

**UNITED STATES OF AMERICA
IN THE DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ERNEST FLAGG, as Next Friend of
JONATHAN BOND, a minor,

Plaintiff,

Case No.: 05-CV-74253
Hon. Gerald Rosen
Magistrate Judge R. Steven Whalen

-vs-

CITY OF DETROIT, a municipal corporation;
DETROIT POLICE CHIEF ELLA BULLY-
CUMMINGS; DEPUTY DETROIT POLICE
CHIEF CARA BEST; JOHN DOE POLICE
OFFICERS 1 - 20; ASST. DEPUTY POLICE
CHIEF HAROLD CURETON;
COMMANDER CRAIG SCHWARTZ;
POLICE LT. BILLY JACKSON;
MAYOR KWAME M. KILPATRICK,
CHRISTINE BEATTY, jointly and severally

Defendants.

Norman Yatooma & Associates, P.C.
By: Norman A. Yatooma (P54746)
By: Robert S. Zawideh (P43787)
Attorneys for Plaintiffs
219 Elm Street
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Morganroth & Morganroth, PLLC
By: Mayer Morganroth (P17966)
By: Jeffrey B. Morganroth (P41670)
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City of Detroit Law Department
By: John A. Schapka (P36731)
Attorneys for Defendants
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**PLAINTIFF'S EMERGENCY MOTION FOR AN EXTENSION OF TIME
TO SERVE DEFENDANTS BEST AND JACKSON**

NOW COMES THE PLAINTIFF, JONATHAN BOND, through his Next Friend ERNEST FLAGG, and by and through their attorneys, Norman Yatooma & Associates, P.C., and for his Motion for an Extension of Time to Serve Defendants Cara Best and Police Lieutenant Billy Jackson states the following:

1. Plaintiff Jonathan Bond, through his next friend Ernest Flagg, commenced this suit in this Court on November 7, 2005, alleging that the Defendant City of Detroit and several individuals — including Detroit Mayor Kwame Kilpatrick, his former Chief of Staff, the current and former Detroit Police Chiefs, certain unknown Detroit police officers, and Michigan Attorney General Mike Cox — violated Plaintiff’s federal constitutional right of access to the courts and conspired among themselves to commit this constitutional violation. (Docket entry 1).

2. On September 21, 2006, following Defendants’ unsuccessful Motion to Dismiss brought under FRCP 12(b)(6), Plaintiff filed his First Amended Complaint. This amended pleading omitted several parties who were named as Defendants in Plaintiff’s initial complaint — specifically, Michigan Attorney General Mike Cox, Detroit Mayor Kwame Kilpatrick, former Detroit police Chief Jerry Oliver, and Mayor Kilpatrick’s former Chief of Staff, Christine Beatty — but named three additional Defendants who were not identified in this initial pleading — specifically, Detroit assistant police Chief Harold Cureton and two other Detroit police officers, Craig Schartz and Billy Jackson. (Docket entry 22).

3. On November 14, 2007, this Court dismissed Plaintiff’s claims against Defendants Cara Best, Harold Cureton, and Billy Jackson without prejudice for lack of prosecution, and further dismissed Plaintiff’s claims against Defendants Mike Cox, Kwame Kilpatrick, Jerry Oliver, and Christine Beatty without prejudice, in light of Plaintiff’s evident election to

voluntarily relinquish these claims by failing to name these individuals as parties in his first amended complaint. (Docket entry 28).

4. On November 28, 2007, the Court ordered the substitution of Plaintiff's current Counsel in place and instead of his prior counsel. (Docket entry 29).

5. Approximately three weeks later, on December 19, 2007, Plaintiff filed a Motion for Leave to File a Second Amended Complaint in this action. Significantly, the amended pleading sought to re-include Cara Best, Harold Cureton, Billy Jackson, Mayor Kwame Kilpatrick, and Christine Beatty as Defendants in this action. (Docket entry 32).

6. On January 8, 2008, this Court granted Plaintiff's Motion for Leave to File Second Amended Complaint, which was then filed with the Court on January 14, 2008. (Docket entry 34, 37).

7. The Complaint alleges that Defendants, individually or in concert or conspiracy with one another deliberately and with all intent thwarted, obstructed, chilled, interfered with and unlawfully terminated the investigation into Ms. Greene's murder. The Second Amended Complaint added three Defendants who were not named in the First Amended Complaint, namely, Harold Cureton, Cara Best and Billy Jackson.

8. On January 22, 2008 this Court entered an Order, presented by stipulation on the parties, to allow Defendants an extension of twenty-one days to file their first responsive pleading to the Second Amended Complaint and to allow Plaintiff an additional twenty-one days to serve newly added Defendants Cureton, Best and Jackson. (Docket entry 39).

9. Plaintiff successfully served Defendant Cureton on January 29, 2008. (Docket entry 40).

10. Plaintiff has made numerous attempts to serve Defendant Cara Best; however, she currently resides in a gated community which severely restricts Plaintiff's ability to easily complete service of process.

11. Plaintiff has also identified numerous individuals meeting the description of Defendant Billy Jackson but has been unable to date to identify which individual is the proper Defendant in this action.

12. Plaintiff's counsel attempted to conduct a conference regarding the relief requested herein pursuant to L.R. 7.1(a)(1), (2) in which the movant explained the nature of the Motion or request and its legal basis relief requested. Attorney John Schapka indicated that he would defer to the Morganroth firm for concurrence or refusal in the relief requested. Plaintiff's counsel left a voicemail message for Jeffrey Morganroth on February 11, 2008 and placed a telephone call to his office on February 12, 2008. As of the date of this Motion, Plaintiff's counsel has received no return call.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court grant this Motion, and tax costs against Defendants for unreasonably withholding of consent to the relief sought herein.

Respectfully Submitted,

Dated: February 12, 2008

/s/ Robert S. Zawideh
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**BRIEF IN SUPPORT OF PLAINTIFF'S MOTION FOR AN EXTENSION OF TIME TO
SERVE DEFENDANTS CARA BEST AND BILLY JACKSON.**

STATEMENT OF ISSUE PRESENTED

1. WHETHER THIS COURT SHOULD GRANT PLAINTIFF A TWENTY-ONE DAY EXTENSION OF TIME TO SERVE DEFENDANTS CARA BEST AND BILLY JACKSON, WHERE THEY HAVE DILLIGENTLY MADE ATTEMPTS TO SERVE DEFENDANT BEST AND IDENTIFY THE LOCATION OF BILLY JACKSON?

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Dated: February 12, 2008

/s/ Robert S. Zawideh
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By: Robert S. Zawideh (P43787)
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CERTIFICATE OF SERVICE

I certify that I caused a true and correct copy of:

Plaintiff's Emergency Motion for an Extension of Time to Serve Defendants Best and Jackson and this Certificate of Service to be served upon:

City of Detroit Law Department

By: John A. Schapka (P36731)
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by ECF filing on February 12, 2008.

/s/ Robert S. Zawideh
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