

Entered -9-28-00 - sb
CL 00L0590 - GWENDOLYN BURNS

00-*R*-1762

CLAIM OF: **GERALD B. MORGAN**
through his attorney,
Robert Kenner, Jr.
Attorney at Law
P.O. Box 762
Lithonia, Georgia 30058

For damages alleged to have been sustained as a result of a false arrest and imprisonment incident on June 16, 2000 at 723 Kennedy Street, NW.

THIS ADVERSED REPORT IS
APPROVED

BY: *R. Newell*
ROSALIND RUBENS NEWELL
DEPUTY CITY ATTORNEY

CONSENT AGENDA

ADVERSE REPORT

Public Safety

10/31/00

v-c C. C. Johnson

Donny Sharp

Michael R. ...

James ...

Sherry ...

ADVERSED BY
CITY COUNCIL NOV 06 2000

CERTIFIED
NOV 6 2000
ATLANTA CITY COUNCIL PRESIDENT
Robert ...

CERTIFIED
NOV 06 2000
Ronda Douglas Johnson
MUNICIPAL CLERK



OFFICE OF MUNICIPAL CLERK

RHONDA DAUPHIN JOHNSON, CMC
MUNICIPAL CLERK

November 15, 2000

55 TRINITY AVENUE, S.W.
SECOND FLOOR, EAST
SUITE 2700
ATLANTA, GEORGIA 30335
(404) 330-6033
FAX (404) 658-6103

Robert Kenner, Jr.
Attorney at Law
P.O. Box 762
Lithonia, GA 30058

00-R-1762

RE: Gerald B. Morgan

Dear Attorney Kenner:

I sincerely regret that your client has been adversely affected by the circumstances raised in his/her claim for damages against the City of Atlanta. Your time and patience in this matter has been greatly appreciated.

However, I must notify you that the Atlanta City Council Adopted an Adverse Report on your client's claim at its regular meeting on January 03, 2000. In consultation with the City's Law Department, who conducted an investigation of the situation, the Council has determined that the City cannot accept responsibility for this matter and therefore cannot pay this claim.

If you desire any further information, please contact the **City Attorney's Office/Claims Division** at (404) 330-6400.

Yours very truly,

Rhonda Dauphin Johnson, CMC
Municipal Clerk

cc: **Claims Division/Law Department**

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 00L0590

Date: October 20, 2000

Claimant /Victim GERALD B. MORGAN
BY: (Atty) (Ins. Co.) Robert Kenner, Jr., Attorney at Law
Address: P.O. Box 762, Lithonia, Georgia 30058-0762
Subrogation: Claim for Property damage \$ Bodily Injury \$ unspecified
Date of Notice: 9/25/00 Method: Written, Proper X Improper
Conforms to Notice: O.C.G.A. §36-33-5 Ante Litem (6 Mo.)
Date of Occurrence 6/16/00 Place: 723 Kennedy Street, NW
Department POLICE Division
Employee involved M. B. Bizell, A. Jewell Disciplinary Action:

NATURE OF CLAIM: Claimant alleges that he sustained damages when he was maliciously prosecuted, falsely accused, arrested and imprisoned by Officers Bizell and Jewell. However, a municipal corporation shall not be liable for the torts of policemen or other officers engaged in the discharge of the duties imposed on them by law as set forth in O.C.G.A. Section 36-33-3.

INVESTIGATION:

Statements: City employee Claimant Others Written Oral
Pictures Diagrams Reports: Police Dept Report Other X
Traffic citations issued: City Driver Claimant Driver
Citation disposition: City Driver Claimant Driver

BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial
Improper Notice More than Six Months Other X Damages reasonable
City not involved Offer rejected Compromise settlement
Repair/replacement by Ins. Co. Repair/replacement by City Forces
Claimant Negligent City Negligent Joint Claim Abandoned

Respectfully submitted,

[Signature]
INVESTIGATOR - GWENDOLYN BURNS

RECOMMENDATION:

Pay \$ Adverse X Account charged: 1A01 2J01 2H01
Claims Manager: [Signature] Concur/date 10/20/00
Committee Action: Council Action

LAW OFFICES OF
ROBERT KENNER, JR.

BURNS
09/25/00
GW

Entertainment Law:
Movies, Music, Literary Publishing
Contract Negotiations
Criminal Law
Personal Injury

6835 Main Street
P.O. Box 762
Lithonia, Georgia 30058-0762
Phone: (678) 526-8888
Fax: (678) 526-8889

September 20, 2000

ENTERED - 9-28-00 - SB
00L0590 - GWEN BURNS

VIA CERTIFIED MAIL # Z 399 495 825

Susan Pease Langford, Esq.
Atlanta City Attorney
68 Mitchell Street, SW, Suite 4100
Atlanta, Georgia 30335

RE: Notice of Claim against the City of Atlanta Police Department
Date of Arrest : June 16, 2000
Claimants/Our Clients: Gerald B. Morgan and Leroy Palmer

Dear Ms. Langford:

This letter shall serve as Gerald B. Morgan and Leroy Palmer's written notice to the City of Atlanta Police Department (Atlanta) pursuant to O.C.G.A. § 36-33-5 that they are asserting a claim against it for violation of their rights under State and Federal law.

On June 16, 2000, between the hours of 11:15 a.m. and 12:15p.m., Mr. Morgan and Mr. Palmer were standing behind a rooming house, which is located at 723 Kennedy Street, Atlanta, Georgia. Mr. Morgan owns a black 1987 Chevrolet Capri, which was parked in back of the rooming house. One of the residences of the property gave Mr. Morgan permission to park his car at the house. Mr. Morgan parked his car at the house because the car would be safe and off the street.

While Mr. Morgan and Mr. Palmer were standing near the car, Officer M. B. Bizell approached them. Officer Bizell asked Mr. Morgan and Mr. Palmer where they lived. Mr. Morgan told the officer he lived in the apartment complex, across the street and Mr. Palmer was visiting him. The officer asked why they were standing there and Mr. Morgan explained they were getting something out of his car. The officer asked Mr. Morgan if he had permission from the owner of the property to park his car there and Mr. Morgan said he did. The officer stated that he (the officer) knew the owner of the property and he did not believe that the owner gave Mr. Morgan such permission. Officer Bizell then asked Mr. Morgan and Mr. Palmer for their names, which they complied. After receiving their names, the officer drove away. Moments later, Officer Bizell returned. Officer A. Jewell and Sergeant J.W. Cooper accompanied him. Officers Bizell and Jewell got out of their police car with their weapons drawn and pointing at Mr.

Morgan and Mr. Palmer. The officers used expletives and demanded Mr. Morgan and Mr. Palmer raise their hands, which they did.

Officer Bizell placed Mr. Morgan against his (Mr. Morgan) car and proceeded to search him. Officer Jewell approached Mr. Palmer and slammed him against the car, kicked and elbowed him, and forced him to the ground on his knees. Mr. Morgan asked Officer Bizell what was going on and he (Officer Bizell) told Mr. Morgan to shut up and placed Mr. Palmer and him in a patrol car. Officer Bizell accused Mr. Morgan and Mr. Palmer of being drug dealers and standing in a drug zone. Mr. Morgan and Mr. Palmer told the officer they were not drug dealers and they had permission to be where they were.

Mr. Morgan summoned the owner of the property, John McNeil, to come over to speak with the officers. Mr. McNeil was also accused by Sgt. J. W. Cooper of being a drug dealer. When Mr. McNeil attempted to explain to the officer about the car being on his property, he was assaulted by one of the officers and told if he did not press charges against Mr. Morgan and Mr. Palmer, he (Mr. McNeil) would be arrested. Mr. McNeil was also told that if he did not appear in court regarding this incident, he would be arrested.

Mr. Morgan and Mr. Palmer were cited and arrested for criminal trespass. Mr. Morgan and Mr. Palmer remained in jail for two days before they made bond. The charges against them were subsequently dismissed at the preliminary hearing.

Mr. Morgan, Mr. Palmer, Mr. McNeil, and Marc A. Starks filed a complaint with the Atlanta Police Department Internal Affairs. The status of the complaints is unknown at the current time.

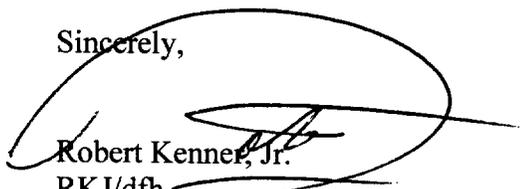
Mr. Morgan and Mr. Palmer were maliciously prosecuted, falsely accused, arrested, and imprisoned. As a result of the actions by the officers, Mr. Morgan and Mr. Palmer have suffered economic loss as well as emotional stress.

Mr. Morgan and Mr. Palmer are entitled to recover for general, specific and punitive damages. The amount claimed is not less than \$10,000.00 each.

Mr. Morgan and Mr. Palmer specifically reserve the right to amend this notice, pursue other theories of liability as more details become available through their investigation or through the litigation of this matter should it becomes necessary.

Please direct all future correspondence to this office and contact me if you have any questions.

Sincerely,



Robert Kenner, Jr.
RKJ/dfh

00-R -1762

c: Gerald Morgan
Leroy Palmer

RCS# 2356
11/06/00
2:45 PM

Atlanta City Council

Regular Session

CONSENT

Pages 1-17

ADOPT

YEAS: 14
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 0
ABSENT 1

SEE ATTACHED LISTING OF
ITEMS ADOPTED/ADVERSED
ON CONSENT AGENDA

Y McCarty
B Starnes
Y Bond
Y Winslow

Y Dorsey
Y Woolard
Y Morris
Y Muller

Y Moore
Y Martin
Y Maddox
Y Boazman

Y Thomas
Y Emmons
Y Alexander
NV Pitts

ITEM (S) REMOVED FROM
CONSENT AGENDA
00-R-1422
00-R-1666

CONSENT

		11/06/00 Council Meeting
ITEMS ADOPTED ON CONSENT AGENDA	ITEMS ADVERSED ON CONSENT AGENDA	ITEMS ADVERSED ON CONSENT AGENDA
1. 00-O-1577	30. 00-R-1716	59. 00-R-1753
2. 00-O-1586	31. 00-R-1724	60. 00-R-1754
3. 00-O-1615	32. 00-R-1725	61. 00-R-1755
4. 00-O-1661	33. 00-R-1727	62. 00-R-1756
5. 00-O-1663	34. 00-R-1728	63. 00-R-1757
6. 00-O-1670	35. 00-R-1729	64. 00-R-1758
7. 00-R-1578	36. 00-R-1730	65. 00-R-1759
8. 00-R-1685	37. 00-R-1731	66. 00-R-1760
9. 00-R-1780	38. 00-R-1732	67. 00-R-1761
10. 00-R-1659	39. 00-R-1733	68. 00-R-1762
11. 00-R-1688	40. 00-R-1734	69. 00-R-1763
12. 00-R-1689	41. 00-R-1735	70. 00-R-1764
13. 00-R-1704	42. 00-R-1736	71. 00-R-1765
14. 00-R-1722	43. 00-R-1737	72. 00-R-1766
15. 00-R-1723	44. 00-R-1738	73. 00-R-1767
16. 00-R-1708	45. 00-R-1739	74. 00-R-1768
17. 00-R-1774	46. 00-R-1740	75. 00-R-1769
18. 00-R-1709	47. 00-R-1741	76. 00-R-1770
19. 00-R-1710	48. 00-R-1742	77. 00-R-1771
20. 00-R-1711	49. 00-R-1743	78. 00-R-1772
21. 00-R-1712	50. 00-R-1744	79. 00-R-1773
22. 00-R-1713	51. 00-R-1745	
23. 00-R-1714	52. 00-R-1746	
24. 00-R-1715	53. 00-R-1747	
25. 00-R-1717	54. 00-R-1748	
26. 00-R-1718	55. 00-R-1749	
27. 00-R-1719	56. 00-R-1750	
28. 00-R-1720	57. 00-R-1751	
29. 00-R-1721	58. 00-R-1752	