

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

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|-----------------------|---|------------------------|
| (1) JERIEL EDWARDS, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | Case No. 18-CV-347-RAW |
| |) | |
| (1) CITY OF MUSKOGEE, |) | |
| OKLAHOMA, a municipal |) | |
| corporation, |) | |
| (2) STEVEN HARMON, |) | |
| (3) STEVEN WARRIOR, |) | |
| (4) BOBBY LEE, |) | |
| (5) GREG FOREMAN, and |) | Jury Trial Requested |
| (6) DILLON SWAIM, |) | |
| |) | |
| Defendants. |) | |

COMPLAINT

COMES NOW the Plaintiff, Jeriel Edwards, by and through his undersigned attorney, and for his Complaint against the above-named Defendants alleges and avers as follows:

Introduction

1. This action seeks to vindicate the Plaintiff's rights under the Fourth Amendment of the Constitution of the United States. The Plaintiff was deprived of those rights by the above-named individual Defendants, who, under color of the law of the State of

Oklahoma, used excessive force when arresting the Plaintiff. For this violation of his rights, the Plaintiff requests any and all relief allowed under 42 U.S.C. § 1983.

2. This action also seeks to vindicate the Plaintiff's rights under Article 2, Section 30 of the Oklahoma Constitution against unreasonable seizure. The Plaintiff was deprived of those rights by the City of Muskogee, who, through its employees-law enforcement officials, used excessive force when arresting Plaintiff.

Parties

3. At all times relevant hereto, the Plaintiff, Jeriel Edwards, was a resident of the City of Muskogee, Oklahoma and a citizen of the United States of America.
4. Defendant, City of Muskogee, Oklahoma, is a municipal corporation organized and existing under the laws of the State of Oklahoma.
5. Defendant Steven Harmon is an adult male who, at all times relevant to this Complaint, was a law enforcement officer employed by the City of Muskogee Police Department. In all respects set forth in this Complaint, Defendant Steven Harmon acted under color of the law of the State of Oklahoma. Defendant Steven Harmon is sued both in his individual and official capacities.
6. Defendant Steven Warrior is an adult male who, at all times relevant to this Complaint, was a law enforcement officer employed by the City of Muskogee Police Department. In all respects set forth in this Complaint, Defendant Steven

Warrior acted under color of the law of the State of Oklahoma. Defendant Steven Warrior is sued both in his individual and official capacities.

7. Defendant Bobby Lee is an adult male who, at all times relevant to this Complaint, was a law enforcement officer employed by the City of Muskogee Police Department. In all respects set forth in this Complaint, Defendant Bobby Lee acted under color of the law of the State of Oklahoma. Defendant Bobby Lee is sued both in his individual and official capacities.
8. Defendant Greg Foreman is an adult male who, at all times relevant to this Complaint, was a law enforcement officer employed by the City of Muskogee Police Department. In all respects set forth in this Complaint, Defendant Greg Foreman acted under color of the law of the State of Oklahoma. Defendant Greg Foreman is sued both in his individual and official capacities.
9. Defendant Dillon Swaim is an adult male who, at all times relevant to this Complaint, was a law enforcement officer employed by the City of Muskogee Police Department. In all respects set forth in this Complaint, Defendant Dillon Swaim acted under color of the law of the State of Oklahoma. Defendant Dillon Swaim is sued both in his individual and official capacities.
10. The above-named Defendants were listed as the endorsed witnesses in the Plaintiff's criminal information page.

11. Additional employees within the City of Muskogee Police Department were involved in this incident. Body camera footage was obtained to identify all parties involved in this matter. Due to the inability to discern the officers' names from the videos, the above-named Defendants cannot be specifically listed within the "Facts," and more Defendants may be added to this complaint pursuant to further discovery.

Jurisdiction

12. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343 as it is an action seeking redress under the laws and statutes of the United States for the deprivation of rights secured by the Constitution and laws of the United States.

13. This Court also has supplemental jurisdiction over the state law claim pursuant to 28 U.S.C. § 1367(a) as they are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.

14. Venue properly lies in the Eastern District of Oklahoma pursuant to 28 U.S.C. § 1391(b) as all the Defendants reside within the Eastern District of Oklahoma and a substantial part of the events giving rise to this action occurred within this District.

Facts

15. On or about October 25, 2016, at approximately 10:13 p.m., Plaintiff Edwards was sitting in his car within the Wendy's parking lot, located at 331 South 32nd Street within the City of Muskogee, Oklahoma.
16. The first responding officer made the initial contact with Plaintiff Edwards. This officer is one of the individually named Defendants alleged in paragraphs 5-9 above.
17. The first responding officer asked to see Plaintiff Edwards' identification.
18. The first responding officer instructed Plaintiff Edwards to place his car in park.
19. The first responding officer asked, again, to see Plaintiff Edwards' identification and stated Plaintiff Edwards' name to him indicating that he already knew the Plaintiff without receiving his ID.
20. Plaintiff Edwards searched for his license and wallet in his pant pockets.
21. Plaintiff Edwards handed the first responding officer his driver's license.
22. The first responding officer instructed Plaintiff Edwards to keep his hands out of his pockets and Plaintiff Edwards showed the first responding officer his hands and his wallet.
23. The first responding officer instructed Plaintiff Edwards to get out of the car.
24. The first responding officer opened the vehicle door and Plaintiff Edwards kept trying to empty the contents of his pant pockets.

25. The first responding officer instructed Plaintiff Edwards to keep his hands out of his pockets.
26. Plaintiff Edwards stuck his hands out towards the first responding officer to show the officer what he was holding.
27. Plaintiff Edwards started to get out of his car and the first responding officer instructed Plaintiff Edwards to unbuckle his seatbelt and to place his wallet in the center console.
28. The first responding officer yelled at Plaintiff Edwards, "You can't even understand directions!"
29. During this time, the second responding officer, arrived at the scene in a separate police car. This officer is one of the individually named Defendants alleged in paragraphs 5-9 above. This officer was the only officer at the incident who was not wearing a uniform. Instead, this officer was wearing denim jeans and a gray polo shirt with the label, "Muskogee Police," on the back.
30. Plaintiff Edwards began to stand up from his car, and the first responding officer stated, "Hang on. Don't move. Don't move. Turn around. Don't face me. Turn around, there you go. Put your hands behind your back."
31. The first responding officer held Plaintiff Edwards' right arm while the second officer shoved Plaintiff Edwards' body into the corner of the vehicle door.

32. Both officers aggressively and physically accosted Plaintiff Edwards while grabbing him about his upper body.
33. The second officer used his right arm to aggressively push Plaintiff Edwards' head into the corner of the car door while trying to place Plaintiff Edwards' hands behind his back.
34. The first responding officer said to Plaintiff Edwards, "Jeriel, get on the ground!" while both officers simultaneously shoved his entire body to the asphalt ground.
35. The second officer pushed Plaintiff Edwards to the ground by his head and neck area.
36. Once on the ground, the first responding officer lifted Plaintiff Edwards' sweatshirt up to his head area, exposing his stomach and back.
37. With Plaintiff Edwards laying facedown, the first responding officer grabbed Plaintiff's right arm and attempted to bring it behind Plaintiff's back. While the first responding officer was doing this, the second officer placed Plaintiff's left arm on top of Plaintiff's head and the second officer shoved Plaintiff's head into the asphalt. The second officer used his knee to hold Plaintiff's left side down.
38. Plaintiff Edwards repeatedly asked, "Why did you punch me, sir? Why are you punching me, sir?" as both officers tried to place Plaintiff Edwards' hands behind his back. The first responding officer responded with, "Just cooperate," and ignored Plaintiff Edwards' questions.

39. Next, the first responding officer tased Plaintiff Edwards in the back.

40. The second officer took over and forcefully pushed Plaintiff Edwards' head into the ground with both his right hand and his knee. This caused Plaintiff Edwards to yell out in pain.

41. The second officer continued to push Plaintiff Edwards' head into the ground with both of his hands, instead of holding onto Plaintiff's arms or trying to put Plaintiff's arms behind his back.

42. Plaintiff Edwards attempted to stand up, but both officers pushed Plaintiff into his vehicle causing him to fall back to the ground.

43. During this time, the third responding officer arrived at the scene in another police car. This officer is one of the individually named Defendants alleged in paragraphs 5-9 above.

44. One of the officers shouted to the third officer, "Step it up!"

45. The third officer walked up to Plaintiff Edwards, who was then sitting with his back leaned against his vehicle, and the third officer makes at least two (2) striking motions towards the Plaintiff. Contact from the hits can be heard, but not seen, from the body camera videos worn by the law enforcement officers.

46. During this time, the fourth officer arrived at the scene in another police car. This officer is one of the individually named Defendants alleged in paragraphs 5-9 above.

47. The fourth officer approached the scene and immediately put Plaintiff Edwards in a chokehold with his left arm while he grabbed Plaintiff Edwards' head with his right arm.
48. The four officers dragged Plaintiff Edwards to the ground with one officer holding Plaintiff's left arm, one officer holding Plaintiff's right arm, the fourth officer still holding his head and neck area, and one officer holding both of Plaintiff's ankles.
49. Once on the ground, more additional officers arrived, joined in, and acted together in concert. The officers held Plaintiff Edwards down by digging their knees and feet into his body and leveraging their bodies against his and the pavement.
50. There were no less than eight (8) police officers present at this time.
51. Once Plaintiff was placed in handcuffs, an officer stated, "I just about told y'all to keep coming."
52. EMS was called to the scene to check Plaintiff Edwards' vitals, and Plaintiff Edwards agreed to go to the hospital.
53. Plaintiff Edwards was placed into the back of one of the multiple police cars at the scene. Plaintiff Edwards was conscious and aware when he left the scene.
54. Once Plaintiff Edwards arrived at the hospital, he was unconscious and non-responsive. Several police officers had to lift Plaintiff Edwards into a wheelchair and transport him inside.

55. Plaintiff did not regain consciousness while the officers were present at the hospital.

56. As Plaintiff was placed onto a hospital bed and the nurses checked his vitals, there were no less than eight (8) police officers present.

57. That Plaintiff was admitted to the Intensive Care Unit (hereinafter “ICU”).

58. Plaintiff Edwards remained in the hospital until October 28, 2016, as a result of the injuries suffered which included blunt trauma causing abrasions to his forehead, fracture to Plaintiff’s nasal bone, rhabdomyolysis, and acute kidney injury.

First Cause of Action

Deprivation of Fourth Amendment Rights – 42 U.S.C. § 1983

59. The Plaintiff re-alleges and incorporates by reference the allegations in ¶¶ 1-58.

60. The Plaintiff in this action is a citizen of the United States and all of the individual police officer Defendants to this claim are persons for the purposes of 42 U.S.C. § 1983.

61. All individual police officer Defendants to this claim, at all times relevant hereto, were acting under the color of state law in their capacity as Muskogee police officers and their acts or omissions were conducted within the scope of their official duties or employment.

62. At the time of the complained events, Plaintiff had a clearly established constitutional right under the Fourth Amendment to be secure in his person from unreasonable seizure through excessive force.

63. The police officer Defendants, acting both individually and in concert, used excessive force on the Plaintiff on October 25, 2016, and deprived the Plaintiff of his right as provided for under the Fourth Amendment to the United States Constitution to be secure in his person from unreasonable seizure through excessive and/or arbitrary and/or unreasonable use of deadly force against him.

64. As a result of the deprivation of the Plaintiff's Fourth Amendment rights, he has suffered damages for which he is entitled to relief under 42 U.S.C. § 1983.

Second Cause of Action

Excessive Force – Okla. Const. art. 2 § 30

65. The Plaintiff re-alleges and incorporates by reference the allegations in ¶¶ 1-58.

66. The Plaintiff had properly filed a claim and given notice to Defendant, The City of Muskogee, Oklahoma, pursuant to the Oklahoma Governmental Tort Claims Act, which claim has been denied.

67. That Plaintiff does not have a source for remedy under the Oklahoma Governmental Tort Claims Act.

68. At the time of the complained events, Plaintiff had a clearly established state constitutional right to be secure in his person from unreasonable seizure through excessive force.

69. That Plaintiff has a private right of action to any and all rights, including excessive force, under this section of the Oklahoma Constitution against the City of Muskogee, Oklahoma, for which he is entitled to relief.

Prayer for Relief

70. WHEREFORE, based on the foregoing, the Plaintiff prays that this Court grants him any and all relief to which he is entitled under 42 U.S.C. § 1983 and art. 2 § 30 of the Oklahoma Constitution, and all other applicable provisions of law, including money damages in an amount to be determined at trial, costs, and attorneys' fees under 42 U.S.C. § 1988.

Respectfully submitted,

/s/ Andrea L. Worden

Andrea L. Worden

Participating Attorney for the Rutherford Institute

109 E. Tonhawa St., Suite 100

(405) 360-8036

Fax: (888) 271-2384

aworden@wordenfirm.com

Attorney for the Plaintiff