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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

CHICAGO
FEDERAL COURTS

ALLEN PATRYKUS; RICHARD BUBEL;
JOHN DOE, individually
and as to COUNT VI, on behalf
of all others similarly situated,

Plaintiffs,

vs.

FRANK GOMILLA, Director of
Northeastern Metropolitan
Enforcement Group; JOHN HYMEL,
Policy Board Chairman of Northeastern
Metropolitan Enforcement Group;
RALPH RIZZARDO AND OTHER PRESENTLY
UNKNOWN OFFICERS OF THE NORTHEASTERN
METROPOLITAN ENFORCEMENT GROUP;
PRESENTLY UNKNOWN OFFICERS OF THE
THE CITY OF CHICAGO.

Defendants.

JUDGE LEIGHTON

No.

8609748

MAGISTRATE GOTTSCHALL

CLASS ACTION COMPLAINT FOR
INJUNCTIVE RELIEF AND DAMAGES

Plaintiffs Allen Patrykus, Richard Bubel and John Doe by
their attorneys, bring this action for damages on their own
behalfes. Allen Patrykus, Richard Bubel and John Doe bring
this action for injunctive relief on behalf of themselves and
all others similarly situated. The Plaintiffs hereby complain
of Defendants and allege as follows:

Preliminary Statement

1. This is an action for damages and injunctive relief
arising from Defendants' violations of the First, Third,

Fourth, Fifth, Ninth and Fourteenth Amendments of the Constitution of the United States and federal civil rights statutes.

2. Plaintiffs bring this action for damages sustained during a raid by law enforcement personnel from the Northeastern Metropolitan Enforcement Group ("NEMEG"), a special division of the Illinois Department of State Police, and the Chicago Police Department, on Carol's Speakeasy, a bar in Chicago, Illinois. During that raid Defendants, acting under color of law, unlawfully detained Plaintiffs, harassed and threatened them and subjected them to unlawful searches, seizures and interrogations, thereby invading their privacy, denying them equal protection of the laws and their right to association in violation of the Constitution of the United States and federal laws. Plaintiffs additionally seek injunctive relief, individually and on behalf of others similarly situated, to compel Defendants to return to Plaintiffs information obtained as a result of unlawful conduct.

Jurisdiction and Venue

3. This Court has jurisdiction over these claims pursuant to 28 U.S.C. § 1331 and § 1343.

4. Venue is proper in the Northern District of Illinois pursuant to 28 U.S.C. § 1391.

Plaintiffs

5. Plaintiffs Allen Patrykus and Richard Bubel are citizens of the United States. Plaintiff John Doe is a permanent

resident of the United States and a citizen of the Republic of the Philippines.

6. Plaintiffs John Doe, Allen Patrykus and Richard Bubel bring Count VI of this Complaint, seeking injunctive relief, as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure, individually and on behalf of all other persons who were subjected to any of the unlawful searches and interrogations performed by agents of the NEMEG at Carol's Speakeasy, on September 12, 1985. There were approximately 50 people subjected to this course of conduct on September 12, 1985, at Carol's Speakeasy. Class action status is appropriate in the current case because joinder of all putative class members is impractical; there are questions of law and fact common to the class; the questions of law and fact common to the class include the constitutionality of the searches and interrogations; the claims of the representative parties are typical of the claims of the class because they were each subjected to the unlawful detentions, searches and interrogations; the representative parties will fairly and adequately protect the interests of the class because they seek injunctive relief on behalf of the entire class as a whole and have no interests antagonistic to other members of the class. In addition, the Defendants and their agents have acted on grounds generally applicable to the class by subjecting all class members to the same course of unconstitutional search and interrogation, thereby making the injunctive relief sought appropriate for the class as a whole.

Defendants

7. At all times relevant to the allegations of this Complaint, Defendant NEMEG was an authorized division of the Illinois Department of State Police.

8. At all times relevant to the allegations of this Complaint, Defendant Frank Gomilla was the Director of the NEMEG and Defendant John Hymel was the Policy Board Chairman of the NEMEG. They are sued only in their official capacity.

9. Defendant Ralph Rizzardo was at all times relevant to the allegations of this Complaint a duly appointed police officer of the Sheriff's Police Department of Cook County, Illinois, assigned to the NEMEG. At all times relevant to this Complaint, this Defendant acted towards Plaintiffs under color of the statutes, ordinances, customs and usage of the State of Illinois, the City of Chicago, the Illinois Department of State Police and the NEMEG. Additionally, other Defendants presently unknown to Plaintiffs were at all times relevant to the allegations of this Complaint duly appointed police officers assigned to the NEMEG. At all times relevant to the allegations of this Complaint, these Defendants acted towards Plaintiffs under color of the statutes, ordinances, customs and usage of the State of Illinois, the City of Chicago, the Illinois Department of State Police and the NEMEG. (Hereinafter Ralph Rizzardo and these Defendants are collectively referred to as the "NEMEG Defendants.") Plaintiffs sue all NEMEG Defendants in their individual and official capacities.

10. At all times relevant to the allegations of this Complaint, Chicago Police Department supplied officers to the NEMEG.

11. Other Defendants presently unknown to Plaintiffs were at all times relevant to the allegations of this Complaint duly appointed police officers of the City of Chicago. At all times relevant to the allegations of this Complaint, these Defendants acted towards Plaintiffs under color of the statutes, ordinances, customs and usage of the State of Illinois, City of Chicago and the Chicago Police Department. Plaintiffs sue all Chicago Police Defendants in their official and individual capacities. (Hereinafter these Defendants are collectively referred to as the "Chicago Police Defendants.")

COUNT I

(Unlawful Detention)

Plaintiffs allege and complain against the Defendants as follows:

12. Plaintiffs repeat and reallege Paragraphs 1-11 above as Paragraph 12 of this Count, with the same force and effect as if fully set forth herein.

13. At approximately 10:30 p.m., on the evening of September 12, 1985, Plaintiffs were present in the establishment known as Carol's Speakeasy, located at 1355 North Wells Street in Chicago, Illinois ("Carol's").

14. During that evening, Plaintiffs behaved lawfully and provided no probable cause or legal justification for their search, arrest, detention or interrogation.

15. At approximately 10:30 p.m. on the evening of September 12, 1985, the NEMEG Defendants entered Carol's through several entrances. Several of these Defendants brandished firearms as they entered Carol's. All of these Defendants were in plain clothes. None identified themselves as police officers.

16. At the time the NEMEG Defendants entered Carol's there were approximately 50 people, including Plaintiffs, in the establishment.

17. When the NEMEG Defendants entered Carol's they did not have validly issued warrants for the arrest of Plaintiffs. On information and belief, defendants possessed only a single arrest warrant for the bartender at Carol's and had no legal justification to search, detain or interrogate Plaintiffs. Nonetheless, the NEMEG Defendants told Plaintiffs, and the other people in Carol's, that they could not leave the building, and ordered Plaintiffs and the others in Carol's to lie face down on the floor.

18. The NEMEG Defendants verbally threatened Plaintiffs and the other people in Carol's with physical harm if any of them should get up or try to leave the room. While making these threats, Defendants, without any lawful justification used physical force to direct Plaintiffs Richard Bubel and John Doe to lie down, pushed several people to the floor and pointed their guns at close range at several people in the room, including Plaintiff Richard Bubel.

19. Defendants accompanied these threats with repeated class-based slurs against Plaintiffs and others in the room, referring to Plaintiffs and the others who had been forced to lie down, as "queers" and "faggots." Several of the Defendants also put on rubber gloves, as if they needed special protection before coming into contact with Plaintiffs or others in the room.

20. As a result of Defendants' threats, Plaintiffs and the other people in Carol's were placed in severe apprehension for their physical welfare. Accordingly, Plaintiffs followed Defendants' instructions and lay down on the floor. The NEMEG Defendants continued to threaten Plaintiffs and slapped some of those present when they lifted their heads from the floor.

21. Some time after the NEMEG Defendants entered Carol's, the Chicago Police Defendants entered the establishment and assumed positions near the doors. These Defendants were in the uniform of the Chicago Police Department. They observed the activities of the other Defendants, but took no steps to interfere with or halt these activities.

22. While Plaintiffs and the other patrons of Carol's were lying on the floor, the NEMEG Defendants searched the premises, including certain files kept at Carol's. This search was conducted without probable cause and without a valid search warrant.

23. During this search, the NEMEG Defendants reviewed certain membership files containing information supplied by, or

about, Richard Bubel and Allen Patrykus and other patrons of Carol's. These materials and data were examined without probable cause and without a valid warrant.

24. After lying on the floor for approximately 5 minutes, Plaintiff Allen Patrykus was kicked by one of the NEMEG defendants and ordered to stand up and produce his identification. He was given a form to read and sign, and compelled by one of the NEMEG defendants to provide personal information about himself, including but not limited to the names and addresses of his family members; his marital status; and the identity of his employer. This interrogation was conducted without legal justification and against the will of the plaintiff Allen Patrykus. In apprehension for his safety and welfare, Plaintiff Allen Patrykus signed the preprinted form. His signature on the form was not knowing, informed or voluntary. He was then photographed, his picture was retained, and he was told to leave the bar.

25. After lying on the floor for approximately 30 minutes, Plaintiff John Doe was instructed by one of the NEMEG Defendants to stand up and walk to a corner of the room. Pursuant to these instructions, Plaintiff John Doe stood up and a NEMEG Defendant conducted a pat-down search. He was then taken aside and instructed to remove his driver's license. One of the NEMEG Defendants then proceeded to examine the contents of his wallet. Both the pat-down search and the examination of Plaintiff John Doe's personal effects were conducted without any legal justification and not pursuant to any valid warrant.

26. After these searches, the NEMEG Defendants interrogated Plaintiff John Doe for approximately 20 minutes. He was required to disclose personal information, including but not limited to his name and address, but also his telephone number; date of birth; marital status; with whom he resided; social security number; the identity of his employer and the duration of his employment; if he owned a car, its make, model and license number; his business and financial interests; and the name, address, telephone number and employment status of his mother. During this interrogation, one of the NEMEG Defendants recorded his responses on a two-to-three page preprinted form. When Plaintiff John Doe asked why he was being questioned and with what he was being charged, he obtained no response from the NEMEG Defendant. This interrogation was conducted against plaintiff John Doe's will and without any legal justification.

27. After the questioning, one of the NEMEG Defendants gave Plaintiff John Doe a preprinted form and instructed him to sign the form and initial it in several places. In apprehension for his safety and welfare, he signed the form without fully reading it or understanding its contents. His signature on the form was not knowing, informed or voluntary.

28. After he signed the form, one of the NEMEG Defendants ordered Plaintiff John Doe to walk to the front of the room. Once again Plaintiff John Doe obeyed as instructed. At the front of the room, other NEMEG Defendants photographed him and retained the picture. After the photograph was taken, one of

the NEMEG Defendants informed Plaintiff he could leave Carol's. The NEMEG Defendants had detained Plaintiff John Doe for a total of approximately one hour.

29. Plaintiff Richard Bubel remained on the floor for 45 minutes. While he was on the floor, he began to have chest pains. In response to being kicked in the side and ordered to get up, he rose. One of the NEMEG Defendants directed him to move over to the side of the stage and place his hands on a rail attached to the wall. The NEMEG Defendant then conducted a pat-down search of Plaintiff Richard Bubel. The NEMEG Defendant then searched and made written notations from Plaintiff Richard Bubel's wallet and address book. The seizure and search of plaintiff's wallet and address book were conducted without sufficient legal cause or justification or a valid search or arrest warrant.

30. Plaintiff Richard Bubel was then compelled to reveal personal information, including but not limited to the names and addresses of his siblings; his residence and the ownership thereof; his membership in clubs and organizations; his living situation; the ownership, make and model of his car; and whether he owned any businesses. In apprehension for his safety and welfare, Plaintiff Richard Bubel answered these questions. When he told the NEMEG Defendant that he could not read the preprinted form with which he was provided, the NEMEG Defendant directed him to read it or he would, "bust his head." Although Plaintiff Richard Bubel could not read the

form, he signed it, in fear for his safety and welfare. His signature was not knowing, informed or voluntary.

31. After he signed the form, the NEMEG Defendant directed Richard Bubel to replace his identification in his wallet and took him to the front of the bar to be photographed. After he was photographed, he was allowed to leave. Upon leaving, Plaintiff Richard Bubel walked past one of the uniformed Chicago Police Defendants who was posted at the door.

32. At no time during Plaintiffs' detentions did any NEMEG Defendant see or find any evidence or have any legal cause or justification to believe that Plaintiffs had committed any crime or offense against any of the laws of the State of Illinois or the City of Chicago.

33. Plaintiffs were not charged with any crimes or offenses arising out of, or related to, their presence at Carol's.

34. By means of their unlawful detention of Plaintiffs, the NEMEG Defendants deprived Plaintiffs of liberty without due process of law in violation of the Fourth and Fourteenth Amendments to the Constitution of the United States and in violation of 42 U.S.C. § 1983.

WHEREFORE, Plaintiffs Allen Patrykus, Richard Bubel and John Doe each demands judgment against the NEMEG Defendants jointly and severally, for compensatory damages in the amount of \$50,000.00, and further, each Plaintiff demands judgment against each of said Defendants jointly and severally for punitive damages in the amount of \$1,000,000.00, plus costs and

attorneys' fees and such other relief as this Court deems necessary and proper.

COUNT II

(Illegal Search)

Plaintiffs allege and complain against the Defendants as follows:

35. Plaintiffs repeat and reallege the allegations of Paragraphs 1-34 above as Paragraph 35 of this Count, with the same force and effect as if fully set forth herein.

36. Defendants' searches of Plaintiffs were intentional and unlawful and deprived Plaintiffs of their rights to be free of unreasonable searches and seizures as guaranteed by the Fourth and Fourteenth Amendments to the Constitution of the United States and 42 U.S.C. § 1983.

WHEREFORE, Plaintiffs Allen Patrykus, Richard Bubel and John Doe each demands judgment against NEMEG Defendants jointly and severally for compensatory damages in the amount of \$50,000.00, and further, each Plaintiff demands judgment against each of said Defendants jointly and severally for punitive damages in the amount of \$1,000,000.00, plus costs and attorneys' fees and such other relief as this Court deems necessary and proper.

COUNT III

(Invasion of Privacy)

Plaintiffs allege and complain against the Defendants as follows:

37. Plaintiffs repeat and reallege the allegations of Paragraphs 1-35 above as Paragraph 38 of this Count, with the same force and effect as if fully set forth herein.

38. Defendants' detention, interrogation and photographing of Plaintiffs was intentional and unlawful, and constituted unlawful deprivations of Plaintiffs' rights of privacy in degradation of their elementary self-respect and personal dignity in violation of the First, Third, Fourth, Fifth, Ninth and Fourteenth Amendments of the Constitution of the United States and 42 U.S.C. § 1983.

39. Defendants had no legitimate governmental interest in the personal information which they compelled plaintiffs against their will to reveal.

WHEREFORE, Plaintiffs Allen Patrykus, Richard Bubel and John Doe each demands judgment against NEMEG Defendants jointly and severally for compensatory damages in the amount of \$50,000.00, and further, each Plaintiff demands judgment against each of said Defendants jointly and severally for punitive damages in the amount of \$1,000,00.000, plus costs and attorneys' fees and such other relief as this Court deems necessary and proper.

COUNT IV

(Denial of Equal Protection)

40. Plaintiffs repeat and reallege the allegations of paragraphs 1-34 above as paragraph 40 of this Count with same force and effect as if fully restated herein.

41. Plaintiffs Allen Patrykus, Richard Bubel and John Doe are homosexuals.

42. Defendants' detention, interrogation and photographing of Plaintiffs was motivated by the defendants' intention to deny them equal protection of the law because of their sexual orientation in violation of the Fourteen Amendment of the Constitution of the United States and 42 U.S.C. § 1983.

WHEREFORE, Plaintiffs each demand judgment against NEMEG defendants jointly and severally for compensatory damages in the amount of \$50,000.00, and further demands judgment against each of said defendants jointly and severally for punitive damages in the amount of \$1,000,000.00, plus costs and attorneys' fees and such other relief as this Court deems necessary and proper.

COUNT V

(Denial of Right to Association)

46. Plaintiffs repeat and reallege the allegations of paragraphs 1-34 above as paragraph 46 of this Count, with the same force and effect as if fully alleged herein.

47. The names of plaintiffs Allen Patrykus and Richard Bubel are in the membership files of Carol's Speakeasy.

48. Defendants' search of the membership files of the establishment known as Carol's Speakeasy were intentional and unlawful, and constituted unlawful deprivation of plaintiffs' rights to freedom of association in violation of the First, Third, Fourth, Fifth, Ninth and Fourteenth Amendment of the United States Constitution and 42 U.S.C. § 1983.

WHEREFORE, Plaintiffs Allen Patrykus and Richard Bubel each demands judgment against NEMEG defendants jointly and severally for compensatory damages in the amount of \$50,000.00, and further demands judgment against each of said defendants jointly and severally for punitive damages in the amount of \$1,000,000.00, plus costs and attorneys' fees and such other relief as this Court deems necessary and proper.

COUNT VI

(Class Action for Injunctive Relief)

Plaintiffs allege and complain against the Defendants as follows:

49. Plaintiffs repeat and reallege the allegations of Paragraphs 1-35 above as Paragraph 49 of this Count, with the same force and effect as if fully alleged herein.

50. The information gathered about the Plaintiffs and the class by the NEMEG Defendants through their search of Carol's (including its membership files) and their photographing and interrogation of Plaintiffs was the result of unlawful searches and interrogations, in violation of the plaintiffs' right to freedom from unreasonable searches and seizures, association and privacy guaranteed by the First, Third, Fourth, Fifth, Ninth and Fourteenth Amendments to the Constitution of the United States and of 42 U.S.C. § 1983.

51. Upon information and belief, the information, including the photographs of Plaintiffs and other class members, gathered by the NEMEG Defendants, is currently being unlawfully retained

in official NEMEG files by defendants Gomilla and Hymel.

52. The information unlawfully gathered by the NEMEG Defendants about Plaintiffs and other class members is personal in nature, and could be used to intimidate, harass, threaten or harm Plaintiffs. Its continuing retention by the Defendants constitutes a violation of plaintiffs and the class' rights to privacy and association in violation of the First, Third, Fourth, Ninth and Fourteenth Amendments of the United States Constitution and 42 U.S.C. § 1983.

53. Plaintiffs and the class have no adequate remedy at law and are threatened with irreparable harm unless the information and photographs obtained as a result of the illegal raid of Carol's are returned to them, and all records containing information about Plaintiffs and the class derived from that raid are destroyed.

WHEREFORE, Plaintiffs pray that an injunction issue against Defendants, directing them:

A. To notify Plaintiffs and accept acknowledgement of the receipt of such notice, of any notes, forms, surveys, tape recordings, photographs, or reports containing any reference to Plaintiffs or information about Plaintiffs, which were prepared at, or as a result of, the NEMEG Defendants' raid on Carol's, or of the detention, interrogation or photographing of Plaintiffs at Carol's, including notice that such material which is not requested by Class plaintiffs will be destroyed within 30 days;

B. To return to Class plaintiffs any notes, forms, surveys, tape recordings, photographs, or reports containing any reference to Class plaintiffs or information about Class plaintiffs, which were prepared at, or as a result of, the NEMEG Defendants' raid on Carol's or of the detention, interrogation or photographing of Plaintiffs at Carol's requested pursuant to notice as set forth in Paragraph A above;

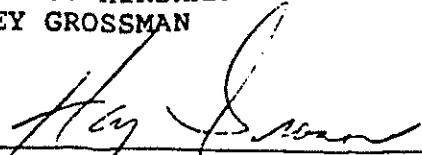
C. To destroy any materials unclaimed by Class plaintiffs and any reference, description or mention of Class plaintiff which in any way relates to the NEMEG's raid on Carol's or to Class plaintiffs' presence at Carol's, or any information derived from the NEMEG Defendants' search of Carol's or of the detention, interrogation or photographing of Class plaintiffs, which references appear in any official or unofficial document, record, form, note or list, maintained by the State of Illinois, the NEMEG, any of the NEMEG Defendants, the Chicago Police Department, any of the Chicago Police Defendants or the Sheriff's Office of Cook County, Illinois;

D. To furnish to Class plaintiffs a list of any other agencies, institutions, governmental entities or persons who have been provided any information about Class plaintiffs relating to or derived from the NEMEG raid at Carol's or the NEMEG Defendants' search of Carol's or the NEMEG Defendants' search, detention, interrogation or photographing of Class plaintiffs; and

E. Such other relief as this Court deems proper and necessary.

Respectfully submitted,

HAROLD C. HIRSHMAN
HARVEY GROSSMAN

By: 
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