Plaintiff in the face and eyes were motivated by the

Plaintiffs' exercise of their First Amendment rights to protest and assemble peacefully.

85. The Three Unnamed Columbus Police Officers' actions of physically punishing Plaintiffs during their peaceful assembly therefore constituted retaliatory use of force against each Plaintiff for the exercise of their fundamental First Amendment rights.
86. Defendants Chief Jacobs, Lieutenant Lipp, and the City, through their policies and practices in ordering, directing, approving, and failing to prevent the retaliatory use of force, and failing to train, failing to supervise, and failing to discipline their officers, also caused Plaintiffs' injuries and violated the First Amendment.
87. As a direct result of Defendants' unconstitutional policies, practices, and actions, and the constitutional violations committed by Defendants, Plaintiffs have suffered serious personal injuries and are entitled to relief under the federal and state constitutions and 42 U.S.C. § 1983.

COUNT THREE
Assault and Battery
(Against the Three Unnamed Columbus Police Officers)

88. The foregoing allegations are incorporated as if re-alleged herein.
89. The Three Unnamed Columbus Police Officers intentionally and maliciously pepper sprayed Plaintiffs in the face and eyes while they were peacefully demonstrating, and while they posed no risk of harm. These intentional actions were an objectively unreasonable excessive use of force.
90. As a direct result of the Three Unnamed Columbus Police Officers' intentional assault and battery, Plaintiffs suffered serious personal injuries and are entitled to relief under state law.

PRAYER FOR RELIEF

Plaintiffs Ellen Abdur-Rahim, Harrison Kallner, and Connor Lefevers request that this Court enter judgment against Defendants providing the following relief:

- A. Damages in whatever amount the individual Plaintiffs are found to be entitled, including compensatory and punitive damages;
- B. Prospective injunctive relief including an order that the Columbus Police Department institute appropriate policies, training, and discipline mechanisms to abstain from the unlawful use of excessive force, including during protected First Amendment activities;
- C. Declaratory relief;
- D. An award of costs, and reasonable attorney's fees; and
- E. All such other and further relief as the Court deems appropriate.

Respectfully Submitted,

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