

COMMONWEALTH OF MASSACHUSETTS

24-0520F

SUFFOLK COUNTY

ESCV

JAMES LUCIEN,

Plaintiff,

v.

COMMONWEALTH OF MASSACHUSETTS,

Defendant.

2024 FEB 23 A 10:38
SUFFOLK SUPERIOR COURT
CIVIL CLERK'S OFFICE
JAMES LUCIEN, III
ACTING CLERK MAGISTRATE

COMPLAINT FOR WRONGFUL CONVICTION

JAMES LUCIEN, by and through his counsel Loevy and Loevy, brings this complaint against the Commonwealth under G.L. c. 258D seeking compensation for his wrongful conviction and incarceration. In support, Plaintiff states as follows:

Introduction

1. Plaintiff James Lucien was convicted of murder as well as armed robbery and possessing a firearm. He is totally innocent of these crimes.

2. In fact, the investigators who built the case against him were disgraced members of the Boston Police Department. They chose Plaintiff as the culprit and fabricated evidence to convict him.

3. On December 7, 2021 and August 3, 2023, the Suffolk Superior Court granted Plaintiff's motions for new trial based on questions regarding the fairness of the investigation. The Suffolk County District Attorney agreed to both motions. On December 7, 2021 and August 3, 2023, the Suffolk County District Attorney filed *nolle prosequi*, finally resolving the matter.

4. Plaintiff had served over 26 years in prison for crimes he did not commit. He spent the prime years of his life incarcerated in harsh conditions, facing physical and emotional threats. He lost invaluable time and experience with his family. The harms his wrongful conviction have caused him—emotional, physical, and otherwise—have been profound and can never be fully compensated.

5. The Massachusetts legislature offers people in Plaintiff's position the extraordinary but necessary remedy that Plaintiff seeks in the filing of this Complaint: compensation for the damage caused by the conviction of a crime for which Plaintiff is innocent. Plaintiff meets the statutory requirements of G.L. c. 258D and is entitled to the relief sought in this Complaint.

Jurisdiction and Venue

6. This action is brought under G.L. c. 258D to seek compensation for Plaintiff for the harms caused by his wrongful conviction.

7. In accordance with G.L. c. 258D, § 3, Suffolk County is a proper venue for this action.

Parties

8. At all times relevant to this claim, Plaintiff James Lucien, has resided in or been incarcerated in the Commonwealth of Massachusetts. He is now 50 years old. At the time of his arrest in this case he was 22 years old.

9. The Commonwealth of Massachusetts is the defendant in this case under G.L. c. 258D.

FACTS

A. The Edwards Murder

10. On June 25, 1994, Ryan Edwards was fatally shot once while sitting in the driver's seat of a car in Boston, Massachusetts.

11. Plaintiff was in the backseat of the car when Mr. Edwards was shot. Plaintiff did not shoot Mr. Edwards. Rather, someone from outside of the car shot Edwards.

12. No physical evidence ever tied Plaintiff to Edwards' murder, nor was there any physical evidence that Edwards was robbed, as claimed by the Commonwealth.

13. Although mortally wounded, Edwards was alive long enough to talk to police. Edwards told Boston Police Officer Brian Black that he was shot by someone who was standing outside of his car, not someone inside the car.

14. Edwards did not tell Black or anyone else that Plaintiff had shot him.

15. Edwards did not tell Black or anyone else that Plaintiff had robbed him.

16. Standing outside of Edwards' car when Edwards was shot was Alford Clarke, a drug dealer and Edwards' half-brother.

17. Clarke fled the scene after the shooting and hid a handgun that he had during the incident.

18. Edwards' dying declaration to Black that someone outside of the car shot him, without naming Clarke, was an effort to shield his half-brother from being implicated.

19. Edwards was subsequently taken to the hospital where he died from a single gunshot wound.

Disgraced Boston Police Officer John Brazil Takes Charge

20. After Edwards made his exculpatory statements, Boston Police Detective John Brazil arrived on scene to take over the investigation.

21. Unknown to Plaintiff at the time, Brazil was part of a group of Boston police officers who routinely stole money from crime scenes, falsified evidence (including in sworn affidavits), and shook down drug dealers.

Brazil Fabricated Inculpatory Evidence and Suppressed Exculpatory Evidence

22. Brazil's unchecked and unlawful abuse of his police power by the City of Boston were on full display in the investigation of the Edwards murder.

a. **Brazil stole money from the scene, thereby fabricating evidence of theft and hiding physical evidence.**

23. A quantity of money in Edwards' possession was found inside Edwards' car. Brazil stole that money, without submitting it for inventory, and concealed the amount of the money.

24. Brazil admitted that he routinely stole money from crime scenes, such as this one.

25. Brazil also went to the hospital where Edwards was taken and tampered with evidence there. Edwards' clothes were removed from him at the hospital, and it was Brazil's job to recover those clothes.

26. But Brazil either did not recover Edwards' clothes or, more likely consistent with his *modus operandi*, did recover the clothes, stole money from them and destroyed the clothes (or hid them). This destroyed important exculpatory evidence. First, those clothes contained additional money—and it was Brazil's *modus operandi* to steal money from crimes. By taking the money, it denied Plaintiff the ability to undermine the Commonwealth's claim that Edwards was killed as part of a robbery. Second, Edwards' clothes would have provided physical evidence supporting Edwards' dying declaration that he was shot from outside the car because the clothes would not have had gunshot residue on them.

27. Brazil fabricated evidence of recovering a lesser amount of money from Edwards (thereby implicating Plaintiff in a theft). This false amount was used against Plaintiff to support the Commonwealth's false claim that Plaintiff had robbed Edwards.

28. Investigators, including Brazil, also fabricated the recovery of an incriminating beeper from Edwards' car, which was used against Plaintiff.

b. Investigators hid physical evidence from the car.

29. Further physical evidence from inside the car was also destroyed by Brazil and the other investigators—the car was released without any gunshot residue testing from inside the car.

30. The Commonwealth claimed that Plaintiff shot Edwards from inside of the car. This would have generated substantial physical evidence of a gunshot discharge. Investigators denied Plaintiff of that physical evidence by releasing the car without testing it.

c. Brazil attempted to shake down Clarke rather than solve the crime, thereby framing Plaintiff.

31. Consistent with his unchecked history of stealing from drug dealers, Brazil attempted to forge an alliance with Clarke, thereby making Plaintiff the suspect.

32. After hiding his handgun, Clarke returned to the scene of the shooting and spoke with Brazil.

33. Clarke admitted to Brazil and detective William Mahoney that he had a handgun outside of Edwards' car when Edwards was shot.

34. Investigators ignored those admissions and instead focused on Clarke's drug-dealing. Brazil pressured Clarke to tell him where he kept his drug and money stash.

35. The conversation between Clarke and Brazil and Mahoney was only partially recorded.

d. Brazil fabricated evidence to protect Clarke.

36. Clarke admitted to Brazil and Mahoney that the handgun he had during the murder was the same caliber as the bullet that killed Edwards.

37. Brazil and other investigators hid that evidence that Clarke had the same caliber gun the night of the murder by fabricating a story to explain that

damning evidence to the jury. Brazil and other investigators further hid that they fabricated that evidence.

38. Brazil expressly fabricated a story that Clarke had traded away the incriminating handgun *before* Edwards murder.

39. Brazil's false story included a false claim that Andrew Neals admitted to him that he had made the trade. Brazil wrote no police report about this false conversation.

40. The false story about the Neals conversation was further undermined by another criminal case that Neals had in which he admitted to getting his handgun from someone else entirely—not Clarke.

41. Brazil also protected Clarke by ensuring that the likely murder weapon was disposed of and then fabricating a story that Clarke's handgun had been thrown away by a family member, thereby preventing any ballistics evidence from it—including whether it was the matching caliber and/or the bullet that killed Edwards was fired from that gun.

Investigators Fabricated Evidence from a Co-Defendant

42. Investigators threatened Plaintiff's co-defendant, Jamal Butler, to coerce him to provide false evidence against Plaintiff.

43. Investigators, including Brazil, threatened Erica Jones to testify consistent with the Commonwealth's theory of the case and not provide evidence to support that Clarke was the shooter.

Investigators Hid Additional Exculpatory Evidence

44. To shield their misconduct, investigators had to hide the exculpatory evidence that Plaintiff could have used to defend himself from the false charges.

45. One step in doing so was the failure by investigators to draft police reports (or to destroy drafted police reports) that would document exculpatory evidence for Plaintiff that was uncovered during the investigation and to otherwise shield that the evidence used against Plaintiff was fabricated.

46. George Foley—who investigated the ballistics in Plaintiff's prosecution (that did not include testing the car)—failed to disclose that he had been on leave because he had lied previously in an investigation and there were ongoing concerns about his mental health and his ability to know truth from fiction. Instead, he characterized his absence as an "injury."

47. William Mahoney failed to disclose that he had previously committed misconduct in investigating crimes that had resulted in wrongful arrests and/or convictions.

48. Alford Clarke was not a United States citizen and he was taken into immigration custody to be deported before Plaintiff's trial. Clarke was set to be deported.

49. Brazil used the threat of deportation to coerce Clarke to testify in a manner that would not reveal Brazil's misconduct.

50. Investigators also hid that Brazil tampered with the money evidence in this case, stealing money that had been in Edwards' possession and car to

support the false claim that Edwards was robbed. Investigators further failed to disclose that Detective Brazil substituted a smaller quantity of money from a different case or a different source when such evidence became necessary for Plaintiff's trial. Investigators failed to disclose that this very type of misconduct was Brazil's *modus operandi*.

51. Investigators failed to disclose that Brazil had falsified affidavits and evidence in other cases or that he had failed to correctly document money and had stolen money from other criminals and crime scenes before (and after) Plaintiff's trial. Investigators failed to disclose that Brazil was engaged in an ongoing conspiracy, a pattern of egregious misconduct along with several other detectives, with such misconduct involving falsifying search warrants, lying in investigations, failing to report seized cash, stealing money from criminals and crime scenes, ripping off drug dealers, making deals with criminals and their lawyers, reporting that less money was recovered from crime scenes than they actually recovered so they could keep money, and retroactively trying to substitute in different money if anyone important ever came looking for missing money, which is what Brazil did in Plaintiff's case.

52. Investigators failed to disclose that Brazil promised Clarke immigration assistance in exchange for his testimony.

53. Investigators failed to disclose Brazil and Foley's exculpatory internal affairs records.

Plaintiff's Arrest, Wrongful Conviction, and Imprisonment

54. On November 14, 1994, based on investigators' falsified evidence and withheld/destroyed exculpatory evidence caused, Plaintiff was indicted for murder, two counts of armed robbery (for allegedly robbing Edwards and Clarke), and unlawful carrying of a firearm without a license (for allegedly possessing the gun that killed Edwards, which police never found).

55. Plaintiff was innocent of each of these charges.

56. Plaintiff contested guilt at every stage of his arrest and prosecution.

57. During the trial, the false evidence described above was the only thing suggesting that Plaintiff was guilty of murder, armed robberies, and possession of a weapon.

58. Moreover, Plaintiff was unable to defend himself because he was denied access to the exculpatory evidence described above.

59. As a result of the suppression of the exculpatory evidence, Plaintiff was unable to rebut the prosecutor's sole argument against Plaintiff—that the murder stemmed from an armed robbery attempt.

60. Had Plaintiff had the exculpatory evidence described above, he would have been able to establish that: (1) the gunshot came from outside of the car; (2) there was no armed robbery; and (3) he did not possess the murder weapon that was the basis for the possession charges against him; and (4) that Edwards possessed more money so as to undermine the Commonwealth's claim that Plaintiff had committed a robbery.

61. Likewise, had investigators disclosed the exculpatory evidence they suppressed, Plaintiff never would have been arrested, let alone convicted.

Plaintiff's Damages

62. Plaintiff was 22 years old—in the prime of his life—when he was wrongly arrested and convicted.

63. He would spend the next 26 plus years imprisoned for something he had not done.

64. Plaintiff's whole life was turned upside down without any warning.

65. Because of the investigators' misconduct, Plaintiff has missed out on participating in the lives of his family and friends. In particular, his son was three years old when Plaintiff was wrongly arrested. Plaintiff would not be able to engage in a relationship outside of prison with his son until he was a fully grown man.

66. Plaintiff was also deprived of opportunities to engage in meaningful labor, to develop a career, and to pursue his interests and passions. Plaintiff was deprived of all the basic pleasures of human experience, which all free people enjoy as a matter of right, including the freedom to live one's life as an autonomous human being.

67. During his decades of wrongful imprisonment, Plaintiff was detained in harsh and dangerous conditions in maximum security prisons. He was physically injured and assaulted numerous times, some of which resulted in painful medical treatment.

68. Plaintiff was forced to rely on his imprisoners to meet his basic needs.

69. Among other hardships, he had difficulty getting medical care while he was in prison. Plaintiff had to wait long periods to obtain needed medical attention. Even when he received medical care, it was often substandard.

70. His unlawful arrest, prosecution, and imprisonment caused him to suffer from mental and physical health problems, which continue to this day.

71. In addition to the severe trauma of wrongful imprisonment and Plaintiff's loss of liberty, the investigators misconduct continues to cause Plaintiff ongoing health effects.

72. In addition to being wrongfully imprisoned for decades, government officials publicized Plaintiff's arrest, thereby permanently negatively impacting his standing in the community.

Plaintiff's Exoneration

73. Plaintiff always proclaimed his innocence. He rejected a guilty plea to a lesser charge because he refused to concede that he was involved in any way in the Edwards murder.

74. On or about September 2, 2021, Plaintiff filed a third Motion for a New Trial seeking to vacate all his convictions.

75. The Suffolk County District Attorney's Office agreed that Plaintiff's murder and robbery convictions should be vacated.

76. On December 7, 2021, the motion judge (the Honorable Ullmann, J.) granted a new trial as to the murder and robbery convictions.

77. That same date, the Suffolk County District Attorney's Office filed a *nolle prosequi* as to the murder and robbery indictments. Plaintiff was released from prison that same day after more than 26 years of wrongful confinement.

78. On or about January 12, 2023, Plaintiff filed a Motion for a New Trial seeking to vacate his firearm possession conviction, which was based on him allegedly shooting Edwards.

79. The Suffolk County District Attorney's Office agreed that Plaintiff's firearm possession conviction should be vacated.

80. On or about August 3, 2023, the motion judge (the Honorable Ullmann, J.) granted a new trial as to the firearm possession conviction.

81. On that same date, the Suffolk County District Attorney's Office filed a *nolle prosequi* as to the firearm possession indictment.

82. Each of Plaintiff's convictions are now vacated and dismissed, Plaintiff has been exonerated.

Plaintiff's Claim for Relief Under G.L. c. 258D

83. Plaintiff incorporates each paragraph of this Complaint as if fully restated here.

84. Plaintiff is entitled to compensation for his wrongful conviction under G.L. c. 258D.

85. Plaintiff did not commit the crimes for which he was charged in this case, or any other felony arising out of or reasonably connected to the facts supporting the charges against him.

86. Plaintiff was convicted of felonies for which he did not plead guilty.

87. He was sentenced to life in prison, and served more than 26 years in prison before he was ultimately released, including additional months on pretrial probation.

88. Plaintiff was granted judicial relief by a Massachusetts state court of competent jurisdiction on grounds which tend to establish his innocence.

89. After his conviction was overturned, prosecutors entered two orders of *nolle prosequi* ending the case against him.

90. At the time of the filing of this action, no criminal proceeding is pending, and no criminal proceeding may be brought against Plaintiff for any act associated with this felony conviction.

91. A certified copy of the documents supporting this claim are attached to this Complaint.

Request for Relief

WHEREFORE, for all the reasons stated in this Complaint, James Lucien prays that this Court:

- A. Enter judgment in favor of James Lucien finding that he meets the requirements of 258D and awarding him compensation for damages in the maximum amount authorized by law at the time of judgment (at the time of filing that amount is \$1,000,000 under the statute);

- B. Hold a hearing and order expunged Mr. Lucien's conviction and arrest from the Criminal History Systems Board, and Department of Probation;
- C. Grant Mr. Lucien any other just and appropriate relief to which he may be entitled; and
- D. Award Plaintiff all attorneys' fees and costs associated with his claims here.

Jury Trial Requested

Plaintiff, JAMES LUCIEN, hereby demands a trial by jury on all issues so triable.

Respectfully submitted,

/s/ Mark Loevy-Reyes
One of Plaintiff's Attorneys

Mark Loevy-Reyes, BBO No. 707974
LOEVY & LOEVY
398 Columbus Avenue, Suite 294
Boston, MA 02116
(312) 243-5900
mark@loevy.com