

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

FILED: DECEMBER 3, 2008

SEDENIA BLACKMAN as Mother and)
Next Friend of DELBERT VAN ALLEN)
a Minor,)

Plaintiff,)

v.)

CITY CHICAGO, a municipal Corporation,)
Officer Thomas O'Shaughnessy)
(Star # 19271 } and Officer Christopher Rigan)
(Star # 15589),)

Defendants.)

08CV6902

JUDGE ST. EVE

MAGISTRATE JUDGE NOLAN

BR

Case No.:

Trial by Jury Demanded

COMPLAINT

NOW COMES the Plaintiff, SEDENIA BLACKMAN (“Blackman”), as the Mother and Next Friend of DELBERT VAN ALLEN (“Delbert”), by and through her attorneys, DOUGLAS HOPSON and BENJAMIN OBI NWOYE and complaining of the Defendants City of Chicago, Officer Thomas O’Shaughnessy (Star # 19271) (“O’Shaughnessy”) and Officer Christopher Rigan (Star # 15589) (“Rigan”), and alleges as follows:

PRELIMINARY STATEMENT

1. This action seeks compensatory and punitive damages plus cost of this action for Civil Rights violations committed by O’Shaughnessy and Rigan under color of law, which deprived Delbert of rights secured under the Constitution and laws of the United States.

JURISDICTION

2. Jurisdiction of this Court is invoked pursuant to 42 U.S.C. § 1983. This Court also has jurisdiction pursuant to 28 U.S.C. § 1331. Plaintiff also invokes the supplemental jurisdiction of this Court pursuant to 28 U.S.C. § 1367(a) and pendent claim jurisdiction over the State law claims raised herein.

VENUE

3. This action properly lies in the Northern District of Illinois, Eastern Division, pursuant to 29 U.S.C. § 1391(b) because the claim arose in this judicial district.

PARTIES

4. At all times herein relevant, Blackman was a citizen and resident of the City of Chicago, State of Illinois, and the United States of America. Blackman is Delbert's mother.

5. At all times herein relevant, Delbert was fourteen years of age and an African American. Delbert is a citizen and resident of the City of Chicago, State of Illinois and the United States of America.

6. The City of Chicago is a Municipal Corporation organized under the laws of the State of Illinois.

7. Defendants O'Shaughnessy and Rigan were at all relevant times sworn members of the Chicago Police Department.

FACTS

8. At all relevant times, Defendants O'Shaughnessy and Rigan were acting under the color and pretense of the statutes, ordinances, regulations, customs, and usages

of Defendant City of Chicago and the State of Illinois under the authority of their office and within the scope of their employment as police officers.

9. On October 31, 2008, Delbert was lawfully at his grandmother's home located at 6922 South Aberdeen in Chicago, when he saw a Chicago Police squad car pull up and stop in front on the aforementioned premises.

10. Defendants O'Shaughnessy and Rigan exited the vehicle and chased Delbert without legal justification.

11. Defendants O'Shaughnessy and Rigan fired their service weapons and shot Delbert three times, including in his back, without legal justification.

12. Delbert fell to the ground motionless while Defendants O'Shaughnessy and Rigan kicked him, placed a knee on Delbert's back, twisted Delbert's arm to his back and handcuffed him.

13. Defendants O'Shaughnessy and Rigan held Delbert on the ground for an extended period of time without providing any medical attention.

14. After the officers had completed their evil acts they filed false reports and caused Delbert to be charged with crimes he did not commit.

COUNT I

1-14. Plaintiff realleges and incorporates paragraphs 1-14 of the Complaint as paragraph 1-14 of Count I as though fully set forth herein.

15. At all times herein relevant, it became the duty of O'Shaughnessy, Rigan and City of Chicago through the actions of its agents, servants and employees to refrain from conduct that exhibits a reckless or intentional disregard for the safety of others.

16. The aforementioned duty included, but was not limited to, the duty of O'Shaughnessy and Rigan to refrain from using excessive force in securing the arrest of Delbert.

17. Defendants O'Shaughnessy and Rigan breached the aforementioned duty by committing one or more of the following reckless or intentional acts or omissions:

- a. Drew a firearm under circumstances which presented no threat of death or great bodily harm to the Defendant Police Officer or others.
- b. Pointed the firearm at Delbert under circumstances where Delbert posed no threat or danger either to the Defendant Police Officers or Others.
- c. Shot Delbert three times, including in the back, without legal justification.
- d. Caused Delbert permanent and debilitating injuries.
- e. Kicked Delbert after it became obvious that he had been incapacitated by their actions.

18. As a direct and proximate result of one or more of the aforementioned reckless or intentional acts or omissions by Defendants O'Shaughnessy and Rigan, Delbert experienced great pain, suffering, emotional distress and other damages of a pecuniary nature.

WHEREFORE, Plaintiff SEDENIA BLACKMAN, respectfully requests this Honorable Court enter judgment in her favor and against Defendants City of Chicago, O'Shaughnessy and Rigan in an amount that is fair and proper to compensate her for Delbert's damage.

COUNT II

CITY OF CHICAGO O'SHAUGHNESSY and RIGAN
Under 42 U.S.C. § 1983

1-14 Plaintiff realleges paragraphs 1-14 of this Complaint as paragraphs 1-14 of Count II as though they were fully set forth herein.

15. The conduct of Defendants O'Shaughnessy and Rigan as described above deprived Delbert of his rights to be secure in his person against unreasonable seizure as guaranteed to Delbert under the Fourth Amendment to the United States Constitution.

16. The conduct of Defendants O'Shaughnessy and Rigan described above deprived Delbert of his right not to be deprived of life, liberty, or property without due process of the law and to be afforded equal protection under the laws as guaranteed to him under the Fourteenth Amendment to the United States Constitution.

17. As a direct and proximate result of Defendants' O'Shaughnessy's and Rigan's conduct, Delbert suffered great pain, anguish, emotional distress and other injuries.

WHEREFORE, Plaintiff SEDENIA BLACKMAN, respectfully requests this Honorable Court enter judgment in her favor and against Defendants City of Chicago, O'Shaughnessy and Rigan in an amount that is fair and proper to compensate her for Delbert's damages.

COUNT III

(42 U.S.C. § 1983 – Monell Claim against the City of Chicago)

1. Plaintiff realleges all of the above paragraphs and counts, as if fully set forth herein.

2. At all times material to this Complaint, there existed in the City of Chicago the following practices, policies and customs.
- a. denial of substantial due process, abuse of legal process;
 - b. stopping, detaining, arresting, and searching civilians without a warrant, probable cause, reasonable suspicion, consent, or any other legal basis;
 - c. arbitrary use of excessive force against suspects, arrestees, detainees and other civilians;
 - d. preparing false and incomplete police reports;
 - e. not preparing police reports, in attempt to suppress and conceal police misconduct including unconstitutional searches and seizures;
 - f. failure to adequately train, supervise and discipline police officers in the categories and fields of police work addressed in subparagraphs a-c.
 - g. failure to adequately investigate citizen complaints against police officers;
 - h. failure to deter police officers from committing misconduct by its lack of discipline for police misconduct, and defective police review investigations.
 - i. failure of the Independent Police Review Authority to adequately investigate police officers who have been accused of wrong doing.

- j. filing false charges and pursuing baseless prosecutions in order to protect police officers from claims of improper conduct and to avoid liability
- k. failure to adequately train and supervise police officers to rectify the malfeasance described in sub-paragraphs above.
- l. failure to adequately discipline police officers for the type of misconduct alleged by the Plaintiff in this Complaint.
- m. conducting inherently deficient investigations of citizen complaints of police' shooting of private citizens, thereby encouraging even more police shootings.

3. The actions of Defendants O'Shaughnessy and Rigan as alleged in this Complaint were done pursuant to, and as a result of, one or more of the above *de facto* practices, policies and customs of the City of Chicago, the Chicago Police Department and its police officers.

4. The practices, policies and customs described above are widespread, permanent and well-settled and were known, or should have been known, to the policy-makers of the City of Chicago.

5. The policy-makers of the City of Chicago acted with deliberate indifference to Delbert's rights in maintaining, overlooking and preserving the unconstitutional practices, policies and customs delineated above.

6. By their inaction and failure to correct the above-described practices, policies and customs, policy-makers tacitly approved and thus indirectly authorized the type of the misconduct Plaintiff complains of herein.

WHEREFORE, Plaintiff asks that this Honorable Court:

- a) Enter judgment against the City of Chicago;
- b) Award Plaintiff Compensatory damages, as determined at trial;
- c) Award Plaintiff's attorney's fees and cost;
- d) Award such other and additional relief that this Honorable Court deems just and equitable.

COUNT IV –BATTERY (O'SHAUGHNESSY AND RIGAN)

1-14. Plaintiff realleges paragraphs 1-14 of this Complaint as paragraphs 1-14 of Count IV as though they were fully set forth herein.

15. The actions of O'Shaughnessy and Rigan as alleged herein constitute harmful and offensive contact to Delbert's person.

16. As a direct and proximate result of the previously stated acts, Delbert suffered severe injuries.

17. As a direct and proximate result of the aforesaid acts and/or omissions of Defendants O'Shaughnessy and Rigan, Delbert sustained severe and permanent injuries, both externally and internally, and was, and will be, hindered and prevented from attending to his usual duties and affairs and has lost, and will in the future lose, the value of that time as aforementioned. Delbert also suffered great pain and anguish; both in mind and body, and will in the future continue to suffer. The Plaintiff further became liable for and will expend and become liable for, large sums of money for medical care and services provided to Delbert.

18. The actions of the O'Shaughnessy and Rigan were intentional, willful and wanton, and done with reckless disregard for Delbert's rights and to harm Delbert.

WHEREFORE, the Plaintiff, SEDENIA BLACKMAN, demands judgment as compensatory damages against O'Shaughnessy and Rigan in an amount as the jury and the Court shall deem proper. Plaintiff demands punitive damages to punish O'Shaughnessy and Rigan and deter others from committing similar wrongful conduct. Additionally, Plaintiff demands costs of said suit.

COUNT V– ASSAULT (O'SHAUGHNESSY AND RIGAN)

1-14. Plaintiff realleges paragraphs 1-14 of this Complaint as paragraphs 1-14 of Count V as though they were fully set forth herein.

15. The actions of Defendants O'Shaughnessy and Rigan created a reasonable apprehension in Delbert of immediate harmful and/or offensive contact to Delbert's person.

16. As a direct and proximate result of the aforesaid acts Defendants O'Shaughnessy and Rigan, Delbert sustained severe and permanent injuries, both externally and internally, and was, and will be, hindered and prevented from attending to his usual duties and affairs and has lost, and will in the future lose, the value of that time as aforementioned. Delbert also suffered great pain and anguish, both in mind and body, and will in the future continue to suffer. The Plaintiff further became liable for and will expend and become liable for, large sums of money for medical care and services to Delbert.

17. The actions of Defendants O'Shaughnessy and Rigan were intentionally, willful and wanton, and done with reckless disregard to Delbert's rights and to any harm to Delbert.

WHEREFORE, the Plaintiff, SEDENIA BLACKMAN, demands judgment as compensatory damages against the Defendants O’Shaughnessy and Rigan in an amount as the jury and the Court shall deem proper. Plaintiff demands punitive damages to punish these Defendants and deter others from committing such wrongful conduct. Additionally, Plaintiff demands costs of said suit.

COUNT VI
(State Law Respondeat Superior Claim)

1-14. Plaintiff realleges paragraphs 1-14 of this Complaint as paragraphs 1-14 of Count VI as though they were fully set forth herein.

15. The acts of the individual Defendants O’Shaughnessy and Rigan described in the claims above were willful and wanton, and committed in the scope of their employment.

16. As a principal, Defendant City of Chicago is liable for its agents’ actions under the doctrine of *respondeat superior*.

WHEREFORE, Plaintiff demands judgment against the City of Chicago, and such other and additional relief that this Honorable Court deems just and equitable.

COUNT VII
(Indemnification Claim pursuant to 745 ILCS 10/9-102)

1-14. Plaintiff realleges paragraphs 1-14 of this Complaint as paragraphs 1-14 of Count VII as though they were fully set forth herein.

15. The acts of the individual Defendants O’Shaughnessy and Rigan described in the above claims were willful and wanton, and committed in the scope of their employment.

16. Pursuant to the Illinois Tort Immunity Act, 745 ILCS 10/9-102, Defendant City of Chicago is liable for any judgment in this case arising from the actions of the Defendants O'Shaughnessy and Rigan.

WHEREFORE, Plaintiff SEDENIA BLACKMAN asks that this Honorable Court order Defendant City of Chicago to indemnify the Defendants O'Shaughnessy and Rigan for any judgment entered in this case arising from their actions.

s/Douglas Hopson
Douglas Hopson

s/Benjamin O. Nwoye
Benjamin O. Nwoye

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