

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

MARC AND TYRONE STEPHENS,  
Plaintiffs-Appellants,  
v.

CITY OF ENGLEWOOD,  
ENGLEWOOD POLICE DEPARTMENT,  
DET. MARC MCDONALD,  
DET. DESMOND SINGH,  
DET. CLAUDIA CUBILLOS  
DET. SANTIAGO INCLE JR.,  
AND DET. NATHANIEL KINLAW,  
Individually and in official capacity  
NINA C. REMSON ATTORNEY AT LAW,  
LLC, AND COMET LAW OFFICES, LLC  
Defendants-Appellees

CASE No. 16-1868  
D. N.J No. 2:14-cv-05362-WJM-MF

**PLAINTIFFS' REPLY BRIEF IN  
OPPOSITION TO DISMISSAL OF THE  
APPEAL FOR LACK OF APPELLATE  
JURISDICTION; AND REPLY TO  
DEFENDANTS REGARDING  
MOTIONS FOR RELIEF**

**INTRODUCTION**

This action is for deprivation of civil rights pursuant to 42 U.S.C 1983, ineffective assistance of Counsel, and breach of contract – Legal Malpractice. Plaintiffs are seeking \$76 million.

**ARGUMENT**

**A. Plaintiffs' Reply to Defendants' response to question of jurisdiction.**

- All defendants **agree** with the plaintiffs that there is jurisdiction.

**B. Plaintiffs' Reply to Defendants' response to proceed on the original record.**

- All parties are **in agreement** to proceed on the original record.

**C. Plaintiffs' Reply to Defendants' response to Recuse Judge Martini**

The defendants are opposing the removal of Judge William Martini. We are not the bullies. The defendants' only defenses are - **insults**. They were also stealing plaintiffs' mail so that it would not reach the Court, which the Post Office is willing to testify, **ECF no 42-4, #4**. Judge Martini openly shows bias and has undoubtedly overlooked **all evidence** filed by the plaintiffs. Dismissing plaintiffs' complaint and motions out of hand, regardless of their merits is abuse of judicial discretion. Judge Martini **dismissed the case** stating that witness Natalia Cortes identified Tyrone as the suspect when the testimony is clear that **she did not**. It's obvious that Martini is **not** interested in the **truth**. Martini is acting as a savior for the defendants.

**D. Plaintiffs' Reply to Defendants' response to Expedite**

The defendants' opposing argument makes no sense. They argue that the plaintiffs' case is "frivolous" and "without merit", that the "expense of defending this case is borne by the taxpayers of Englewood", "the drain upon the public fisc", "the second anniversary of this lawsuit's filing is fast approaching", they agree with the plaintiffs that this case is "straightforward" and that based on the evidence this court can quickly make a decision on the merits, **Yet**, they want this court to dismiss plaintiffs motion to expedite and allow this case to linger on for possibly another year **at the expense of the taxpayers?** See **Doc. 003112278385, page 3**. The defendants' only defense was Judge Martini intentionally overlooking plaintiffs' evidence. They are simple trying to prolong their liabilities to the plaintiffs.

This case involves several federal questions:

- (1) Did the Englewood Police have probable cause to arrest Tyrone Stephens?
- (2) Did the Englewood Police Department provide false evidence and false testimony in court and to a grand jury in violation of Tyrone's Constitutional rights under the 14<sup>th</sup> amendment?
- (3) Did the Englewood Police Department defame Tyrone in violation of the 4<sup>th</sup> & 5<sup>th</sup> Amendment of the U.S. Constitution when they implied or told "third parties" Justin Evans and his mother Pamela Evans that "Tyrone was under criminal investigation"?
- (4) Did Nina Remson and Comet Law Offices commit ineffective assistance of Counsel in violation of the Plaintiffs rights under the 6<sup>th</sup> Amendment of the US Constitution?
- (5) Is the Affidavit of Merit requirement Facially Unconstitutional? "It is abundantly clear that Congress intended to give preference on crowded court dockets to federal questions." **Zukowski v. Howard, Needles, Tammen, & Bergendoff, 115 F.R.D. 53, 55 (D. Colo. 1987)**.

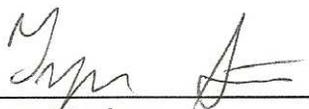
**E. Marc Stephens has claims against the City of Englewood and Defendant Officers**

1. Plaintiffs' Reply to Defendant City of Englewood false statement, "*Tyrone Stephens is the only plaintiff prosecuting an action against Englewood and/or the five members of its police department..*" "*Marc Stephens's only claim in this case are...against the two attorneys, Ms. Remon and Mr. Comet. It is anticipated that Marc Stephens will misrepresent his status to this court since he repeatedly did so to the District Court*", see **Doc. 003112278385, page 2**. As proven below, Mr. Adam Kenny's false statement is for pure entertainment purposes as if he is auditioning to be a writer for Keeping up with Kim Kardashian.
2. Plaintiffs Marc and Tyrone Stephens filed **two** "Notice of Tort Claims" with The City of Englewood, and the State of New Jersey **6 months** before filing their complaint.
3. Marc Stephens properly served **all defendants**, which included the City of Englewood and Englewood Police Department and All Officers, with a summons and complaint, **ECF no. 5, 10 pages 1-8**. Tyrone's summons is **ECF no. 7**.

4. Judge Mark Falk issued a Scheduling Order stating all MOTION TO AMEND and to “ADD NEW PARTIES” must be in by February 21, 2015, **ECF no. 23, #3**.
5. On February 16, 2015, Plaintiff Marc Stephens filed a Motion to Amend the complaint and to add new parties, **ECF no. 34-1, pages 1-3**. See Plaintiffs Reply, **ECF no. 42, & 53 page 1-18**. See also **ECF no. 42, page 4, #3**, which details Marc Stephens’s argument about his claims against the City of Englewood and the Officers.
6. On March 19, 2015, Marc Stephens forwarded a letter to the District Court requesting for their Motion to Amend the Complaint to be Granted, **ECF no. 34**.
7. On March 30, 2015, Judge Falk issued an Order that the Motion to Amend the Complaint was returnable on April 20, 2015, **ECF no. 35-1**.
8. On April, 23, 2015, Plaintiff Marc Stephens, **testified** that he has claims against **all defendants** during his deposition with **lawyer Adam Kenny** from **Weiner Lesniak LP**, representing the City of Englewood and Englewood Police Department, who is making the argument that Marc Stephens has no claims against the City of Englewood and defendant officers. See **Plaintiff Marc Stephens Declaration, ECF no. 42-4**. In fact, the Defendant City of Englewood and Officers forwarded interrogatories to Marc Stephens regarding his claims, and also requested for Marc Stephens to sign a waiver regarding the Englewood Police Department **ECF no. 42, page 10. – EXHIBIT 2**. Adam Kenny knows Marc Stephens has claims. They are attempting to reduce their liabilities.
9. Judge Martini **never** gave an Opinion or Order to the plaintiffs MOTION TO AMEND THE COMPLAINT and to ADD NEW PARTIES which was **timely filed**. Martini later dismissed the case with prejudice. A motion to recuse Martini has been filed.

**Not once** did the defendants offer any evidence refuting the timeline of Tyrone Stephens being seen by defendant Nathaniel Kinlaw of the Englewood Police Department at **McDonalds at 10pm** on October 31, 2012, when the incident took place at **7-eleven at 10pm**. For the reasons set forth herein the plaintiffs respectfully request this court to grant their Motions.

**Dated: May 2, 2016**

  
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**Tyrone Stephens**  
Plaintiff, pro se

  
\_\_\_\_\_  
**Marc Stephens**  
Plaintiff, pro se

**CERTIFICATE OF SERVICE**

Plaintiffs-Appellants, pro se, hereby certify that on May 2, 2016, Plaintiffs filed a Reply to Defendants Response regarding Plaintiffs (1) Motion to expedite the appeal, (2) Motion to recuse Judge William J. Martini, (3) Motion to proceed on original record, and (4) Motion in opposition to dismissal of the appeal for lack of appellate jurisdiction to the United States Court of Appeals for the Third Circuit using the CM/ECF system, which will then send a notification to the defendants, and their counsel:

Marc Mory, Esq. (via e-mail) mmory@dvorakandassociates.com

Adam Kenny, Esq. (via e-mail) akenny@weinerlesniak.com

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**MARC ANTHONY STEPHENS**

Plaintiff-Appellant, pro se

By: s / Marc Anthony Stephens

Marc Anthony Stephens

**TYRONE STEPHENS**

Plaintiff-Appellant, pro se

By: s / Tyrone Stephens

Tyrone Stephens