

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

----- X  
**ANDRE EPPS and TREVON HANKS,** :  
 :  
 **Plaintiffs,** :  
 :  
 v. :  
 :  
 **CITY OF SYRACUSE; OFFICER** :  
 **JAMES STONE, in his individual and** :  
 **official capacities; OFFICER JAMES** :  
 **MORRIS, in his individual and official** :  
 **Capacities; and OFFICER MICHAEL** :  
 **THOMAS, in his individual and official** :  
 **capacities,** :  
 :  
 **Defendants.** :  
----- X

**SUPPLEMENTED AND AMENDED  
COMPLAINT**

**Civil Action No. 5:10-CV-1542  
(DNH) (TWD)**

**JURY TRIAL DEMANDED**

**PRELIMINARY STATEMENT**

1. This is an action about the rights of students to be educated in a safe environment free from unnecessarily violent and frightening encounters with the armed police officers who permanently patrol their schools. Plaintiffs Andre Epps and Trevon Hanks, students at the time of the incidents described herein, bring this action against the City of Syracuse and three of its police officers who recklessly tasered and handcuffed them in violation of their constitutional rights.

2. The police officers' actions were an unfortunate but inevitable result of the City of Syracuse's policies and practices governing the deployment of armed police officers in Syracuse public schools, which were designed to govern police activity on the streets of Syracuse, not the hallways and the playgrounds of its schools. The officers who shot and handcuffed Andre Epps and Trevon Hanks were guided by policies and training that failed to acknowledge the important

differences between regulating adult criminal behavior and regulating children within the educational environment.

3. The officers' actions were also a result of the City of Syracuse's failure, as a matter of policy and practice, to treat tasers as weapons capable of inflicting serious injury and even death. The Syracuse Police Department's current policies and practices encourage officers to deploy tasers in a manner that poses undue risks to people, especially the students who are continuously monitored by Syracuse police officers in the schools.

4. As a result of their traumatic encounter with police officers, both plaintiffs suffered serious injury and continue to suffer from pain and emotional distress. Andre Epps also incurred medical costs resulting from his injuries. Plaintiffs therefore ask this Court to declare the actions of the Syracuse Police Department and its officers to be in violation of their Constitutional and state law rights and to order Defendants to compensate them for these injuries.

### **PARTIES**

5. At the time of the events alleged herein Plaintiff Andre Epps was a fifteen year-old student at Fowler High School and a resident of Syracuse, New York.

6. At the time of the events alleged herein Plaintiff Trevon Hanks was an eighteen year-old student at Henninger High School and a resident of Syracuse, New York.

7. Defendant CITY OF SYRACUSE controls and is responsible for the actions of the Syracuse Police Department and its officers.

8. Defendant OFFICER JAMES STONE is a police officer employed by the Syracuse Police Department and is assigned as a School Resource Officer to Fowler High School. At all

times relevant to this complaint he was acting in the course and scope of his employment with the Syracuse Police Department. He is sued in his official and individual capacities.

9. Defendant OFFICER JAMES MORRIS is a police officer employed by the Syracuse Police Department. At all times relevant to this complaint he was acting in the course and scope of his employment with the Syracuse Police Department. He is sued in his official and individual capacities.

10. Defendant OFFICER MICHAEL THOMAS is a police officer employed by the Syracuse Police Department and is assigned as a School Resource Officer to Henninger High School. At all times relevant to this complaint he was acting in the course and scope of his employment with the Syracuse Police Department. He is sued in his official and individual capacities.

## **FACTS**

### **Tasers are Extremely Dangerous, Potentially Lethal Weapons**

11. A taser is a weapon that delivers debilitating electric shocks in order to cause neuromuscular incapacitation and force compliance with police orders through pain. Typical deployment of the taser involves firing two barbs containing electrodes at the victim. The barbs are designed to penetrate clothing and pierce the body of a target. The officer can then deliver painful and possibly incapacitating electric shocks to the victim.

12. A taser can also be deployed by holding it against the victim, without firing the projectiles, and thereby shocking the victim.

13. The victim feels extreme pain and helplessness upon being shocked by a taser.

14. Tasers can be lethal.

15. Amnesty International reports that over 350 people in the United States have died after being struck with tasers.

16. TASER International, Inc., the manufacturer of the tasers used by the Syracuse Police Department, has admitted that its weapons “may result in serious, permanent bodily injury or death to those involved. Our products may cause or be associated with these injuries.”

17. TASER International, Inc.’s warnings for the use of tasers include risks of scarring, burns, bone damage from the dart, infection, and eye damage.

18. In New York State, possession of tasers by civilians is banned because of the weapons’ dangerous, potentially lethal nature.

19. In response to increased experience with and additional information about taser use, police departments and affiliated organizations across the country have seriously restricted permissible taser use, made recommendations to curtail taser use substantially, or have stopped using tasers completely.

### **Inadequate Training and Poor Policies Governing the Armed Police Officers in Syracuse City Public Schools**

20. In the Syracuse City School District, some police officers are permanently stationed at every middle school and high school in the city, with students as young as sixth grade. These officers are known as School Resource Officers.

21. School Resource Officers wear Syracuse Police Department uniforms and are armed with both guns and tasers.

22. At the time of the incidents described herein, neither School Resource Officers nor other Syracuse Police Officers received any special training to prepare them for being posted in a school environment or for dealing with young people or youth behavior.

23. The taser-related training provided to School Resource Officers and Syracuse Police Officers was designed by the manufacturer of taser weapons, TASER International, Inc. It does not include any special training regarding the use of tasers in the school environment or on youth and does not speak to the circumstances in which officers should deploy tasers, the placement of tasers on the use-of-force spectrum, whether officers should warn prior to deploying a taser, and whether officers should attempt to use other, less-serious force prior to using tasers.

24. The Syracuse Police Department's use of force policy governing tasers states that an officer may use a taser where "reasonably necessary for self-defense, protection of a third person, and/or to effect a lawful arrest."

25. This policy does not differentiate between the use of tasers in a school and on the street. It does not differentiate between the use of tasers on children and adults.

26. The policy does not require officers to issue a warning prior to using a taser or encourage officers to consider other, less serious force prior to using a taser.

27. Numerous excessive force suits have been brought against the Syracuse Police Department because of their use of tasers.

28. News reports indicate that the Syracuse Police Department discharged tasers more than 700 times between 2005 and 2009.

### **Syracuse Police Officers' Unlawful Use of a TASER Gun and False Arrest of Andre Epps**

29. Andre Epps moved from Flint, Michigan to Syracuse, New York to live with his mother in August of 2009.

30. Andre Epps's first day at Fowler High School was on September 22, 2009.

31. Because he was a new student, Andre Epps did not know most of his classmates at Fowler. One of the few students he got to know in his first weeks at the school is a female classmate named K.E., who was one of his neighbors.

32. On September 28, 2009, his fifth day at his new school, at approximately 3:00 p.m., Andre Epps was on a school bus in front of the school waiting to be taken home. K.E. was also on the bus.

33. K.E. asked Andre Epps if she could borrow his mobile phone to call her sister. Andre Epps lent her his phone.

34. While talking on the phone to her sister, K.E. stepped off the bus onto a paved area in front of the school entrance. Andre Epps followed her in order to retrieve his phone.

35. Just as Andre Epps stepped off the bus, he saw another female student rushing towards him and K.E. as if to hit her.

36. At that moment, Andre Epps did not see or hear any police officers or school administrators nearby who could protect K.E. or prevent or break up the fight.

37. Andre Epps was particularly concerned about K.E. because he knew she had a baby, and he did not want to see her get hurt or get in trouble and be unable to care for the child.

38. Andre Epps stepped between K.E. and the other student to prevent her from striking K.E.

39. At the same time, Andre Epps also tried to break up the confrontation by loudly stating words to the effect of, "Why are you trying to fight? You need to chill out."

40. As these events unfolded, Officer Stone, Officer Morris, the Vice Principal of the school, and other school officials and/or police officers arrived at the scene.

41. Andre Epps was not aware of the officers' arrival, did not hear or see any indication of their arrival, or of their intent to use force.

42. Although the officers had been informed that a student fight was underway, none of the officers had any reason to believe that the students were armed.

43. Within seconds of arriving, Officer Stone, standing approximately three or four feet behind Andre Epps, pointed and discharged his taser.

44. Neither Officer Stone nor the other officers at the scene made their presence known to Andre Epps, nor, upon information and belief, did they issue a warning stating that they were going to shoot Andre Epps with a taser.

45. Neither Officer Stone nor the other officers at the scene made any attempt to separate Andre Epps and the other student or address the situation prior to using the taser.

46. At least one of the barbs stuck in Andre Epps's arm, causing a painful laceration.

47. When the taser barbs lodged in his arm, Andre Epps turned toward Officer Stone, seeing him for the first time.

48. Without warning, Officer Stone pulled the trigger on the taser and Andre Epps felt an extremely painful shock run through his left arm. The shock caused Andre Epps's arm to tense up and caused him to spin around in pain and confusion.

49. Andre Epps immediately felt a second shock, similar in strength and lasting as long as the first shock, run through his arm.

50. Andre Epps was not resisting arrest or resisting any lawful order of any of the police officers when Officer Stone deployed his taser and shocked Andre Epps.

51. Scared and overwhelmed with pain, Andre Epps yelled out to Officer Stone, saying words to the effect of "Why did you do that? You have got the wrong person."

52. The officers then yelled at Andre Epps to get on the ground.

53. Andre Epps made no attempt to resist the officers and went to the ground, laying on his stomach as the officers requested.

54. Officer Stone and Officer Morris handcuffed Andre Epps, leaving the taser barbs in his arm, in front of approximately 30 to 40 of Andre Epp's peers, many of whom Andre Epps had never met because he was new to the school. Andre Epps felt very fearful that he was going to go to jail.

55. As Andre Epps lay handcuffed on the ground, witnesses continuously asserted that Andre Epps was simply attempting to prevent the fight from occurring.

56. Andre Epps, too, reiterated to the officers that he was not fighting and was attempting to break up the fight.

57. After several minutes, Andre Epps was moved to the ambulance, still handcuffed, where a paramedic removed the taser barbs from his arm.

58. When the barbs were removed, Andre Epps's arm bled where the barbs had penetrated his skin.

59. After several more minutes, a police officer removed the handcuffs from Andre Epps and told him that the police would not charge him with any crime.

60. Andre Epps was taken to SUNY Upstate Medical University Hospital by ambulance.

61. At the hospital, an unidentified Syracuse Police Officer told Andre Epps's mother that the use of a taser on Andre Epps had been a "mistake."

62. No criminal charges stemming from this incident were ever brought against Andre Epps.

## **The TASER Incident and the False Arrest Have Caused Serious Harm to Andre Epps and His Family**

63. Andre Epps's family incurred substantial medical expenses from the incident, including from his initial visit to the emergency room, from follow-up doctor visits, and from pain medicine that Andre Epps has taken on a regular basis after the incident.

64. Andre Epps experienced continuous pain in his left arm for three to four weeks after the taser shock.

65. Months later, Andre Epps still experiences recurring pain in his left arm.

66. Andre Epps had to sit out of some of his gym classes at school because of the pain he has felt in his arm.

67. Andre Epps still has a scar on his arm from being hit by the barbs from Officer Stone's taser.

68. Andre Epps has additionally experienced recurring headaches since the incident, some of which have been severe enough to wake him during the night.

69. Andre Epps has suffered emotional distress from the incident. The incident deeply embarrassed Andre Epps in front of a large number of his new classmates, and Andre Epps has been the subject of rumors and jokes about the incident.

70. Officer Stone is regularly at Fowler High School in his capacity as a School Resource Officer.

71. Neither Officer Stone nor any other officers involved in shocking and arresting Andre Epps have ever apologized to Andre Epps for their treatment of him.

**Syracuse Police Officers' Unlawful Use of a  
TASER Gun and False Arrest of Trevon Hanks**

72. In 2006, Trevon Hanks was diagnosed as a Type 1, insulin-dependent diabetic. This condition requires that he get two shots of insulin every day and that he frequently monitor his blood sugar level because of the instability of his condition.

73. From 2008 to 2012, Trevon Hanks attended Henninger High School, a school located in the Syracuse City School District.

74. In the 2011-2012 school year, when Trevon Hanks was a senior, he missed numerous days of school due to hospitalization and other complications related to his disease.

75. Partially as a result of these absences, Trevon Hanks failed his class in Integrated Algebra in the spring semester of the 2011-2012 school year.

76. Trevon Hanks's guidance counselor, Miranda Williams, instructed Trevon Hanks in early June 2012 that he would need to go to a computer lab prior to graduation and complete work in the area of geometry using a computer program in order to graduate in June 2012.

77. On June 19, 2012, Trevon Hanks went to Henninger High School to complete the required coursework in the school's computer lab.

78. June 19, 2012 was also Trevon Hanks's eighteenth birthday.

79. When Trevon Hanks tried to complete the coursework, he did not understand how to complete it using the computer program.

80. Trevon Hanks left the computer lab and had several discussions about getting help to complete the work or other options for completing his credits with Miranda Williams, mathematics teacher Jennifer Murphy, acting Principal Robert DiFlorio, and a school administrator named Harmony Booker.

81. Although Jennifer Murphy was initially willing to provide other work for Trevon Hanks to finish in order to complete the required credits, after meeting with Robert DiFlorio and Harmony Booker, she told Trevon Hanks that he needed to complete the geometry work in the computer lab to graduate.

82. Robert DiFlorio and Harmony Booker walked Trevon Hanks back to the computer lab to see what work Trevon Hanks had completed.

83. Trevon Hanks asked the supervisor of the computer lab if he could print out the work, take it home to complete it, and then bring it back to the school. Ms. Booker told the computer lab supervisor to refuse Trevon Hanks's request.

84. Trevon Hanks became frustrated and began yelling that the situation was unfair, went out into the hallway, and lay down on the ground.

85. Trevon Hanks called his mother, who tried to calm him down, on his cell phone.

86. At no point did anyone from Henninger High School contact Trevon Hanks's parents about the situation involving their son, nor did they seek out any of the teachers that knew Trevon Hanks and were working nearby to approach him and help him with the work he needed to complete to graduate.

87. Trevon Hanks was told he needed to leave the school and he said that he did not want to leave without the work he needed to graduate.

88. At some point during his call with his mother, Trevon Hanks's battery fell out of his phone and the call to his mother was cut off.

89. A School Resource Officer named Michael Thomas arrived. He approached Trevon Hanks, who was still lying on the ground, with his taser already drawn.

90. At no point did Trevon Hanks physically threaten anyone.

91. A school sentry, KA Robenolt, and Officer Thomas grabbed Trevon Hanks's arms and began to move him onto his stomach. Officer Thomas, without issuing a verbal Taser warning, then placed the Taser directly on Trevon Hanks's back and activated the Taser in drive stun mode.

92. After the Taser activation had ceased, Trevon Hanks told Officer Thomas that he was diabetic, because his doctor told him that wounds do not heal easily for diabetics and he was afraid the Taser would wound him.

93. Officer Thomas yelled at Trevon Hanks to put his hands behind his back and to stop resisting, but Trevon Hanks was in too much pain to move.

94. Officer Thomas tased Trevon Hanks in the back again in drive stun mode and then yelled at him again to put his hands behind his back and to stop resisting. Again, Trevon Hanks was in too much pain and shock to comply.

95. After flipping Trevon Hanks onto his stomach and putting his hands behind his back, Officer Thomas then pressed his knee into Trevon Hanks's back and activated the Taser in drive stun mode against his back for a third time. Officer Thomas then handcuffed Trevon Hanks.

96. Because Trevon Hanks could not use his legs following the tasing, Officer Thomas then dragged Trevon Hanks to the School Resource Officer office.

97. Once in the School Resource Officer office, Officer Thomas slammed Trevon Hanks's face against the cinder block wall.

98. After questioning by Sergeant Denis Regin, supervisor of the School Resource Officers, Trevon Hanks was put into a police car and taken to the Onondaga County Justice Center.

99. Trevon Hanks arrived at the Justice Center a couple of hours before the afternoon arraignment session. Because the police officers did not complete the paperwork in time for him to attend the afternoon arraignment session, Trevon Hanks had to spend the night in jail.

100. While in jail, Trevon Hanks was ill because he was not provided with sufficient or timely food or insulin to control his blood sugar level.

101. Trevon Hanks was arraigned on June 20, 2012 on charges of resisting arrest, criminal trespass, and disorderly conduct. He was released on his own recognizance.

102. On November 7, 2012, Trevon Hanks was offered a disposition of Adjournalment in Contemplation of Dismissal. He later accepted this disposition.

103. Trevon Hanks was not suspended from school for the incidents that took place on June 19, 2012.

104. Trevon Hanks graduated from Henninger High School in August 2012 by taking a summer class.

105. Trevon Hanks is currently attending Monroe Community College in the Rochester area.

106. Prior to June 19, 2012, Trevon Hanks had no contact with the police and no previous arrests.

**The TASER Incident and the False Arrest Have Caused Serious Harm to Trevon Hanks**

107. The three times Trevon Hanks was tased caused him intense pain. After being tased, he felt like he could not control his body, as his body felt like it was vibrating and he could not use his legs.

108. In the hours after being tased, the pain continued and Trevon Hanks could not stop shaking, had an intense headache, and no appetite.

109. Trevon Hanks's entire body continued to be sore for several days.

110. Trevon Hanks also suffered serious emotional distress due to being tased and arrested. He cried throughout the entire experience, due to his fear and confusion about what was happening.

111. Trevon Hanks now continues to feel threatened by police officers, as well as unsafe in their presence. He no longer believes that they intend to protect his safety.

112. Trevon Hanks planned to major in Criminal Justice in college, but due to this incident, he no longer has faith in the Criminal Justice field, and has changed his major to Human Arts and Social Sciences.

#### **JURISDICTION AND VENUE**

113. This Court has subject-matter jurisdiction over the claims of the plaintiffs pursuant to 28 U.S.C. §§ 1331, 1343(a).

114. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2) in that the plaintiffs' claims arise within the Northern District of New York and pursuant to 28 U.S.C. § 1391(b)(1) in that the defendants reside within the Northern District of New York.

115. This Court has supplemental jurisdiction over all state common law claims pursuant to 28 U.S.C. § 1367(a).

#### **FIRST CAUSE OF ACTION**

#### **(Excessive Force in Violation of the U.S. Constitution against Defendants Morris, Stone and Thomas)**

116. By their actions in this complaint, Defendants Stone and Morris acted under color of state law to deprive plaintiff Andre Epps of his right to be free from the use of excessive force

as guaranteed by the Fourth and Fourteenth Amendments of the Federal Constitution, as enforced by 42 U.S.C. § 1983.

117. By his actions in this complaint, Defendant Thomas acted under color of state law to deprive plaintiff Trevon Hanks of his right to be free from the use of excessive force as guaranteed by the Fourth and Fourteenth Amendments of the Federal Constitution, as enforced by 42 U.S.C. § 1983.

**SECOND CAUSE OF ACTION**  
**(Excessive Force in Violation of the U.S. Constitution against the City of Syracuse)**

118. The policies and customs of Defendant City of Syracuse caused the violation of plaintiffs' right to be free from the use of excessive force as guaranteed by the Fourth and Fourteenth Amendments of the Federal Constitution and enforced by 42 U.S.C. § 1983.

**THIRD CAUSE OF ACTION**  
**(False Arrest and False Imprisonment in Violation of the U.S. Constitution against Defendants Morris, Stone, and Thomas)**

119. By their actions in this complaint, Defendants Stone and Morris acted under color of state law to deprive plaintiff Andre Epps of his right to be free from false arrest and false imprisonment as guaranteed by the Fourth and Fourteenth Amendments of the Federal Constitution, as enforced by 42 U.S.C. § 1983.

120. By his actions in this complaint, Defendant Thomas acted under color of state law to deprive plaintiff Trevon Hanks of his right to be free from false arrest and false imprisonment, as enforced by 42 U.S.C. § 1983.

**FOURTH CAUSE OF ACTION**  
**(False Arrest and False Imprisonment in Violation of the U.S. Constitution against City of Syracuse)**

121. The policies and customs of the Defendant City of Syracuse caused the violation of the plaintiffs' right to be free from false arrest and false imprisonment as guaranteed by the Fourth and Fourteenth Amendments of the Federal Constitution and enforced by 42 U.S.C. § 1983.

**FIFTH CAUSE OF ACTION**  
**(False Arrest and False Imprisonment in Violation of New York law against all defendants)**

122. Defendants Stone, Morris and the City of Syracuse subjected plaintiff Andre Epps to false arrest and false imprisonment in violation of the laws of New York State, since plaintiff Epps was wrongfully, unlawfully, unjustifiably, and forcibly detained and deprived of his liberty against his will. Defendants Stone and Morris did so while acting as employees of the City of Syracuse, in the course of their employment and the scope of their authority in furtherance of the interest of their employer.

123. Defendant Thomas and the City of Syracuse subjected plaintiff Trevon Hanks to false arrest and false imprisonment in violation of the laws of New York State, since plaintiff Hanks was wrongfully, unlawfully, unjustifiably, and forcibly detained and deprived of his liberty against his will. Defendant Thomas did so while acting as an employee of the City of Syracuse, in the course of his employment and the scope of his authority in furtherance of the interest of his employer.

**SIXTH CAUSE OF ACTION**  
**(Battery in Violation of New York law against all defendants)**

124. Defendants Stone, Morris and the City of Syracuse committed battery and excessive force upon plaintiff Andre Epps, by intentionally initiating offensive bodily contact with Andre Epps that is unreasonable under New York law. Defendants Stone and Morris did so while acting as employees of the City of Syracuse, in the course of their employment and the scope of their authority in furtherance of the interest of their employer.

125. Defendant Thomas and the City of Syracuse committed battery and excessive force upon plaintiff Trevon Hanks, by intentionally initiating offensive bodily contact with Trevon Hanks that is unreasonable under New York law. Defendant Thomas did so while acting as an employee of the City of Syracuse, in the course of his employment and the scope of his authority in furtherance of the interest of his employer.

**SEVENTH CAUSE OF ACTION**  
**(Assault in Violation of New York law against all defendants)**

126. Defendants Stone, Morris and the City of Syracuse committed an assault upon plaintiff Andre Epps, by undertaking physical conduct that unjustifiably placed Andre Epps in imminent apprehension of harmful contact that is unreasonable under New York law. Defendant Stone and Morris did so while acting as employees of the City of Syracuse, in the course of their employment and in the scope of their authority in furtherance of the interest of their employer.

127. Defendant Thomas and the City of Syracuse committed an assault upon plaintiff Trevon Hanks, by undertaking physical conduct that unjustifiably placed Trevon Hanks in imminent apprehension of harmful contact that is unreasonable under New York law. Defendant Thomas did so while acting as an employee of the City of Syracuse, the course of his employment and the scope of his authority in furtherance of the interest of his employer.

WHEREFORE, plaintiffs request the Court award:

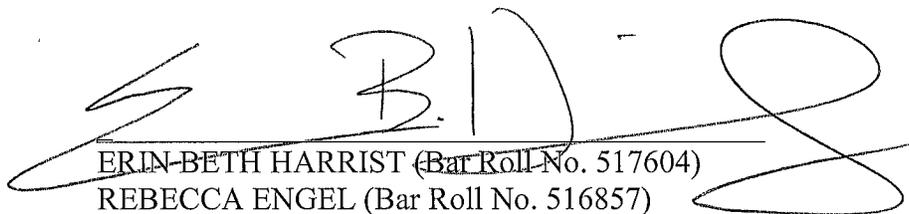
(a) a declaration that the actions of the Defendants violated the U.S. Constitution and New York law;

(b) compensatory damages in an amount to be determined according to proof at trial;

(c) attorney's fees and costs pursuant to 42 U.S.C. §1988; and

(d) such other and further relief as the court deems proper.

Respectfully submitted,

A large, stylized handwritten signature in black ink, appearing to read 'ERIN-BETH HARRIST', is written over the typed name and bar number.

~~ERIN-BETH HARRIST (Bar Roll No. 517604)~~

REBECCA ENGEL (Bar Roll No. 516857)

ARTHUR EISENBERG (Bar Roll No. 101576)

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*Counsel for Plaintiffs*

Dated: March 19, 2014  
New York, NY