

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA

FILED
JUL 21 2009
WILLIAM B. GUTHRIE
Clerk, U.S. District Court
By Deputy Clerk

MAURICE WHITE, Jr.,
Plaintiff,

v.

DANIEL MARTIN, individually,
while acting under color of law
on behalf of the STATE OF
OKLAHOMA;
Defendant.

Case No. CIV 09 - 287 - KEW
Jury Trial Demanded

COMPLAINT FOR DAMAGES

(Violation of Civil Rights)

PRELIMINARY STATEMENT

THIS ACTION is brought by Mr. White for damages inflicted by Oklahoma State Highway Patrol Trooper, Daniel Martin. At all times material herein Trooper Martin was acting under color of law and in his capacity as a state employee; however, Martin is being sued in his individual capacity and, as of yet, the State of Oklahoma is not being sued. The Plaintiff has filed a claim pursuant to the Governmental Tort Claims Act ("GTCA") and he reserves the right to amend this claim. See Okla. Stat. tit. 51 §§ 151-170.

JURISDICTION

1. Jurisdiction is conferred by 28 U.S.C. § 1343, which provides for original jurisdiction of this Court in suits authorized by 42 U.S.C. § 1983, to redress the deprivation under color of state law, statute ordinance, regulation, custom or usage of any right, privilege or immunity secured by the Constitution of the United States

or by any act of Congress providing for equal rights of citizens or all persons within the jurisdiction of the United States;

2. Plaintiff may further invoke the supplemental jurisdiction of this court to hear and decide claims arising under state law, if and when his action under the GTCA ripens. See 28 U.S.C.A. § 1367;

3. Plaintiff's action for damages is authorized by:

(a) The fourth amendment to the Constitution of the United States;

(b) There may be other causes of action, either under federal or state law, which are unknown to the Plaintiff at this time but may be ascertained by discovery and asserted at a later time; and

(c) Plaintiff's application for attorney fees herein is authorized by 42 U.S.C. § 1988, which provides that a Court may award a reasonable attorney fee as part of costs in any action or proceeding to enforce a provision of 42 U.S.C. § 1983.

THE PARTIES

4. Plaintiff Maurice White, Jr. is a resident of Eastern Oklahoma. At the time of these events he was a federal employee acting in performance of his duties;

5. Daniel Martin is a sworn and commissioned law enforcement officer of the State of Oklahoma. He resides in Eastern Oklahoma. At the time of these events he was an Oklahoma Highway Patrol Trooper, No. 606, who was on duty, in full uniform, operating his assigned vehicle and acting on behalf of the State of Oklahoma;
6. At all times material to this Complaint, the Defendant was acting under color of law and within the confines of the Eastern District of the United States Court.

FACTUAL BACKGROUND

7. On May 24, 2009, Mr. White was working as an emergency medical technician as a federal employee for an ambulance service;
8. Mr. White and his partner, Paul Franks, responded to a medical emergency involving an elderly woman with chest pains who had lost consciousness. The patient was recovered in Boley, Oklahoma. The patient was in the ambulance which was in route to the hospital;
9. Mr. Franks was driving and Mr. White, who was in charge of the ambulance, was tending to the patient;
10. The ambulance was not running its lights and siren because it may have created additional stress and anxiety on the patient; however, this was a medical emergency and the patient was at risk until she was thoroughly examined at the hospital;

11. Trooper Martin was speeding in the same direction as the ambulance on Highway 62 in Okfuskee County, Oklahoma. Martin claimed he had an emergency which required him to run both his emergency lights and siren; however, Martin took no action when he arrived at his destination, he did not even exit his vehicle at his destination, and he only remained at his destination for less than a minute;
12. The only action taken by Martin at his destination, which was supposedly a crime scene, was that Martin took a female passenger onboard his official vehicle;
13. Before reaching his destination for a supposed crime, Martin sped up to the rear of the ambulance that was transporting the ill patient;
14. A car in front of the ambulance was pulling to the shoulder of the road, preventing the ambulance from being able to immediately pull over without risking harm to all concerned;
15. After Martin passed the ambulance, he became frustrated, got on his radio, and chastised the ambulance driver, Mr. Franks, for not pulling over quickly enough to suit Martin;
16. Martin proceeded to his destination where he did nothing other than pick up a female passenger. Martin then immediately returned to Highway 62 with his lights on, ran a stop sign while accessing the highway, and pulled over the ambulance, which was still transporting the patient, to the side of the road;

17. Martin was out-of-control at the scene. He swore at both Mr. White and Mr. Franks and threatened to arrest them both;
18. Mr. White explained to Martin that there was a patient onboard that needed to go to the hospital and that Martin could arrest them at the hospital after the patient was delivered;
19. Martin was undeterred in spite of being informed that the patient needed to go to the hospital;
20. Martin complained that Mr. Franks had made a gesture at him which Martin claimed offended him;
21. Mr. Franks denied making such a gesture; nevertheless, Martin insisted that the ambulance be delayed while Mr. Franks was detained in the trooper's vehicle with the trooper's female passenger;
22. Mr. White instructed the ambulance driver not to leave the ambulance because of the patient;
23. Enraged, Martin seized Mr. White and attempted to handcuff him;
24. Mr. White protested several times that there was a patient and Martin could arrest them at the hospital;
25. Martin laid hands on Mr. White without justifiable cause;

26. Martin then took Mr. Franks to the front of the ambulance and asked about the perceived gesture which had offended Martin while Mr. White returned to the back of the ambulance to tend to his patient;
27. Mr. Franks denied he made any inappropriate gesture;
28. Unsatisfied, Martin returned to the side of the ambulance and beat on it while stating he was going to arrest Mr. White;
29. When Mr. White came out of the ambulance Martin again laid hands on Mr. White as if to arrest him;
30. Martin had no right or reason to arrest Mr. White who was discharging his fiduciary obligation to his patient, who had committed no crime and who had offered to submit to arrest at the hospital;
31. Martin started to choke Mr. White by throttling him by the neck with his hand;
32. Another trooper restrained Martin and the ambulance was allowed to leave and deliver the patient to the hospital;
33. Martin arrested no one at the hospital and no one in the ambulance ever arrested;
34. Martin admitted to people at the hospital that he behaved inappropriately;
35. Thereafter, Martin submitted a false and misleading report on this matter which was released to the media;
36. Martin, through his lawyer, held a press conference in which his lawyer made false and misleading claims about Mr. White and held Mr. White in a false light;

37. The Oklahoma Highway Patrol has yet to take any adverse action against Martin although this matter has been pending for nearly two (2) months;
38. While reserving his right to amend and submit supplemental state claims, at present Mr. White is alleging a constitutional claim pursuant to the fourth amendment; to wit:
 - A. Mr. White re-alleges all of the foregoing and further states and alleges:
 - B. Martin seized Mr. White without cause and contrary to the law;
 - C. Martin used unreasonable force in his seizing of Mr. White;
 - D. That as a result of Martin's actions, Mr. White suffered pain and suffering, and diminution of his standing in his chosen vocation;
 - E. The Defendants' actions were deliberate, reckless, wanton and/or cruel which justifies the award of punitive damages.

PRAYER FOR RELIEF

WHEREFORE, premises considered, Plaintiff requests the following relief:

1. **THAT** this Court assumes jurisdiction of this cause to determine this controversy and this case for hearing on the merits;
2. **THAT** this Court award compensatory damages in excess of ten thousand dollars \$10,000.00;
3. **THAT** this Court award punitive damages to the Plaintiff, and against the Defendant excess of ten thousand dollars \$10,000.00;

4. **THAT** this Court, pursuant to 42 U.S.C. § 1988, allow the Plaintiff costs and attorney fees herein, and also grant such alternative relief as may seem to the Court as just, proper and equitable, and;
8. **THAT** a jury trial, pursuant to the seventh amendment to the Constitution of the United States is herewith demanded as to all claims for damages.

Respectfully submitted,

Original Signed By:

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