
IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

G. CESAR MUNIVE, ON HIS OWN BEHALF AND AS ADMINISTRATOR OF THE ESTATE OF CESAR MUNIVE, DECEASED,	}	
	}	
PLAINTIFF,	}	
	}	
VS.	}	12 CV 5481
	}	
TOWN OF CICERO, CICERO POLICE OFFICER SCHULLO, AND OTHER UNKNOWN CICERO POLICE OFFICERS,	}	JURY DEMANDED
	}	
DEFENDANTS.	}	

COMPLAINT

Plaintiff, G. Cesar Munive, on his own behalf and as Administrator of the Estate of his deceased son, Cesar Munive, by his attorney, Daniel J. Stohr, complains against Defendants, Town Of Cicero, Cicero Police Officer Schullo, And Other Unknown Cicero Police Officers as follows:

Introduction

1. This action, arising out of the death of Cesar Munive ("Decedent") caused by Cicero Police Officer Schullo (his identity is stated on information and belief) and other Unknown Cicero Police Officers, is brought pursuant to 42 U.S.C. Section 1983 to redress the deprivation under color of law of Decedent's rights as secured by the United States Constitution.

Jurisdiction and Venue

2. This Court has jurisdiction of the action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1367, and venue is proper under 28 U.S.C. § 1391(b). On information and belief, all parties reside in this judicial district, and the events giving rise to the claims asserted herein occurred within the district.

Plaintiff's Death

3. On Thursday, July 5, 2012, at approximately 7:00 p.m., Cesar Munive was riding his bike at the corner of 13th Street and 57th Avenue in Cicero.

4. A Cicero Police Officer, believed to be Defendant Officer Schullo drove on 57th Avenue, in a police vehicle at a high rate of speed, and pulled onto the curb and parkway at the corner of 13th Street and 57th Avenue. He jumped out of his car and without lawful cause or justification shot the unarmed Decedent, Cesar Munive, once in the back. After being shot the Decedent screamed in pain and yelled that he had not done anything. The Decedent fell down to the grass, bleeding. As Mr. Munive lay on the ground bleeding, the defendant officers forcefully handcuffed him with his hands behind his back and dragged him on the ground and delayed seeking medical attention.

5. As a result of Defendant Schullo's unlawful use of force, Cesar Munive suffered pain during his last conscious moments.

6. The fatal police shooting was totally unjustified. Mr. Munive never did anything which could have justified the use of deadly force.

7. The Defendant Officer who shot Mr. Munive in the back, as well as the ones who failed to intervene, were acting under color of law and within the scope of their employment at the time of the shooting.

Aftermath

8. The Decedent, Cesar Munive, bleed to death on the scene.

9. After a delay, two ambulances and a fire truck arrived at the scene and removed Cesar Munive's body from the scene.

10. After the shooting a large number of Cicero police converged on the scene and began looking for a gun. After looking in an extended area, after Cesar Munive's body had been removed, a handgun was allegedly recovered more than a block away.

11. Following the shooting, Defendant Schullo and other unknown members of the Cicero Police Department took actions designed to conceal and cover-up the fact that Defendant Schullo shot an unarmed citizen, including planting a weapon at the shooting site and engaging in a pattern of intimidating witnesses, arresting witnesses without cause, calling witnesses on the telephone in the middle of the night, shining lasers into the windows of the home of a witness, Pedro Dominguez, threatening to kill Mr. Dominguez, and stopping vehicles and detaining relatives approaching Mr. Dominquez's home.

Count I - 42 U.S.C. § 1983

Excessive Force

12. Each of the foregoing Paragraphs is incorporated as if restated fully herein.

13. As described in the preceding paragraphs, the conduct of Defendant Officer Schullo, acting under color of law, constituted excessive force in violation of the United States Constitution.

14. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally with willful indifference to Decedent's constitutional rights.

15. The misconduct described in this Count was undertaken with malice, willfulness, and reckless indifference to the rights of others.

16. As a result of Defendant Officer Schullo's unjustified and excessive use of force, as well as the City of Cicero's policy and practice, Decedent experienced conscious pain and suffering, his Estate has incurred medical and funeral expenses, and Plaintiff has suffered injury and emotional distress, including loss of society and companionship.

17. The misconduct described in this Count was undertaken pursuant to the policy and practice of the Cicero Police Department in that:

- a. As a matter of both policy and practice, the Cicero Police Department directly encourages, and is thereby the moving force behind, the very type of constitutional violation at issue here by failing to adequately train in the use of excessive force, including deadly force, and failing to supervise and control its officers, such that its failure to do so manifests deliberate indifference.
- b. As a matter of both policy and practice, the department facilitates the very type of constitutional violation at issue here by failing to adequately punish and discipline prior instances of misconduct, including "repeater" offenders who exhibit patterns of abuse and misconduct, thereby leading Cicero Police Department officers to believe that their actions will never be scrutinized and, in that way, directly encouraging future abuses such as those affecting Decedent and Plaintiff.
- c. Generally, as a matter of widespread practice so prevalent as to compromise municipal policy, officers of the department violated the constitutional rights of citizens in a manner similar to that alleged by Plaintiff on a frequent basis, all with the knowledge and acquiescence of supervisory and command personnel, yet the department makes findings of wrongdoing in a disproportionately small

number of cases.

- d. Generally, as a matter of widespread practice so prevalent as to compromise municipal policy, the department refuses to refer police officers for prosecution even when they commit crimes such that officers are encouraged to believe that they enjoy de facto immunity from criminal prosecution.
- e. Municipal policy makers and department supervisors are aware of, and condone and facilitate by their inaction, a code of silence in the Cicero Police Department, by which officers fail to report and otherwise lie about misconduct committed by other officers, such as the misconduct at issue in this case.
- f. The Town of Cicero failed to timely act to remedy the patterns of abuse described in the preceding sub-paragraphs, despite the actual knowledge of the same, thereby ratifying the unlawful practices and causing the types of injuries described herein.

Count II - 42 U.S.C. §1983

Failure to Intervene Against All Defendants

18. Each of the Paragraphs of this Complaint is incorporated as if restated fully herein.

19. In the manner described above, during the constitutional violations described above, one or more Cicero Police Officers stood by without intervening to prevent the misconduct.

20. As a result of this failure to intervene to prevent the violation of Decedent's constitutional rights, Decedent suffered pain and injury, as well as emotional distress. These Officers had a reasonable opportunity to prevent this harm, but failed to do so.

21. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally, with willful indifference to Decedent's constitutional rights.

22. The misconduct described in this Count was undertaken pursuant to Cicero's policy and practice in the manner described in preceding paragraphs.

Count III - 42 U.S.C. § 1983

Conspiracy

23. Each paragraph of this Complaint is incorporated as if restated fully herein.

24. Defendants reached an agreement among themselves to deprive Cesar Munive of his constitutional rights and to protect one another from liability for depriving Cesar Munive of his rights, all as described in the various paragraphs of this Complaint.

25. In furtherance of the conspiracy, each of the co-conspirators committed overt acts and was an otherwise willful participant in joint activity.

26. The misconduct described in this Count was undertaken with malice, willfulness, and reckless indifference to the rights of others.

27. As a direct and proximate result of the illicit prior agreement referenced above, Cesar Munive's rights were violated and he suffered injuries, including emotional distress and death.

28. Cesar Munive's injuries were caused by employees of the Cicero Police Department, including but not limited to the individually named Defendants, who acted pursuant to the policies and practices of the Cicero Police Department as described above.

Count IV – 42 U.S.C. § 1983

Denial of Medical Care

29. Each paragraph of this Complaint is incorporated as if restated fully herein.

30. As described more fully above, Defendants had notice of Cesar Munive's medical need and the seriousness of his medical need, and yet, they failed to timely provide him with necessary emergency medical attention, in violation of the Fourth, Eighth, and Fourteenth Amendments of the United States Constitution.

31. As a result of the unjustified and unconstitutional conduct of Defendants, Cesar Munive experienced pain, suffering, emotional distress, injury, and ultimately, death.

32. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally with malice, willfulness, and reckless indifference to the rights of others.

33. Alternatively, Defendants were deliberately indifferent to Cesar Munive's objectively serious medical needs, and their acts were undertaken intentionally with malice, willfulness, and deliberate indifference to the rights of others.

Count V - State Law Claim

Wrongful Death - Intentional Battery

34. Each of the foregoing Paragraphs is incorporated as if restated fully herein.

35. As described more fully in the preceding paragraphs the actions of Defendant Officer Schullo constituted offensive physical contact made without the consent of Decedent.

36. Defendant Officer Schullo's actions were undertaken intentionally, willfully and wantonly, and were the proximate cause of Decedent's great bodily harm and death, as well as

Plaintiff's great pain and suffering.

37. The misconduct described in this Count was undertaken with intentional disregard of the Decedent's rights.

38. As a result of the Defendant Officer Schullo's actions, the Estate has incurred medical and funeral expenses, and suffered injury, including loss of society and companionship.

Count VI - State Law Claim

Wrongful Death - Reckless Battery

39. Each of the foregoing Paragraphs is incorporated as if restated fully herein.

40. As described more fully in the preceding paragraphs the actions of Defendant Officer Schullo constituted offensive physical contact made without the consent of Decedent.

41. Defendant Officer Schullo's actions were undertaken willfully, wantonly, and with reckless indifference or conscious disregard for the safety of others.

42. Defendant Officer Schullo's actions proximately caused Decedent great bodily harm and death, as well as great pain and suffering to Plaintiff.

43. As a result of the Defendant Officer Schullo's actions, the Estate has incurred medical and funeral expenses, and suffered injury, including loss of society and companionship.

Count VII - State Law Claim

Survival Action - Intentional Battery

44. Each of the foregoing Paragraphs is incorporated as if restated fully herein.

45. As described more fully in the preceding paragraphs, in restraining Decedent, the actions of Defendant Officer Schullo constituted offensive physical contact made without the consent of Decedent.

46. Defendant Officer Schullo's actions were undertaken intentionally, willfully and wantonly.

47. Defendant Officer Schullo's actions proximately caused Decedent great bodily harm, pain and suffering, and then death.

48. The misconduct described in this Count was undertaken with intentional disregard of the Decedent's rights.

49. As a result of the Defendant Officer Schullo's actions, Decedent experienced conscious pain and suffering.

Count VIII - State Law Claim
Survival Action - Reckless Battery

50. Each of the foregoing Paragraphs is incorporated as if restated fully herein.

51. As described more fully in the preceding paragraphs, in restraining Decedent, the actions of Defendant Officer Schullo constituted offensive physical contact made without the consent of Decedent.

52. Defendant Officer Schullo's actions were undertaken willfully, wantonly, and with reckless indifference or conscious disregard for the safety of others.

53. Defendant Officer Schullo's actions proximately caused Decedent great bodily harm, pain and suffering, and then death.

54. The misconduct described in this Count was undertaken with reckless disregard of the Decedent's rights.

55. As a result of the Defendant Officer Schullo's actions, Decedent experienced conscious pain and suffering.

Count IX– State Law Claim

Town of Cicero's Breach Of Duty To Train And Supervise

56. Each of the foregoing Paragraphs is incorporated as if restated fully herein.

57. The Cicero Police Department at all times relevant had a duty to properly train, supervise, and discipline Cicero Police Department Officers in relation to their duties, including the use of deadly force.

58. The Cicero Police Department breached that duty by failing to properly train, supervise, and discipline the officers involved as to the use of deadly force.

59. As a direct and proximate result of the failure to train and supervise the Cicero Police officers killed plaintiff's decedent.

Count X - State Law Claim

Respondeat Superior

60. Each of the foregoing Paragraphs is incorporated as if restated fully herein.

61. In committing the acts alleged in the preceding paragraphs, Defendant Officer Schullo was a member of, and agent of, the Cicero Police Department acting at all relevant times within the scope of his employment.

62. Defendant Town of Cicero is liable as principal for all torts committed by its agent.

Count XI - State Law Claim

Indemnification

63. Each of the foregoing Paragraphs is incorporated as if restated fully herein.

64. Illinois law provides that public entities are directed to pay any tort judgment for compensatory damages for which employees are liable within the scope of their employment activities.

65. Defendant Officer Schullo is or was an employee of the Cicero Police Department, who acted within the scope of his employment in committing the misconduct described herein.

WHEREFORE, Plaintiff, G. Cesar Munive, on his own behalf and as Administrator of the Estate of his deceased son, Cesar Munive, respectfully requests that the Court enter judgment in his favor and against Defendants, Town of Cicero, Cicero Police Officer Schullo, and other Unknown Cicero Police Officers awarding compensatory damages, including medical and funeral expenses, and attorneys' fees, along with punitive damages against Cicero Police Officer Schullo and other Unknown Cicero Police Officers in their individual capacities, as well as any other relief this Court deems just and appropriate under the circumstances.

JURY DEMAND

Plaintiff hereby demands a trial by jury pursuant to Federal Rule of Civil Procedure 38(b) on all issues so triable.

RESPECTFULLY SUBMITTED,

A handwritten signature in black ink that reads "Daniel J. Stohr". The signature is written in a cursive style with a long horizontal flourish at the end.

Attorney for Plaintiff

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