

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOHN KOGUT,

Plaintiff,

-against-

MEMORANDUM AND ORDER
06-CV-6695 (JS)(WDW)

THE COUNTY OF NASSAU, POLICE
COMMISSIONER DONALD KANE, POLICE
COMMISSIONER WILLIAM J. WILLETT (2005),
POLICE COMMISSIONER JAMES LAWRENCE,
DETECTIVE SEAN SPILLANE (HEAD OF HOMICIDE
1985), DETECTIVE DENNIS FARRELL (HEAD OF
HOMICIDE 2005), DETECTIVE JOSEPH VOLPE,
DETECTIVE ROBERT DEMPSEY, DETECTIVE ALBERT
MARTINO, DETECTIVE WAYNE BIRDSALL,
DETECTIVE MILTON G. GRUBER, DETECTIVE
CHARLES FRAAS, DETECTIVE FRANK SIRIANNI,
DETECTIVE HARRY WALTMAN, P.O. MICHAEL
CONNAUGHTON, P.O. WILLIAM DIEHL, and
JOHN DOES 1-5,

Defendants.

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JOHN RESTIVO, DENNIS HALSTEAD,
MELISSA LULLO, JASON HALSTEAD,
HEATHER HALSTEAD and TAYLOR
HALSTEAD,

Plaintiffs,

- against -

MEMORANDUM & ORDER
06-CV-6720(JS)(WDW)

NASSAU COUNTY, JOSEPH VOLPE, in his
individual capacity, ROBERT DEMPSEY,
in his individual capacity, FRANK SIRIANNI,
in his individual capacity, MILTON GRUBER,
in his individual capacity, HARRY WALTMAN
in his individual capacity ALBERT MARTINO,
in his individual capacity, CHARLIE FRAAS,
in his individual capacity, THOMAS ALLAN
in his individual capacity, RICHARD BRUSA,
in his individual capacity, VINCENT DONNELLY,
in his individual capacity, MICHAEL
CONNAUGHTON, in his individual capacity,
WAYNE BIRDSALL, in his individual capacity,
WILLIAM DIEHL, in his individual capacity,
JACK SHARKEY, in his individual capacity,

DANIEL PERRINO, in his individual capacity,
ANTHONY KOZIER, in his individual capacity,
Detective Sergeant CAMPBELL, (Shield #48),
in his individual capacity, SEAN SPILLANE,
in his individual capacity, RICHARD ROE
SUPERVISORS #1-10, in their individual
capacities,

Defendants.

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APPEARANCES:

For Plaintiffs:

John Kogut

Anthony M. Grandinette, Esq.
Grandinette & Serio, LLP
114 Old Country Road, Suite 420
Mineola, NY 11501

Paul Casteleiro, Esq.
200 Washington Street, Suite 500
Hoboken, NJ 07030

John Restivo,
Dennis Halstead,
Melissa Lullo,
Jason Halstead,
Heather Halstead,
and Taylor
Halstead

Barry C. Scheck, Esq.
Deborah L. Cornwall, Esq.
Monica R. Shah, Esq.
Nick Joel Brustin, Esq.
Anna Benvenuto Hoffman, Esq.
Cochran, Neufeld & Scheck, Llp
99 Hudson Street, 8th Floor
New York, New York 10013

For Defendants:

Liora M. Ben-Sorek, Esq.
Sondra Meryl Toscano, Esq.
Office of the Nassau County Attorney
One West Street
Mineola, NY 11501

SEYBERT, District Judge:

Upon reviewing the circumstances of both of the above-captioned cases, the Court finds that consolidation of the cases is appropriate pursuant to Rule 42(a) of the Federal Rules of Civil Procedure. Both cases involve common questions of law and fact.

Plaintiffs John Kogut ("Kogut"), John Restivo

("Restivo"), and Dennis Halstead ("D. Halstead") allege inter alia, malicious prosecution, false arrest and imprisonment, and 14th Amendment due process violations by Defendants. All of these claims, along with those asserted by Melissa Lullo, Jason Halstead, Heather Halstead, and Taylor Halstead stem from Kogut's, Restivo's, and D. Halstead's wrongful convictions for the rape and murder of Theresa Fusco ("Fusco") in November 1984. Defendants are, inter alia, members of the investigative team who had primary responsibility for arresting, interrogating, and prosecuting Kogut, Restivo, and D. Halstead. All three were later exonerated by DNA evidence.

Pursuant to the Local Rules of this District, the cases shall be consolidated under the earliest filed case, Kogut v. County of Nassau, 06-CV-6695. The Clerk of the Court is directed to close the 06-CV-6720 action, and all papers are to be filed under the Kogut action, 06-CV-6695.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: Central Islip, New York
March 31, 2009