

Entered 12-5-02 sb
CL 02L0887 GWENDOLYN BURNS

04-R -1528

CLAIM OF: JASON SMITH

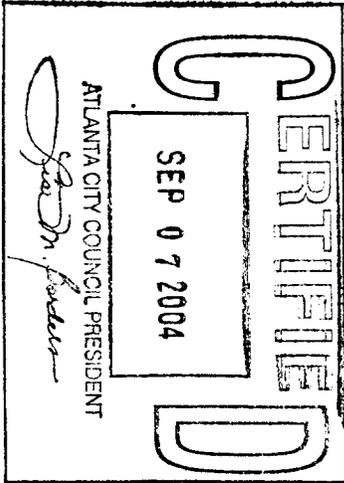
through his attorney

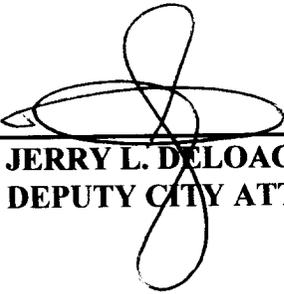
Jo Ann Fields, Esq.

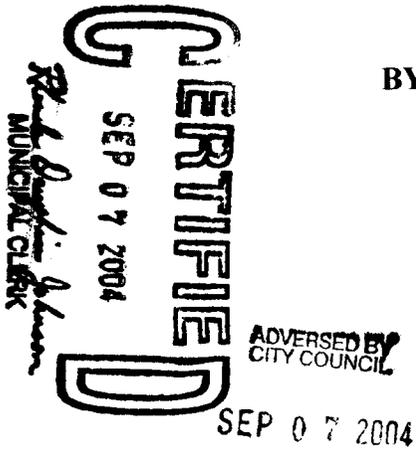
1745 Martin Luther King, Jr. Drive, SW
Atlanta, Georgia 30314

For bodily injuries allegedly sustained when deadly force was used during an apprehension an arrest on July 14, 2002 at 3215 Peachtree Road, NE.

THIS ADVERSED REPORT IS APPROVED



BY: 
JERRY L. DELOACH
DEPUTY CITY ATTORNEY



ADVERSE REPORT

PUBLIC SAFETY &
LEGAL ADMINISTRATION COMMITTEE

DATE: 8/31/04

CHAIR: [Signature]

James M. Shepard

David Wood

C. F. [Signature]

[Signature]

Carla [Signature]

[Signature]

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 02L0887

Date: August 17, 2004

Claimant /Victim JASON SMITH
BY: (Atty) (Ins. Co.) Jo Ann Fields, Attorney at Law
Address: 1745 Martin Luther King, Jr. Drive, Atlanta, Georgia 30314
Subrogation: Claim for Property damage \$ Bodily Injury \$ 500,000.00
Date of Notice: 12/3/02 Method: Written, Proper X Improper X
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X
Date of Occurrence 7/14/02 Place: 3215 Peachtree Road, NE
Department POLICE Bureau:
Employee involved Disciplinary Action:

NATURE OF CLAIM: Claimant alleges that he sustained bodily injuries when deadly force was used by Atlanta Police during his apprehension and arrest. However, the issues of this claim are being resolved through a lawsuit.

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 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,

Gwendolyn Burns
INVESTIGATOR - GWENDOLYN BURNS

RECOMMENDATION:

Pay \$ Adverse X Account charged: 1A01 2J01 2P01 2H01
Claims Manager: Concur/date 08/19/04
Committee Action: Council Action



Jo Ann Fields

Attorney at Law

*Yours
Burns
12/03/02
DW*

1745 Martin L. King Jr Drive
Atlanta, Georgia 30314
Office: 404-522-1400
Pager: 404-599-2207
Fax: 404-755-2327

ENTERED - 12-5-02 - SB
02L0887 - GWEN BURNS

November 25, 2002

CERTIFIED MAIL-
RETURN RECEIPT REQUESTED

Honorable Mayor Shirley Franklin
55 Trinity, SW
Suite 2900
Atlanta, Georgia 30335

Cathy Woolard, Chairperson of City Council
55 Trinity, SW
Suite 2900
Atlanta, Georgia 30335

Chief Richard J. Pennington
Atlanta Police Department
675 Ponce de Leon Avenue
Atlanta, Georgia 30328

Rosalind Rubens Newell, Esq.
City Attorney
68 Mitchell Street, SW
Suite 4100
Atlanta, Georgia 30335

RE: Notice of Injury and Claim against the City of Atlanta, Georgia

Dear Ladies and Gentleman:

Pursuant to *O.C.G.A. §36-33-5 (b)* and *36-1-1*, this notice is to advise you that I have been retained by Jason Smith who was maliciously arrested and assaulted by a City of Atlanta Police Officer on or about July 14, 2002. As result of this action, Jason Smith intends to file a lawsuit against the City of Atlanta, its police department and Officers R.S. Bunn and T.L. Mulkey, Jr. for the malicious prosecution (intentional infliction), assault and other claims of Jason Smith.

On the early morning of July 14, 2002, Mr. Smith along with his friends was lawfully leaving a parking lot in Buckhead Atlanta en route home after socializing with friends. At the same time, **Officers R.S. Bunn and T.J. Mulkey, Jr.** approached the young men and pulled out fire arms without identifying themselves as police officers. Without legal justification or probable cause, Officer R.S. Bunn immediately discharged his firearm into the vehicle occupied by Mr. Smith and Mr. Corey Ward. Mr. Corey Ward was struck and killed. Mr. Smith was arrested. Based on my investigation, Officers R.S. Bunn and T.L. Mulkey's behavior

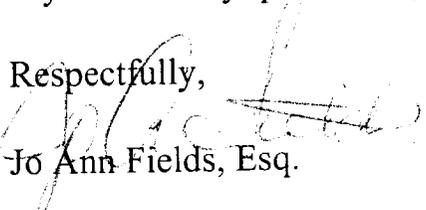
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constitutes a conscious disregard for the safety of others as well as an intentional violation of Mr. Smith's civil rights during the course of their duties as officers. Mr. Smith has suffered great emotional distress. Consequently, the City of Atlanta and its police department are vicariously liable for the consequences of these officer's reckless behavior.

Please allow this letter to serve as notice of the above-referenced claim and demand for compensation in the amount of Five Hundred Thousand Dollars (\$500,000.00) for the malicious prosecution, assault, pain and suffering, and all special damages incurred by Jason Smith as a result of this matter.

If you have any questions, please do not hesitate to contact me.

Respectfully,


Jo Ann Fields, Esq.

Cc: Jason Smith



OFFICE OF MUNICIPAL CLERK

RHONDA DAUPHIN JOHNSON, CMC
MUNICIPAL CLERK

September 14, 2004

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

Jo Ann Fields
Attorney at Law
1745 Martin Luther King, Jr., Dr., SW
Atlanta, GA 30314

04-R-1528

RE: Jason Smith

Dear Attorney Fields:

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 September 07, 2004. 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