

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
IN CLERKS OFFICE
09 CA 11298 NG
AUG 3 12:44

Justin Barrett
Plaintiff,

v.

City of Boston, Boston Police Department,
Thomas M. Menino, Mayor of Boston in his
official and individual capacity, Edward F.
Davis, Police Commissioner City of Boston, in
his official and individual capacity

Defendants

COMPLAINT, INJUNCTIVE RELIEF
AND DEMAND FOR JURY TRIAL

Preliminary Statement

1. This case is brought pursuant to 42 U.S.C. § 1983 and 42 U.S.C. § 1985. It is an action in law and equity for damages, injunctive relief and other relief caused by the violation of the Plaintiff's civil rights guaranteed under the

Due Process Clause under the Fourteenth Amendment to the United States Constitution and the Massachusetts Declaration of Rights, and challenging the actions of the City of Boston, Massachusetts Appointing Authority, Police Commissioner, and Mayor in conspiring to intentionally inflict emotional distress and conspiring to intentionally interfere with the property rights, due process rights and civil rights of the plaintiff.

Jurisdiction

2. Title 28 U.S.C. §1331 provides federal question jurisdiction, and 28 U.S.C. §1367 provides supplemental jurisdiction over the state law claims.

Venue

3. Pursuant to 28 U.S.C. §1391(b), venue is proper in the District of Massachusetts, the judicial district in which the claims arose and in which, upon information and belief, all defendants reside or conduct business.

Parties

4. The Plaintiff, Justin Barrett, is a Police Officer in the City of Boston Police Department, who is classified as a full time "Permanent" civil service police officer under M.G.L. c. 31, and at all times relevant has been a resident of 1845 Hyde Parke Avenue, Boston, Suffolk County, Massachusetts.

5. Defendant City of Boston is a duly organized municipal corporation

under the laws of the Commonwealth of Massachusetts and is authorized to make public safety personnel decisions pursuant to the civil service statute, M.G.L. ch. 31. Defendant, Boston, City of is a Massachusetts municipal government of which the Boston Police Department is an instrumentality. The Boston Police Department is an agency of the Defendant Boston, City of and is responsible for the law enforcement, police personnel, and facilities located within the City of Boston. The Boston Police Department maintains an office located at One Schroeder Plaza, Boston, Massachusetts.

6. Defendant Thomas M. Menino is and was at all relevant times Mayor of the City of Boston and appointing authority under civil service M.G.L. c. 31. Upon information and belief, he is a resident of the Commonwealth of Massachusetts.

7. Defendant BOSTON POLICE DEPARTMENT is a department, agency, and instrumentality of the City of Boston and is responsible for the law enforcement, police personnel, and facilities located within the City of Boston. The Boston Police Department maintains an office located at One Schroeder Plaza, Boston, Massachusetts.

8. Defendant Edward F. Davis is and was at all relevant times the Police Commissioner for the Boston Police Department. Commissioner Edward F.

Davis actions alleged in this Complaint were taken under color of the laws of the Commonwealth of Massachusetts and the City of Boston. He is sued in his official and individual capacities.

9. Plaintiff(s) hereby demand a trial by jury on all issues so triable.

Factual Background

10. Justin Barrett is a full-time civil service Police Officer with the City of Boston Police Department and has been employed there since 7/25/2007.

11. Justin Barrett is an Army veteran having served in combat in the Global War on Terror.

12. Plaintiff Barrett on July 22, 2009, while off duty from the Boston Police Department, at a private home and using a privately owned computer authored a response to a Boston Globe Column by Yvonne Abraham on July 21, 2009. That response sent via a private web server through an email to Abraham and others contained comments and remarks about Prof. Henry L. Gates and Abraham that were interpreted as racist and sexist.

13. On July 29, 2009 Boston Police Commissioner Edward F. Davis placed the plaintiff on "Administrative Leave" with pay, and sent upwards of ten ranking police officers in uniform and plain clothes to Barrett's home where they entered upon his home and confiscated his badge, official identification and firearm.

14. As of August 3, 2009 Plaintiff Barrett has not received a formal notice of the allegations for which he has been placed on administrative leave.

15. Since Barrett was placed on Administrative leave a firestorm of media attention has been given to the matter contained in the instant complaint. The attention received by this matter has been broadcast on an international level by CNN and Fox News, as well as on a National Level by ABC, CBS and NBC, has been distributed by the Associated Press and is the subject of written articles in the New York Times, New York Daily News and the Los Angeles Times. The story was locally covered by all media outlets, radio television and print. Google search engine, on entering "Boston Officer Barrett" has 1,900,000 articles or web information concerning the instant matter.

16. Pursuant to M.G.L. c. 31. Plaintiff Barrett is entitled to a hearing before the appointing authority pending any disciplinary action. The purpose of the hearing is for notice and opportunity to be heard on the allegations, and to have semblance of a fair and impartial hearing prior to any discipline.

17. Mayor Thomas M. Menino has stated in an interview to print and television media on a global level "He's gone," "G-o-n-e. I don't care, it's like cancer. You don't keep those cancers around." (NY Daily News, July 30, 2009 US/World news). In an online article dated July 29, 2009, Boston Globe

correspondent Matt Collette wrote of Menino, "Menino, speaking to the Globe before an evening event in the South End, said he hadn't seen the e-mail Menino said while the officer is not officially terminated, he might as well be."

18. Police Commissioner Edward F. Davis in a departmental memorandum and in comments to the global media states "Barrett's email was racist and inflammatory. These racist opinions and feelings have no place in this department or in our society and will not be tolerated." Departmental Memorandum has been attached hereto as appendix 1.

19. The subject of Plaintiff Barrett's response to the Boston Globe column is Harvard University Professor Henry L. Gates who has generated significant amounts of global media attention due to his allegations of racism during his arrest and his close personal relationship with the President of the United States, Barack H. Obama.

20. In so much the statements given by Defendants Davis and Menino to a global media and audience are clear that Barrett will be terminated from the Boston Police Department, no thorough investigation and no impartiality at any hearing before Davis or Menino. Barrett is in fact terminated in so much that essentially any hearing is a sham based upon the statements of the Defendants this without any formal notice of charges.

21. At all relevant times Defendants Menino and Davis are the final decision maker as to the Plaintiff's employment and directs all punishment, status, and control of Plaintiff, and acts as hearing officer for review of any punishment.

22. Defendant Menino has not made available to Plaintiff any notice of these alleged charges, despite his statements that he has a "He's gone," "G-o-n-e. I don't care, it's like cancer. You don't keep those cancers around." of the Plaintiff's alleged wrong doings.

23. Defendant Menino and Davis, in statements have leveled the charges, and already determined punishment, without any hearing.

24. Defendants Menino and Davis are taking on the role of prosecutor of the Plaintiff, by leveling the charges, and also the role as finder of fact, and determining the punishment of the Plaintiff, all in their own province.

25. Plaintiff would lose his salary, health benefits, and medical care if Defendants Menino and Davis are allowed to be the all encompassing prosecutor, judge, and jury.

Damages

26. As a result of the defendants' unconstitutional actions, Plaintiff Barrett sustained the following damages: pain and suffering; mental anguish;

emotional distress; post-traumatic stress; sleeplessness; indignities and embarrassment; degradation; injury to reputation; and restrictions on his personal freedom. The Plaintiff further requests punitive damages, as well as injunctive and any other relief that this Honorable Court deems appropriate.

Federal Claims

COUNT I VIOLATION OF THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION

27. Plaintiff Barrett restates and incorporates by reference herein paragraphs 1 – 26 above.

28. The Plaintiff in effect by the actions and comments of Defendants Davis and Menino has been terminated from his position as a Police Officer with the Boston Police Department without notice and evidence of the allegations against him.

29. The Defendants' action of terminating Plaintiff Barrett would cause Plaintiff to be unable to support and provide health insurance benefits for his wife and child.

WHEREFORE, the Plaintiff respectfully requests that this honorable Court order:

- a. that the Defendant(s) be enjoined from decreasing, terminating or withholding any wages and/or benefits to which he be entitled, to have his employment continued as a Boston Police officer for the duration of this litigation.
- b. that the Plaintiff be awarded money damages in an amount which will fairly compensate him for his emotional and physical pain and suffering;
- c. that the Plaintiff be awarded reasonable attorney's fees and costs;
- d. that the Defendant Menino and Defendant Davis be ordered to pay the Plaintiff punitive damages;
- e. that the Defendants pay the Plaintiff interest on any judgment entered in his favor from the date that this civil action was filed; and
- f. such further relief as this honorable Court deems just and proper and/or which will make the Plaintiff whole.

COUNT II
42 U.S.C. §1983
DEPRIVATION OF CIVIL RIGHTS

30. The Plaintiff restates, realleges and incorporates by reference paragraphs 1-29 of the Complaint in its entirety as set forth above.

31. The Defendants, individually and collectively, have violated Plaintiff's civil rights by terminating from his position with the Boston Police Department.

32. The Defendants, individually and collectively, stated the termination of plaintiff prior to any hearing on the allegations against Plaintiff prior to August 3, 2009

WHEREFORE, the Plaintiff respectfully requests that this honorable Court order:

- a. that the Defendant(s) be enjoined from decreasing, terminating or withholding any wages and/or benefits to which he be entitled to have his employment continued as a Boston Police officer, for the duration of this litigation.
- b. that the Plaintiff be awarded money damages in an amount which will fairly compensate him for his emotional and physical pain and suffering;
- c. that the Plaintiff be awarded reasonable attorney's fees and costs;
- d. that the Defendant Menino and Defendant Davis be ordered to pay the Plaintiff punitive damages;
- e. that the Defendants pay the Plaintiff interest on any judgment entered in his favor from the date that this civil action was filed; and
- f. such further relief as this honorable Court deems just and proper and/or which will make the Plaintiff whole.

COUNT III
VIOLATION OF FOURTEENTH AMENDMENT
EQUAL PROTECTION OF THE LAWS CLAUSE

33. The Plaintiff repeats, realleges and incorporates by reference as if set for the hereto in their entirety paragraphs 1-32 of the Complaint.

34. Plaintiff will be terminated from his employment as a Boston Police Officer in violation of his Fourteenth Amendment rights to equal protection, as implemented by 42 U.S.C. § 1983.

WHEREFORE, the Plaintiff respectfully requests that this honorable Court order:

- a. that the Defendant(s) be enjoined from decreasing, terminating or withholding any wages and/or benefits to which he be entitled to have his employment continued as a Boston Police officer, for the duration of this litigation.
- b. that the Plaintiff be awarded money damages in an amount which will fairly compensate him for his emotional and physical pain and suffering;
- c. that the Plaintiff be awarded reasonable attorney's fees and costs;

- d. that the Defendant Menino and Defendant Davis be ordered to pay the Plaintiff punitive damages;
- e. that the Defendants pay the Plaintiff interest on any judgment entered in his favor from the date that this civil action was filed; and
- f. such further relief as this honorable Court deems just and proper and/or which will make the Plaintiff whole.

COUNT IV
42 U.S.C. §1985
CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS

35. The Plaintiff repeats, realleges and incorporates by reference as if set for the hereto in their entirety paragraphs 1-34 of the Complaint.

36. Defendants did conspire to violate the civil rights of the Plaintiff in violation of 42 U.S.C. § 1985.

WHEREFORE, the Plaintiff respectfully requests that this honorable Court order:

- a. that the Defendant(s) be enjoined from decreasing, terminating or withholding any wages and/or benefits to which he be entitled to have his employment continued as a Boston Police officer, for the duration of this litigation.

- b. that the Plaintiff be awarded money damages in an amount which will fairly compensate him for his emotional and physical pain and suffering;
- c. that the Plaintiff be awarded reasonable attorney's fees and costs;
- d. that the Defendant Menino and Defendant Davis be ordered to pay the Plaintiff punitive damages;
- e. that the Defendants pay the Plaintiff interest on any judgment entered in his favor from the date that this civil action was filed; and
- f. such further relief as this honorable Court deems just and proper and/or which will make the Plaintiff whole.

COUNT V

VIOLATION OF THE MASSACHUSETTS CIVIL RIGHTS ACT

37. The Plaintiff repeats, realleges and incorporates by reference as if set for the hereto in their entirety paragraphs 1-36 of the Complaint.

38. The Plaintiff will be terminated from his employment in violation of his rights under the Constitution and laws of the United States and the Commonwealth of Massachusetts.

39. The Defendants' conduct toward Barrett subjected him to the cancellation of any future economic benefit as a police officer, and specifically with the Boston Police Department. Furthermore, the Defendants proposed treatment of Officer Barrett is disproportionate to the allegations against Officer Barrett given he has not had any meaningful opportunity to prepare any

defense to the allegations based on the statements Defendants Menino and Davis purports as the precursor to a fair hearing. The course of the Defendant's disparate treatment of Officer Barrett is evident, including but not limited to the characterization of Officer Barrett as a "Cancer." Lastly, the abrupt attempt at terminating Officer Barrett's employment constitute a course of intentional harassment and intimidation by the Defendants with no regard for the Officer Barrett's right to be heard by a fair and impartial Trier of fact.

WHEREFORE, the Plaintiff respectfully requests that this honorable Court order:

- a. that the Defendant(s) be enjoined from decreasing, terminating or withholding any wages and/or benefits to which he be entitled to have his employment continued as a Boston Police officer, for the duration of this litigation.
- b. that the Plaintiff be awarded money damages in an amount which will fairly compensate him for his emotional and physical pain and suffering;
- c. that the Plaintiff be awarded reasonable attorney's fees and costs;
- d. that the Defendant Menino and Defendant Davis be ordered to pay the Plaintiff punitive damages;
- e. that the Defendants pay the Plaintiff interest on any judgment entered in his favor from the date that this civil action was filed; and
- f. such further relief as this honorable Court deems just and proper and/or which will make the Plaintiff whole.

COUNT VI
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

40. The Plaintiff repeats, realleges and incorporates by reference as if set for the hereto in their entirety paragraphs 1-39 of the Complaint.

41. The Defendants knew or reasonably should have known that the conduct related to the Plaintiff's termination from his position of Police Officer would reasonably result in the Plaintiff suffering emotional distress

42. The Defendants did, by failing to apprise the Plaintiff of the substance of the allegations against him in any manner and by failing as well to provide him an opportunity to rebut the same, and pronounce him gone, to a worldwide audience absent any hearing intend to and did inflict such emotional distress.

WHEREFORE, the Plaintiff respectfully requests that this honorable Court order:

- a. that the Defendant(s) be enjoined from decreasing, terminating or withholding any wages and/or benefits to which he be entitled to have his employment continued as a Boston Police officer, for the duration of this litigation.
- b. that the Plaintiff be awarded money damages in an amount which will fairly compensate him for his emotional and physical pain and suffering;

- c. that the Plaintiff be awarded reasonable attorney's fees and costs;
- d. that the Defendant Menino and Defendant Davis be ordered to pay the Plaintiff punitive damages;
- e. that the Defendants pay the Plaintiff interest on any judgment entered in his favor from the date that this civil action was filed; and
- f. such further relief as this honorable Court deems just and proper and/or which will make the Plaintiff whole.

COUNT VII
BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING

43. The Plaintiff repeats, realleges and incorporates by reference as if set for the hereto in their entirety paragraphs 1-42 of the Complaint.

44. The Plaintiff alleges that the Defendants, by the statements of Defendants Menino and Davis to a global audience deprived him of the right to receive the benefits of his employment contract with the Department. Furthermore, the Defendants failed to provide Officer Barrett notice of the allegations at issue or any evidence to support the allegations.

45. The Plaintiff further alleges that the breach of the employment contract by its very nature breached the covenant of good faith and fair dealing.

WHEREFORE, the Plaintiff respectfully requests that this honorable Court order:

- a. that the Defendant(s) be enjoined from decreasing, terminating or withholding any wages and/or benefits to which he be entitled to have his employment continued as a Boston Police officer, for the duration of this litigation.
- b. that the Plaintiff be awarded money damages in an amount which will fairly compensate him for his emotional and physical pain and suffering;
- c. that the Plaintiff be awarded reasonable attorney's fees and costs;
- d. that the Defendant Menino and Defendant Davis be ordered to pay the Plaintiff punitive damages;
- e. that the Defendants pay the Plaintiff interest on any judgment entered in his favor from the date that this civil action was filed; and
- f. such further relief as this honorable Court deems just and proper and/or which will make the Plaintiff whole.

State Claims

COUNT I – Massachusetts Declaration of Rights, Article XI **Recourse to the laws, for all injuries or wrongs which he may receive in his person, property, or character**

46. Plaintiff Barrett restates and incorporates by reference herein paragraphs 1 – 45 above.

COUNT II – Massachusetts Declaration of Rights, Article XII

No subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled, or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land

47. Plaintiff Barrett restates and incorporates by reference herein paragraphs 1 – 45 above.

Request For Relief

48. Wherefore, the Plaintiff requests that this Honorable Court award him compensatory and punitive damages, injunctive relief, plus attorney's fees and costs.

August 3, 2009
Date

Respectfully submitted, Justin Barrett
By and through his attorney,



Peter T. Marano, Esq.
Law Offices of Peter T. Marano, LLC
Seventy Seven North Washington Street
Boston, MA 02114
(617) 227-1227
BBO#665506

Police Commissioner's Memo



Number:	CM 09-036
Date:	7/30/09
Post/Mention:	Indefinite

SUBJECT: A MESSAGE FROM THE POLICE COMMISSIONER:

I would like to take this opportunity to internally address a troubling matter that has come to light in recent days. This morning I held a press conference to share this information and to update the public. I was joined by distinguished community partners. Their presence and support is most appreciated. Below are my remarks from that press event:

7/30/09; 10:45 a.m. – “Thank you all for being here today. We are also joined by several guests and I would like to thank them for their continued support and participation. Joining us here is Minister Don Muhammad, Karen Payne from the NAACP, Michael Kozu from Project Right and Detective Larry Ellison from MAMLEO.

On Tuesday July 28th the Boston Police Department placed Officer Justin Barrett on administrative leave pending the outcome of a termination hearing. On that day I was made aware that this officer admitted to being the author of correspondence which included repulsive racial slurs. At that time and after a meeting with command staff, I moved immediately to take action and the officer was stripped of his gun and badge.

I was presented with a set of facts and believed that the appropriate and only response was to place the officer on administrative leave and set the wheels in motion for a full investigation. The officer is entitled to his due process and we will see that process through. There will be a thorough internal affairs investigation and hearing process which will lead to a termination hearing scheduled in the next week to ten days.

The Boston Police Department has a top to bottom commitment to community policing. Community Policing is based on trust. This type of venomous rhetoric is severely damaging. Maintaining our community relationships is paramount to our mission to serve the citizens of Boston.

We all work with the community and have made great strides to earn their trust. We must not allow this action to affect those relationships that have been forged and the progress we have made over the years.

The Boston Police Department is committed to a standard of excellence. Our community rightly has high expectations for us. It is a standard that the community deserves and we are required to meet. Officer Barrett's actions do not comply with those expectations.

Page Two

Barrett's email was racist and inflammatory. These racist opinions and feelings have no place in this department or in our society and will not be tolerated.

Barrett's comments were directed at Harvard University Professor Henry Louis Gates. I regret the direct insult toward Professor Gates and have personally reached out to him to apologize for this offense and inform him of the Department's immediate efforts to make this officer accountable.

I have also asked that in the coming days, members of the department reach out to those in the community that we serve, and extend ourselves to others, to reiterate our commitment to them, our citizens and to improving relations at all levels.

As I have stated in the past, I am very proud of the Officers and civilians of this Department who carry out their duties in the finest traditions of the BPD. We will not allow the unacceptable actions of one member to define who we are as a police organization. This Department has over 2,000 uniformed officers and 700 civilians who conduct themselves with the utmost professionalism. I applaud your integrity and continued hard work.

As a department, we must learn from this most unfortunate incident and move forward." ***End.***

I would like to take a moment here to address these concerns directly to department members. I recognize that the last several days have been difficult for many within the Department and for those deeply offended by these outrageous statements.

Our department is rightfully defined by the heroism and selfless service to the community that each of you exemplifies every day, whether solving problems alongside concerned citizens, responding to calls for help, investigating a crime or working with the youth of our city.

As we work to handle this situation expeditiously, our focus on reducing violent crime and making the neighborhoods safe for the citizens we are sworn to protect will not falter. We will not step back from that mission, but make every effort to deepen community relations.

I am very proud of all of you and I am personally thankful to have the opportunity to lead this excellent organization. Thank you for your attention to this matter. You will be able to view today's press conference in it's entirety by accessing www.bpdnews.com by the end of the day.

Edward F. Davis
Police Commissioner

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.)

FILED
U.S. DISTRICT COURT
Suffolk County
Boston, MA

I. (a) PLAINTIFFS
Barrett, Justin

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

(c) Attorney's (Firm Name, Address, and Telephone Number)
Law Offices of Peter T. Marano, 77 North Washington Street
Boston, MA 02114, 617-227-1227

DEFENDANTS
City of Boston, Boston Police Department, City of Boston,
Menino, Thomas M., Mayor, in his official and individual

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

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

Attorneys Known
09 CA 11298 NG

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)

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)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<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	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	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"/> 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"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	<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 Influenced 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
REAL PROPERTY <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	CIVIL RIGHTS <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	PRISONER PETITIONS <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	LABOR <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	PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	
			LABOR <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	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	
			IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

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 USC 1983

Brief description of cause:
Deprivation of Civil Rights

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: 08/03/2009

SIGNATURE OF ATTORNEY OF RECORD:
Peter T. Marano

FOR OFFICE USE ONLY

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

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
IN CLERKS OFFICE
08 AUG -3 12:40

1. Title of case (name of first party on each side only) Justin Barrett v. City of Boston

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- I. 160, 410, 470, 535, R.23, REGARDLESS OF NATURE OF SUIT.
- II. 195, 196, 368, 400, 440, 441-446, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950. *Also complete AO 120 or AO 121 for patent, trademark or copyright cases
- III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 298, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 374, 380, 385, 450, 891. **CA 112 NG**
- IV. 220, 422, 423, 430, 460, 462, 463, 465, 480, 490, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- V. 150, 152, 153.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?
YES NO

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)
YES NO
If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?
YES NO

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?
YES NO

7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).
YES NO

A. If yes, in which division do all of the non-governmental parties reside?
Eastern Division Central Division Western Division

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?
Eastern Division Central Division Western Division

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)
YES NO

(PLEASE TYPE OR PRINT)

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