

Entered - 9-24-08 sb
CL 08L0829 - GWENDOLYN BURNS

10- R -0454

CLAIM OF: **TIMOTHY B. CLARK**
1148 McDaniel Street, SW
Atlanta, Georgia 30310

For bodily injuries alleged to have been sustained from a shooting on July 15, 2008 at 976 Cascade Avenue, SW.

THIS ADVERSED REPORT IS APPROVED



JERRY L. DELOACH
DEPUTY CITY ATTORNEY

MAR 15 2010

ADVERSE REPORT

PUBLIC SAFETY &
LEGAL ADMINISTRATION COMMITTEE

DATE: 3/9/10

CHAIR: [Signature]

[Signature]
[Signature]

MAR 15 2010
M. J. [Signature]

MAR 15 2010

ADVERSED BY
CITY COUNCIL



OFFICE OF MUNICIPAL CLERK

RHONDA DAUPHIN JOHNSON
MUNICIPAL CLERK

55 TRINITY AVENUE, S.W.
SECOND FLOOR, EAST
SUITE 2700
ATLANTA, GEORGIA 30335
(404) 330-6030
FAX (404) 658-6273

March 19, 2010

Mr. Timothy B. Clark
1148 McDaniel Street, SW
Atlanta, Georgia 30310

10-R-0454

Dear Mr. Clark

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 March 15, 2010. 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

SDEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 08L0829

Date: February 15, 2010

Claimant /Victim TIMOTHY B. CLARK
BY: (Atty) (Ins. Co.) _____
Address: 1294 East Ridge, Atlanta, Georgia 30311
Subrogation: _____ Claim for Property damage \$ _____ Bodily Injury \$ 2,500.00
Date of Notice: 9/16/08 : Written, Proper X Improper _____
Conforms to Notice: O.C.G.A. §36-33-5 _____ X Ante Litem (6 Mo.) _____ X
Date of Occurrence 7/15/08 Place: 976 Cascade Road, SW
Department POLICE Bureau: _____ Office _____
Employee involved C. Tosh, G. Dubose Disciplinary Action: _____

NATURE OF CLAIM: Claimant alleges that he sustained bodily injuries when he was shot by Police at the above location. However, an investigation has determined that the claimant was walking with another subject who pulled a gun on Police and commenced firing after being asked by police to show his hands. The claimant was shot when the Police returned fire. Notwithstanding this fact, the operation of the department is a governmental function and the City is immune from liability pursuant to O.C.G.A. §36-33-1.

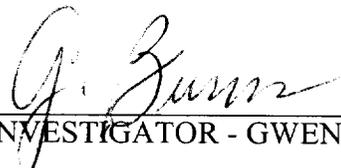
INVESTIGATION:

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

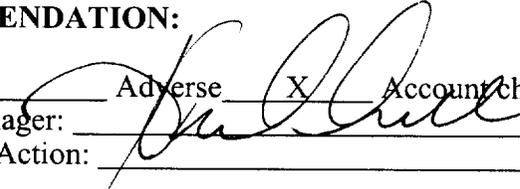
BASIS OF RECOMMENDATION:

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,


INVESTIGATOR - GWENDOLYN BURNS

RECOMMENDATION:

Pay \$ _____ Adverse X Account charged: General Fund _____ Water & Sewer _____ Aviation _____
Claims Manager:  Concur/date 02/17/10
Committee Action: _____ Council Action _____

22 9/13

RECEIVED
OFFICE OF
MUNICIPAL CLERK

COUNCIL OF THE CITY OF ATLANTA
MUNICIPAL CLERK
City Hall
55 Trinity Avenue, SW
Atlanta, Georgia 30303

2008 SEP 16 PM 4:48 Day's Date: SEPT. 11, 2008

RE: CLAIM FOR DAMAGES

ENTERED - 9-24-08 - SB
08L0829 - G. BURNS

BURNS
09/23/08
R

Dear Municipal Clerk:

This is to notify the City of Atlanta that I have suffered damages in the amount of \$ 0 property and/or \$ 2,500 bodily injury for which I contend the City is liable.

- Date of incident: JULY 15, 2008 Time of incident: _____ 3. Police called: YES
- Location of incident (including street address): 976 CASCADE RD. SW. ATLANTA GA. 30311
- Name of your insurance company: N.A. Policy No. _____
- State what and how incident occurred: I TIMOTHY BRYAN CLARK WAS SHOT IN A CROSS FIRE BY AN ATLANTA POLICE OFFICER. I WAS NOT A SUSPECT OR CHARGED WITH ANY CRIME OR ARRESTED. I AM SEEKING LOSS WAGES, PAIN AND SUFFERING, HOSP. BILLS.
- ALL ESTIMATES AND DAMAGES ARE SUBJECT TO INSPECTION. THE MAKING OF FALSE CLAIMS WILL RESULT IN YOUR CLAIM BEING DENIED AND MAY RESULT IN CRIMINAL PROSECUTION!

8. The registered owner must make the claim for vehicle damages, complete the following and attach two (2) estimates of repair and proof of ownership of your vehicle.

Your vehicle: _____
(Make) (Year) (Tag Number) (Driver's Name)

City vehicle: _____
(Make) (City Driver's Name) (Department/Bureau)

9. Witness: _____

10. The acknowledgement of this claim in no way waives the Sovereign immunity of the City of Atlanta, as granted by State law, nor is it an admission of liability on behalf of the City of Atlanta and/or its employee(s).

11. Claims must be received within 6 months from the date of the event.

I HEREBY SWEAR OR AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND CORRECT.

Timothy Clark
Signature of Claimant

TIMOTHY B. CLARK
(Print Claimant's Name)

1294 EASTRIDGE RD. SW.
(Address)

ATLANTA GEORGIA 30311
(City, State and Zip Code)

678-353-1711 (Work Number) 404-604-4636 (Home Number) MOTHERS CELL

10- R -0454

RCS# 124
3/15/10
2:18 PM

Atlanta City Council

REGULAR SESSION

CONSENT I

ADOPT

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

| | | | |
|-----------|-------------|-----------|-------------|
| Y Smith | Y Archibong | Y Moore | Y Bond |
| B Hall | Y Wan | Y Martin | Y Watson |
| Y Young | Y Shook | Y Bottoms | Y Willis |
| Y Winslow | Y Adrean | B Sheperd | NV Mitchell |

CONSENT I