

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

JEROME VORUS  
[REDACTED]

Plaintiff,

v.

THE DISTRICT OF COLUMBIA  
Office of the Attorney General  
441 4th Street, N.W.  
Washington, DC 20001,

MPD OFFICER WISHNICK  
300 Indiana Avenue, N.W.  
Washington, D.C. 20001,

JOHN AND JANE DOE MPD OFFCERS 1 - 3  
300 Indiana Avenue, N.W.  
Washington, D.C. 20001,

Defendants.

No. 1:11-cv-1219 (BAH)

JURY TRIAL DEMANDED

**COMPLAINT**

(Seeking damages for police misconduct: violation of rights under the Constitution of the United States and the law of the District of Columbia)

**INTRODUCTION**

1. On July 3, 2010, plaintiff Jerome Vorus took some photographs of a police traffic stop from a public sidewalk in Georgetown, and made audio recordings of his subsequent interaction with police. Sworn officers of the D.C. Metropolitan Police Department (MPD) seized Mr. Vorus, ordered him to stop taking photographs or making audio recordings, detained him, and informed him that it was illegal for him to take photographs of the police without prior authorization from MPD or to record officers

without their consent. These actions violated plaintiff's rights under the First and Fourth Amendments to the Constitution of the United States, and constituted false arrest and false imprisonment under the law of the District of Columbia.

### **JURISDICTION AND VENUE**

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 (federal question). Mr. Vorus brings this action under 42 U.S.C. § 1983 to vindicate his rights under the First and Fourth Amendments to the United States Constitution. His claims under the common law of the District of Columbia arise from the same events as his constitutional claims and are within the Court's supplemental jurisdiction pursuant to 28 U.S.C. § 1367.

3. Venue is properly laid in this district pursuant to 28 U.S.C. § 1391(b), as the events giving rise to plaintiff's claims occurred in the District of Columbia.

### **PARTIES**

3. Plaintiff Jerome Vorus is an adult resident of Alexandria, Virginia.

4. Defendant District of Columbia is a municipal corporation that operates and governs the MPD. In the events involved in this case, the District of Columbia acted through its agents, employees and servants, including Defendants Wishnick and Does 1-3.

5. Defendant Wishnick, badge no. 5436, is a sworn officer of the MPD who participated in the events involved in this action in the manner described below. At the time of the events at issue she was acting under color of law. At the time of the events at issue she was acting within the scope of her employment. She is sued in her personal capacity.

6. Defendants John and Jane Does 1-3 are sworn officers of the MPD who participated in the events involved in this action in the manner described below. At the time of the events at issue they were acting under color of District of Columbia law. At the time of the events at issue they were acting within the scope of their employment. They are sued in their personal capacities.

### **FACTS**

7. On July 3, 2010, Mr. Vorus was walking in the Georgetown neighborhood of Washington, D.C. Noticing an MPD traffic stop in progress, he started to take some photographs from the public sidewalk. A male MPD officer approached Mr. Vorus and asked, for “security reasons,” why he was taking pictures. Mr. Vorus told the officer he wanted to have some pictures of a traffic stop for his photo collection. A female officer, Jane Doe 1 (badge # 5144), spoke to the male officer, who then asked Mr. Vorus for his identification. Mr. Vorus asked if he was being detained. The male officer skated around the question, then finally said that Mr. Vorus was free to leave.

8. By then two additional cruisers had pulled up, each carrying two officers. The cruiser numbers were 218, 2071, and 1901. A female officer from the third cruiser, defendant Wishnick, walked up to the original two officers, spoke with them, and then approached Mr. Vorus and asked for his identification. Mr. Vorus asked again if he was being detained. At first, Officer Wishnick didn’t answer; finally, she told him that he was being detained. Mr. Vorus asked why but did not receive a response.

9. When Mr. Vorus was told that he was being detained, he handed Officer Wishnick his identification. She wrote down information from his identification. She

appeared to run his name through a law enforcement database. She retained custody of his identification.

10. At about that time, Officer Wishnick informed Mr. Vorus that it was illegal to take pictures of MPD officers without prior authorization of the public information officer for MPD. Officer Jane Doe 1 ordered Mr. Vorus to stop taking photographs and to put away his camera. Officer Wishnick also informed Mr. Vorus that it was illegal for him to audio-record her without her consent, and ordered him to turn off his recorder.

11. After Mr. Vorus handed over his identification, he asked for a supervisor. Two sergeants eventually arrived, John Doe 2 and John Doe 3. They also stated that Mr. Vorus could not take photographs of officers or audio-record officers without the consent of the officers. One of the sergeants told Mr. Vorus that he had to stop audio-recording because it was against the law. Those statements were false.

12. In the course of this incident, four different MPD officers told Mr. Vorus that it was illegal to photograph MPD officers without permission or to record them without their consent. That is not the law in the District of Columbia. One female officer informed Mr. Vorus that because he was on the streets of the District of Columbia and an officer asked for his identification, it was his responsibility to provide it. That is not the law in the District of Columbia. Speaking of Mr. Vorus' detention, the same officer said, "It's a stop . . . We could stop anybody." That is not the law in the District of Columbia.

13. But for the unlawful orders given by the defendants, Mr. Vorus would have continued taking photographs and making audio-recordings of the public police activity on July 3, 2010.

14. At one point during these events, another man walked by and took a photograph of the scene. Some of the officers approached him to tell him to stop taking photographs.

15. After about half an hour, Mr. Vorus' identification was returned to him and he walked away. Officer Wishnick never told Mr. Vorus that he was free to leave, but she did not object when he walked away.

16. Shortly after these events, MPD Second District Commander Matthew Klein stated that the police officers had acted appropriately in their interaction with Mr. Vorus.

17. Mr. Vorus' activities did not interfere in any way with police operations.

18. There is no law or regulation that requires a person to have permission to take photographs of police officers or police activities in public places.

19. There is no law or regulation that requires a person to have permission to make audio or video recordings of police officers or police activities in public places.

20. Defendants had no legal or factual justification for seizing and detaining Mr. Vorus, or for ordering him to stop taking photographs or making audio-recordings.

21. On many other occasions, MPD officers have unlawfully ordered members of the public to cease taking photographs of police officers or police activities in public places.

22. On many other occasions, MPD officers have falsely informed members of the public that they require permission to take photographs of police officers or police activities in public places.

23. At the time of these events, the law was clearly established in the District of Columbia that an individual does not need permission or consent to take photographs and

to make audio and video recordings of the actions of law enforcement officials in public places, so long as the individual does not physically interfere with law enforcement operations.

24. Under the circumstances of this event, no sworn police officer reasonably could have believed that Mr. Vorus needed permission or consent to photograph or record the police.

25. Under the circumstances of this event, no sworn police officer reasonably could have believed that there was legal or factual justification to order Mr. Vorus to stop taking photographs or making recordings.

26. Under the circumstances of this event, no sworn police officer reasonably could have believed that there was legal or factual justification to demand Mr. Vorus' identification.

27. Under the circumstances of this event, no sworn police officer reasonably could have believed that there was legal or factual justification to seize or detain Mr. Vorus.

28. Within six months of this incident, Mr. Vorus provided a notice of claim to the Mayor of the District of Columbia pursuant to D.C. Code § 12-309. That notice was received on November 18, 2010, and was assigned claim number 1001530-000.

#### **PLAINTIFF'S INJURIES**

29. As a result of defendants' conduct, Mr. Vorus was deprived of his liberty, was prevented from exercising his First Amendment right to take photographs and make recordings of police activity on the public streets, was deterred from exercising his First Amendment rights on future occasions, and suffered emotional distress.

## **CLAIMS FOR RELIEF**

### **Claim I: Violation of First Amendment Rights**

30. Mr. Vorus' photography and recording of police activity on July 3, 2010, were protected by the First Amendment to the United States Constitution.

31. Defendants' actions, described above, violated Mr. Vorus' right to freedom of expression under the First Amendment to the United States Constitution.

32. Defendants Wishnick and Does 1-3 are jointly and severally liable to Mr. Vorus for these violations of his rights, pursuant to 42 U.S.C. § 1983.

### **Claim II: Violation of Fourth Amendment Rights**

33. Mr. Vorus' photography and recording of police activity on July 3, 2010, did not provide probable cause or reasonable suspicion to believe that he had committed, was committing, or was about to commit any crime.

34. Defendants' actions, described above, violated Mr. Vorus' right under the Fourth Amendment to the United States Constitution to be free from unreasonable search and seizure.

35. Defendants Wishnick and Does 1-3 are jointly and severally liable to Mr. Vorus for these violations of his rights, pursuant to 42 U.S.C. § 1983.

### **Claim III: False Arrest and False Imprisonment**

36. Defendants' actions, described above, constituted false arrest and false imprisonment under the law of the District of Columbia.

37. Defendants Wishnick and Does 1-3 are jointly and severally liable to Mr. Vorus for this violation of his rights under the law of the District of Columbia.

38. Defendant District of Columbia is also liable to Mr. Vorus, under the doctrine of *respondeat superior*, for this violation of his rights.

## **REQUESTED RELIEF**

WHEREFORE, plaintiff requests that this Court:

A. Rule that the First Amendment protects the right of individuals to take photographs and to make audio and video recordings of the actions of law enforcement officials in public places, provided that they do not physically interfere with law enforcement operations;

B. Rule that an individual's activity of taking photographs or making audio or video recordings of the actions of law enforcement officials in public places does not provide probable cause for arrest or reasonable suspicion justifying seizure or detention under the Fourth Amendment.

C. Enter judgment awarding him compensatory damages against defendants Wishnick and Does 1-3 for the violation of his rights under the First Amendment, in an amount appropriate to the evidence adduced at trial;

D. Enter judgment awarding him compensatory damages against defendants Wishnick and Does 1-3 for the violation of his rights under the Fourth Amendment, in an amount appropriate to the evidence adduced at trial;

E. Enter judgment awarding him compensatory damages against defendants Wishnick, Does 1-3, and the District of Columbia for the violation of his rights under the law of the District of Columbia, in an amount appropriate to the evidence adduced at trial;

F. Enter judgment awarding him punitive or exemplary damages against defendants Wishnick and Does 1-3 in an amount appropriate to the evidence adduced at trial;

G. Enter judgment awarding him his costs, expenses, and reasonable attorneys' fees in this action pursuant to 42 U.S.C. § 1988; and

H. Grant him such other and further relief as the Court may deem just and proper.

**JURY DEMAND**

Plaintiff demands a trial by jury of all claims so triable.

Respectfully submitted,

*/s/ Arthur B. Spitzer*

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