

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

JEFFERY EARLE LASSITER,)	
)	
Plaintiff,)	
v.)	CASE NO.: CV-0062-JD
)	
(1)CITY OF OKLAHOMA CITY, a political)	
Subdivision of the State of Oklahoma,)	
)	ATTORNEY LIEN CLAIMED
)	
)	
Defendant.)	

FIRST AMENDED COMPLAINT

Comes now, Jeffery Earle Lassiter, (hereinafter referred to as “Lassiter” or “Plaintiff”), a resident of Oklahoma County, by and through his attorneys, Kent Eldridge and Guinise Marshall Eldridge, and amends his Complaint against the named Defendant, seeking redress for violation of rights guaranteed to him by, but not limited to, the Fifth, Eighth and Fourteenth Amendments to the Constitution of the United States, 42 U.S.C. Section 1983, the Civil Rights Attorney’s Fee Awards Act of 1976, 42 U.S.C. Section 1988 and 28 U.S.C. Section 1343, and for his cause of action against Defendants alleges and states as follows:

PARTY PLAINTIFF

1. At all times mentioned, Plaintiff, Jeffrey Earle Lassiter was a resident of the City of Oklahoma City, County of Oklahoma, State of Oklahoma.

PARTIES DEFENDANT

2. The Defendant to the action are enumerated herein as follows: City of Oklahoma City was and still is a municipal corporation, organized and existing under and by virtue of the laws of the State of Oklahoma and a political subdivision of the State of Oklahoma, and may be

served with summons by serving the Municipal Clerk, or otherwise, pursuant to 11 O.S. § 22-103.

3. At all times hereafter mentioned, the defendant City of Oklahoma City, by and through the Oklahoma City Police Department, hired and employed Nathan Cross as a police officer for the City and all times condoned the acts and actions of the individual, or having recognized the acts of Cross was contrary to its policies and guidelines took no action.

JURISDICTION AND VENUE

4. Plaintiff invokes the jurisdiction of this Court pursuant to 28 U.S.C. Section 1331, as amended, specifically, 42 U.S.C. Section 1983, 42 U.S.C. and Section 1985. Venue is proper in the Western District of Oklahoma pursuant to 28 U.S. C. Section 1391 in that all actions arose in Oklahoma County, which is situated in the geographic boundaries of the United States District Court for the Western District of Oklahoma.

OPERATIVE FACT ALLEGATIONS

5. On August 9, 2021, Plaintiff was driving from Oklahoma City, Oklahoma to Dallas, Texas when he became overheated, dehydrated, and was ultimately diagnosed with kidney failure. Additionally, Plaintiff's car began to overheat, and he pulled into a convenience store on S.W. 89th Street in Oklahoma City. Just a few days prior, on August 5, 2021, Plaintiff was involved in a one car accident when he hit a puddle in the road, lost control and struck a utility pole. Plaintiff called the Oklahoma City Police Department, made a report. The reporting officer noted "I observed Unit1 front bumper broken in two pieces in front of his vehicle." After the August 5, 2021, accident, Plaintiff retrieved the broken pieces of his bumper, placed them in the back seat and drove the vehicle from the scene.

6. Returning to the events of August 9, 2021, by the time Plaintiff reached the convenience store on 89th Street, the dehydration had manifested itself as confusion and disorientation and as he entered the convenience store trying to get something cold to drink, he stumbled and knocked over a water display. Plaintiff tried to communicate his distress to the store employees, who then called the 911 emergency number to report that Plaintiff was destroying their property.

7. Sergeant Nathan Cross was the first to arrive at the scene. During Cross's initial encounter with Plaintiff, the body cam video footage shows Plaintiff walking toward Cross with his hands clearly visible. As Plaintiff approaches, and without provocation, Cross begins to attack Plaintiff, and as the attack begins, Cross disengages his body video camera. While the camera is off, Cross takes Plaintiff to the ground, takes his Plaintiff's left arm, holds it with one hand as if it were a piece of firewood, and takes his foot and stomps Plaintiff's left arm as if breaking a piece of firewood. Cross then delivers severe body blows to Plaintiff in his back and side.

8. The next officer to arrive on the scene is Sergeant Hall and the next encounter is documented by Hall. The body video camera footage documents Cross arriving, exiting his cruiser and approaching Cross, who has Plaintiff on his stomach, and Cross then handcuffs Plaintiff and pulls Plaintiff up with his right arm. From the Hall footage, it is clear that Plaintiff's left arm is broken as Plaintiff is laying on the ground and patently obvious when he is stood up by Cross, as it falls below the level of his right arm.

9. Hall transports Plaintiff to Integris Southwest Medical Center and his report states, "When we arrived at the hospital, AR said he thought his arm was broken, I removed the handcuffs and AR's arm immediately fell limp and it was apparent that AR's humerus bone

was broken.” Officer Hall also states, “Sgt Cross (1962) arrived to the scene before I did and make contact with AR Lassiter, at which point a use of force occurred. For more info on the use of force, See Sgt Cross’s report under this case number.” That use of force resulted in an acute fracture of the left distal hip and non-displaced fracture of the left radial head, tachycardia and acute renal failure. Clearly the force was excessive.

10. Cross’s report admits, “while utilizing a wrist lock and arm bar I heard a loud pop come from AR’s left arm.” Officer Alma Brewer was dispatched to Puckett’s to do an impound on the vehicle and notes that she was advised by Lt. Roush, that the vehicle was connected to several hit and runs.” Plaintiff had not in fact been involved in any hit and run, only the reported accident of August 5, 2021.

11. This misrepresentation of Lassiter being a suspect in hit and runs was intentionally published by the Approving Supervisor, Kelly Roush and contained in some form or another in the reports of the Hall and Brewer. All municipal charges resulting from the encounter were dismissed without prosecution.

MUNICIPAL POLICIES AND /OR CUSTOMS

12. Plaintiff incorporates Paragraphs 1 through 11 by reference.

13. There is an affirmative link between the afore described excessive force and deliberate indifference to a medial need and policies, practices and/ or customs which the City of Oklahoma City promulgated, created, or possessed responsibility.

14. On information and belief, the City of Oklahoma City/OCPD failed to adequately train/and or supervise its officers, with respect to , inter alia, the arrest of, and use of police force on citizens, who are subdued or are being subdued; the use of force continuum as it pertains to

citizens who are subdued or who are being subdued, the arrest of, and the use of police force on citizens who are in medical distress.

15. On information and belief, the City of Oklahoma City/OCPD failed to adequately train and supervise officers with respect to inter alia, treatment and observation of citizens with emergent medical needs.

16. These policies and customs were “closely related” to the underlying violations of Plaintiff’s constitutional rights.

17. The City of Oklahoma City knew, must have known, or should have known due to its obviously inadequate training and supervision, unconstitutional conduct towards arrestees/detainees by OCPD personnel was probable, but failed to take reasonable means to alleviate the risk of harm.

POLICE OPERATIONS MANUAL

18. Paragraphs 1 through 17 are incorporated by reference.

19. Under the Police Operations Manual of the City of Oklahoma City, when determining whether the use of force or the appropriate degree or type of force to apply, the following factors may apply,

Whether the person is a suspect of a crime;

The severity of the crime or problem at issue;

Whether the person is posing an imminent threat to the safety of officers or others;

Whether the person is actually resisting arrest or attempting to evade by flight and,

Any suspected medical or mental condition.

These factors are not exclusive, officers shall ultimately consider the totality of the circumstances. All force must be reasonably necessary both at its inception and in scope.

20. The City of Oklahoma City/OCPD knew, must have known, or should have known, due to its obviously adequate training and supervision, unconstitutional conduct towards arrestee/detainees by OCPD personnel was probable, but failed to take reasonable measures to alleviate the risk of harm.

CAUSES OF ACTION

CLAIM I:

USE OF EXCESSIVE FORCE

(Fourth and/or Fourteenth Amendment and 42 U.S.C. Section 1983)

21. Paragraphs 1 through 20 are incorporated herein by reference.

22. At the time of the complained of events, Plaintiff, as a free person, had a clearly established constitutional right under the Fourth and/or Fourteenth Amendment to be secure in his person and free from objectionably unreasonable seizure through excessive force to injure him and his bodily integrity.

23. Any reasonable officer knew or should have known of these rights at the time of the complained of conduct as they were clearly established at the time.

24. In the totality of circumstances, at the time the police force described herein was used by Defendant's officers, employees and/or agents, Plaintiff was: 1) unarmed; 2) not fleeing; 3) not resisting; 4) subdued; 5) in need of medical attention at time of initial contact and as a result of the officers excessive use of force; and 6) posed no threat to himself the Defendant's officers, employees, and/or agents, or anyone else.

25. Moreover, Defendant's officers, employees and/or agents knew that Plaintiff was particularly vulnerable as Sgt. Cross admitted that he heard a loud pop to Plaintiff's left arm as a result of the use of force.

26. The use of force by Defendant's officers, employees and/or agents under the circumstances described herein was excessive and objectively unreasonable.

27. Sgt. Cross applied objectionably unreasonable and excessive physical force on Plaintiff thereby causing him physical injury, mental pain, and anguish.

28. As a direct and proximate cause of Defendant's officers, employees, and/or agents unlawful conduct, Plaintiff suffered actual physical injuries, mental and physical pain and suffering, extreme emotional suffering and losses described herein entitling Plaintiff to recover compensatory and special damages in amounts to be determined at trial.

29. There is an affirmative link between the aforementioned excessive force and deliberate indifference to a medical need and policies, practices and/or customs which the City of Oklahoma City promulgated, created, implemented and /or had responsibility for.

30. On information and belief, the City of Oklahoma City/OCPD failed to adequately train and supervise its officers, and personnel, and employees, with respect to, inter alia, the arrest of, and use of police force on, citizens who are subdued; the use of force continuum as it pertains to citizens who are subdued; the arrest of and use of police force on, citizens who are in medical distress, and the use of force continuum as it pertains to citizens who are in medical distress.

CLAIM II:

DELIBERATE INDIFFERENCE TO A SERIOUS MEDICAL NEED

(Fourteenth Amendment, 42 USC Section 1983)

31. Paragraphs 1 through 30 are incorporated herein by reference.

32. The Fourteenth Amendment applies to an arrestee's claim of denial of medical care after his warrantless arrest and before he was taken to be booked into the county detention center. See *Rife v. Okla. Dep't of Pub. Safety*, 854 F3d. 637, 641, 647 (10th Cir. 2017).

33. To succeed in his Fourteenth Amendment claim, Plaintiff must show deliberate indifference to Mr. Lassiter's serious medical needs.

34. The Defendant's officers, employees, an/or agents were deliberately indifferent to Plaintiff's serious medical needs.

35. It was obvious and otherwise known to Defendant's officers, employees and/or agents that Plaintiff's suffered severe injury to his left arm and the dehydration and confusion was a clear indication that Plaintiff was in serious medical peril.

36. Still for a period of at least thirty minutes and likely more, the Defendant's officers, employees and/or agents completely disregarded the known and obvious risk to Plaintiff's health and safety.

37. Indeed, Sgt. Cross caused Plaintiff's injuries and hastened Plaintiff's pain, suffering and medical emergency by pinning him down with his full weight when Plaintiff was in obvious need of emergent medical attention.

38. This deliberate indifference to Plaintiff's serious medical needs proximately caused him significant injuries, including a worsening of his condition, unnecessary and extreme physical, mental pain and anguish.

39. There is an affirmative link between the aforementioned deliberate indifference and policies, practices and/or customs which the City of Oklahoma City promulgated, created, implemented and/or possessed responsibility for.

40. On information and belief, the City of Oklahoma City/OCPD failed to adequately train and supervise its officers, employees and/or agents, with respect to, inter alia, when to provide medical care to citizens in medical need, taking and understanding vital signs and injury lessening measures for citizens with emergent medical needs.

39. These policies and customs were “closely related” to the underlying violations of Plaintiff’s constitutional rights.

40. The City of Oklahoma City/OCPD knew, must have known or should have known that due to its obviously inadequate supervision and/or training, unconstitutional conduct toward arrestees/detainees by OCPD personnel was probable, but the City of Oklahoma City/OCPD failed to take reasonable measures to alleviate the risks of harm.

PRAYER FOR RELIEF

Wherefore premises considered, Lassiter prays for judgment against the defendant, as follows:

That the Defendant be ordered to make Plaintiff whole by providing all of the remedies and relief authorized by 42 U.S.C. Section 1983;

That the Defendant be ordered to make Plaintiff whole by providing all of the remedies and relief authorized by 42 U.S.C. Section 1985;

That the Defendant be ordered to pay Plaintiff actual, special, medical and compensatory damages pursuant to 42 U.S. C. Section 1983 in an amount to be determined by the jury at the time of trial and in excess of Seventy-five-Thousand Dollars (\$75,000.00);

That Defendant be ordered to pay Plaintiff’s costs including expert witness fees and a reasonable attorney fee pursuant to 42 U.S.C. Section 1988;

Injunctive relief that requires that Defendant obtain adequate training and supervision by way of a consent order.

For such other and further make whole relief as the Court deems just and proper.

**JURY TRIAL DEMANDED
ATTORNEY LIEN CLAIMED**

Respectfully submitted,

/s/Guinise Marshall Eldridge
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CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of February 2024, I filed the attached document with the Clerk of the Court via electronic transmission via through CM/ECF and to the following registrants:

Richard Mann
Assistant Municipal Counselor
200 N. Walker Avenue, 4th Floor
Oklahoma City, Oklahoma 73102

/s/GUINISE MARSHALL ELDRIDGE
Guinise Marshall Eldridge