

A RESOLUTION BY THE PUBLIC SAFETY AND LEGAL ADMINISTRATION
COMMITTEE

02-*R*-1350

A RESOLUTION AUTHORIZING SETTLEMENT OF ALL CLAIMS OF JIMMY McCLARIN AGAINST THE CITY OF ATLANTA AND W. A. TERRELL IN THE CASE OF JIMMY McCLARIN V. CITY OF ATLANTA AND W.A. TERRELL, CASE NUMBER 2002-CV-52281, IN THE SUPERIOR COURT OF FULTON COUNTY; TO CAUSE PAYMENT TO BE MADE IN THE AMOUNT OF FIFTY THOUSAND DOLLARS (\$50,000.00); AND FOR OTHER PURPOSES.

WHEREAS, on April 22, 2002, the Plaintiff initiated the case of Jimmy McClarin v. City of Atlanta and W. A. Terrell, alleging that these defendants are liable for personal injury; and

WHEREAS, the Plaintiff's lawsuit stems from a vehicle accident which occurred on November 30, 2000, involving Defendant William A. Terrell, who was on duty as an Atlanta police officer assigned to the Zone 2 Auto Theft Task Force when he struck a pedestrian, Jimmy McClarin; and

WHEREAS, at almost 6:00 p.m. on that date, Officer Terrell pursued Brad Boddie, the driver of a stolen vehicle, who was fleeing westbound on Bankhead Highway at a high rate of speed; and

WHEREAS, near the intersection of Marietta Street and Bankhead Highway, Mr. Boddie lost control of the stolen vehicle, a Toyota Corolla, which sideswiped a third vehicle, went across a cement traffic island at the intersection of the driveway to the Bankhead MARTA station, and tumbled out of control across an open field, knocking down a wooden sign and a chain link fence; and

WHEREAS, while the stolen vehicle came to a rest under the MARTA bridge, it struck a pedestrian, Jimmy McClarin, who was on his way to the MARTA station, and knocked him down; and



WHEREAS, after Mr. McClarin got to his feet, the patrol car driven by Officer Terrell struck him as the officer drove his vehicle up on the sidewalk near the MARTA station; and

WHEREAS, Officer Terrell drove his patrol car up on the sidewalk to cut off an escape route for the occupants of the Corolla and to render aid to them, if needed; and

WHEREAS, Mr. McClarin, as well as the occupants of the Corolla, was transported to Grady Hospital for treatment of injuries sustained in the accident; and

WHEREAS, Mr. McClarin was diagnosed with a comminuted proximal tibia fracture with extension to the knee, a comminuted proximal fibular fracture and a left shoulder dislocation; and

WHEREAS, Mr. McClarin's surgery involved the permanent placement of multiple screws, plates and other hardware in his leg, and he now is able to walk only with a cane; and

WHEREAS, at the time of the accident, Mr. McClarin worked for Advance Drum Service, Inc., as a laborer, and he has a claim for lost wages in the amount of \$20,700.90; and

WHEREAS, Mr. McClarin's medical expenses total \$26,625.73 to date; and

WHEREAS, counsel for the parties have tentatively agreed to settle all claims in this matter for \$50,000.00, including attorney's fees, contingent upon the approval of the Atlanta City Council and the Mayor; and

WHEREAS, by this settlement, Defendants admit no liability; and

WHEREAS, the offer of settlement acceptable to the Plaintiff is, in the opinion of the Interim City Attorney, appropriate to settle all claims against the City arising out of the case of Jimmy McClarin v. City of Atlanta, et al.



THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY RESOLVES that the City Attorney be and is hereby authorized to conclude settlement of all claims against the City of Atlanta and Officer W.A. Terrell arising out of the lawsuit filed by the Plaintiff in the Superior Court of Fulton County, as set forth in Civil Action Number 2002-CV-52281.

THE CITY COUNCIL FURTHER RESOLVES that the Chief Financial Officer is authorized to pay the total of Fifty Thousand Dollars (\$50,000.00) at the direction of the City Attorney from the account of 1A01 529017 T31001. Payment shall be in the form of a check in the amount of \$50,000.00, payable to Jimmy McClarin and Steven G. Eichel, Esq. Such payment will be in full consideration of the dismissal of all claims against all defendants.

A true copy,

Rhonda Daughin Johnson
Municipal Clerk, CMC

ADOPTED by the Council
APPROVED by the Mayor

AUG 19, 2002
AUG 26, 2002

RCS# 3910
8/19/02
1:57 PM

Atlanta City Council

Regular Session

CONSENT I

Pgs: 1-12; Except 02-O-1290; 02-O-1213
02-R-1345; 02-O-1272
ADOPT

YEAS: 13
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 1

ATTACHED LISTING OF ITEMS
ADOPTED/ADVERSED ON
CONSENT AGENDA

| | | | |
|-----------|-------------|-----------|------------|
| Y Smith | Y Archibong | Y Moore | Y Mitchell |
| Y Starnes | NV Fauver | B Martin | Y Norwood |
| Y Young | Y Shook | Y Maddox | Y Willis |
| Y Winslow | Y Muller | Y Boazman | NV Woolard |

CONSENT I

08/19/02 Council Meeting

**ITEMS ADOPTED ON CONSENT
AGENDA**

1. 02-O-1181
2. 02-O-1221
3. 02-O-1222
4. 02-O-1282
5. 02-O-1300
6. 02-O-1245
7. 02-O-1293
8. 02-O-1294
9. 02-O-1223
10. 02-O-1220
11. 02-O-1289
12. 02-O-1291
13. 02-O-1273
14. 02-O-1224
15. 02-O-1232
16. 02-O-1233
17. 02-O-1287
18. 02-R-1362
19. 02-R-1283
20. 02-R-1288
21. 02-R-1334
22. 02-R-1279
23. 02-R-1331
24. 02-R-1332
25. 02-R-1333
26. 02-R-1338
27. 02-R-1349
28. 02-R-1350
29. 02-R-1348
30. 02-R-1303
31. 02-R-1304
32. 02-R-1305
33. 02-R-1306

**ITEMS ADVERSED
ON CONSENT AGENDA**

34. 02-R-1307
35. 02-R-1308
36. 02-R-1309
37. 02-R-1310
38. 02-R-1311
39. 02-R-1312
40. 02-R-1313
41. 02-R-1314
42. 02-R-1315
43. 02-R-1316
44. 02-R-1317
45. 02-R-1318
46. 02-R-1319
47. 02-R-1320
48. 02-R-1321
49. 02-R-1322
50. 02-R-1323
51. 02-R-1324
52. 02-R-1325
53. 02-R-1326
54. 02-R-1327
55. 02-R-1328
56. 02-R-1329
57. 02-R-1330

1st Consent I Vote: 13Yeas; 0 Nays (See RCS #3910)
Items Removed from Consent: 02-O-1290; 02-O-1213; 02-R-1345; 02-O-1272

(Do Not Write Over This Line) **1350**

A RESOLUTION

BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING SETTLEMENT OF ALL CLAIMS OF JIMMY McCLARIN AGAINST THE CITY OF ATLANTA AND W. A. TERRELL, IN THE CASE OF JIMMY McCLARIN vs. CITY OF ATLANTA AND W. A. TERRELL, CASE NUMBER 2002-CV-52281, IN THE SUPERIOR COURT OF FULTON COUNTY; TO CAUSE PAYMENT TO BE MADE IN THE AMOUNT OF FIFTY THOUSAND DOLLARS (\$50,000.00); AND FOR OTHER PURPOSES.

Rosalind Rubens Newell
ROSALIND RUBENS NEWELL
INTERIM CITY ATTORNEY

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred

Referred To:

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee _____
Date _____
Chair *Vic Chan*
Referred To *C. T. Fitts*

Committee *PSL*
Date *7/31/02*
Chair *Vic Chan*
Action *Adopt*
Fav, Adv, Hold (see rev. side) _____
Other _____
Members *Michael Acosta*
Paula D. Sullivan

Refer To _____

Committee _____
Date _____
Chair _____
Action _____
Fav, Adv, Hold (see rev. side) _____
Other _____
Members _____

ADOPTED BY

AUG 19 2002

COUNCIL
Refer To _____

Committee _____
Date _____
Chair _____
Action _____
Fav, Adv, Hold (see rev. side) _____
Other _____
Members _____

Refer To _____

Committee _____
Date _____
Chair _____
Action _____
Fav, Adv, Hold (see rev. side) _____
Other _____
Members _____

Refer To _____

FINAL COUNCIL ACTION
 2nd
 1st & 2nd Readings
 Consent
 V Vote
 RC Vote
 3rd

CERTIFIED

CERTIFIED
AUG 19 2002

ATLANTA CITY COUNCIL PRESIDENT

Catherine W. Woolard

CERTIFIED
AUG 19 2002

Rachel Douglas Johnson
MUNICIPAL CLERK

MAYOR'S ACTION

Andy Yarbrough
AUG 26 2002
MAYOR