

Entered 05-08-02 - sb
CL 02L0330 - GWENDOLYN BURNS

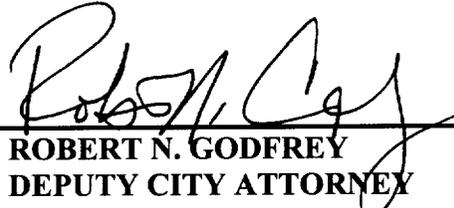
02- R-0990

CLAIM OF: KELVIN GILYARD
1247 Simpson Road, Apt. 36
Atlanta, Georgia 30314

For bodily injuries sustained from an excessive use
of force incident by police on August 20, 2001 at
1247 Simpson Road, NW.

THIS ADVERSED REPORT IS
APPROVED

BY:



ROBERT N. GODFREY
DEPUTY CITY ATTORNEY

CERTIFIED
JUN 17 2002
Ed. B. ...
MUNICIPAL CLERK

CERTIFIED
JUN 17 2002
ATLANTA CITY COUNCIL PRESIDENT
Carole W. ...

ADVERSE REPORT

COMM: *Public Safety*

DATE: *10/16/02*

CHAIR: _____

ATLANTA CITY COUNCIL JUN 17 2002



OFFICE OF MUNICIPAL CLERK

RHONDA DAUPHIN JOHNSON, CMC
MUNICIPAL CLERK

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

June 26, 2002

Kelvin Gilyard
1247 Simpson Rd.
Atlanta, GA 30314

02-R-0990

Dear Mr. Gilyard:

I sincerely regret that you have been adversely affected by the circumstances raised in your 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 claim at its regular meeting on June 17, 2002. 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.

Sincerely,

Rhonda Dauphin Johnson, CMC
Municipal Clerk

cc: Claims Division/Law Department

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 02L0330

Date: May 24, 2002

Claimant /Victim KELVIN GILYARD
BY: (Atty) (Ins. Co.) _____
Address: 1247 Simpson Road, NW, Apt. 36, Atlanta, Georgia 30314
Subrogation: Claim for damage \$ _____ Bodily Injury \$ unspecified
Date of Notice: 4/29/02 Method: Written, Proper _____ Improper X
Conforms to Notice: O.C.G.A. §36-33-5 _____ Ante Litem (6 Mo.) _____
Date of Occurrence 8/20/01 Place: 1247 Simpson Road, NW
Department POLICE Division _____
Employee involved _____ Disciplinary Action: _____

NATURE OF CLAIM: Claimant alleges that he sustained injuries when he was assaulted and battered by a police officer that used excessive and unauthorized force while questioning him about another perpetrator. 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. More importantly, the claimant failed to comply with the requirements of notice as the six month statute of limitations expired prior to the claimant filing his claim with the City.

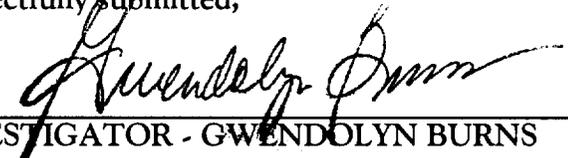
INVESTIGATION:

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

BASIS OF RECOMMENDATION:

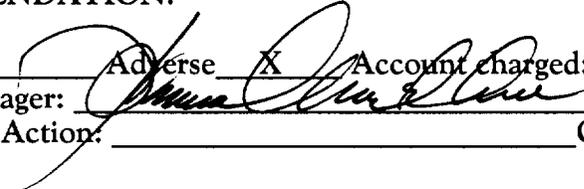
Function: Governmental X Ministerial _____
Improper Notice _____ More than Six Months X Other X Damages reasonable _____
City not involved _____ Offer rejected _____ Compromise settlement _____
Repair/replacement by Ins. Co. _____ Repair/replacement by City Forces _____
Claimant Negligent _____ City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

Respectfully submitted,



INVESTIGATOR - GWENDOLYN BURNS

RECOMMENDATION:

Pay \$ _____ Adverse X Account charged: 1A01 _____ 2J01 _____ 2P01 _____ 2H01 _____
Claims Manager:  Concur/date 05-29-02
Committee Action: _____ Council Action _____

06/17/02 Council Meeting

**ITEMS ADOPTED ON
CONSENT AGENDA**

1. 02-O-0973
2. 02-O-1036
3. 02-O-0908
4. 02-O-0909
5. 02-O-0956
6. 02-O-1029
7. 02-O-1043
8. 02-R-1000
9. 02-R-1001
10. 02-R-1002
11. 02-R-1003
12. 02-R-1016
13. 02-R-1033
14. 02-R-0676
15. 02-R-1018
16. 02-R-1019
17. 02-R-1069
18. 02-R-1070
19. 02-R-1030
20. 02-R-0978
21. 02-R-0979
22. 02-R-0980
23. 02-R-0981
24. 02-R-0982
25. 02-R-0983
26. 02-R-0984
27. 02-R-0985
28. 02-R-0986

**ITEMS ADVERSED ON
CONSENT AGENDA**

29. 02-R-0987
30. 02-R-0988
31. 02-R-0989
32. 02-R-0990
33. 02-R-0991
34. 02-R-0992
35. 02-R-0993
36. 02-R-0994
37. 02-R-0995
38. 02-R-0996
39. 02-R-0997
40. 02-R-0998
41. 02-R-0999