

Case #250

SUPERIOR COURT OF N.J.
CUMBERLAND COUNTY

JAN 12 2015

REC'D & FILED
CIVIL CASE
MANAGEMENT OFFICE

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Attorneys for Plaintiff

C.F. by his parent and guardian D.F.,

Plaintiffs,

vs.

CITY OF MILLVILLE; CITY OF
MILLVILLE POLICE DEPARTMENT;
POLICE OFFICER MICHAEL
THOMPSON and JOHN DOES 1-5'
AND 6-10',

Defendants.

: SUPERIOR COURT OF NEW JERSEY
: CUMBERLAND COUNTY - LAW DIV.

:
: CIVIL ACTION

:
: DOCKET NO: CUM L 24-15

:
: COMPLAINT AND JURY DEMAND

: 005 Civil Rights
:
:

Plaintiff, C.F. by his parent and guardian D.F., residing in Millville, New Jersey, by way

Complaint against the defendants, says:

Preliminary Statement

This matter is opened to the Court under the New Jersey Civil Rights Act ("NJCR")
alleging the use of unlawful and excessive force by defendants such that plaintiff's rights under
the NJCRA were violated.

Identification of Parties

1. Plaintiff C.F., a minor, is at all relevant times herein, a resident of the State of New Jersey.
2. Defendant City of Millville is a municipality located in Cumberland County, New Jersey, subject to suit under the NJCRA and liable to plaintiff for the reasons set forth hereafter.
3. Defendant City of Millville Police Department is a public entity located in Cumberland County, New Jersey, subject to suit under the NJCRA and liable to plaintiff for the reasons set forth hereafter.
4. Defendant Police Officer Michael Thompson is an individual residing in the State of New Jersey and liable to plaintiff for the reasons set forth hereafter.
5. Defendants John Does 1-5 and 6-10, currently unidentified, are individuals and/or entities who, on the basis of their direct acts or on the basis of *respondeat superior*, are answerable to the plaintiffs.

General Allegations

6. On or about September 28, 2014, plaintiff was permissibly riding a motorized dirt bike in a wooded area near his home.
7. As plaintiff slowed and approached a turn-around point, he heard a voice yell "stop."
8. Plaintiff turned and saw defendant Police Officer Michael Thompson pointing a gun directly at him.
9. Plaintiff stopped his bike, dismounted, let the bike fall to the ground and removed his helmet.

10. Defendant Thompson continued to point his gun at the plaintiff for approximately 30 seconds.

11. Upon information and belief, defendant Thompson stopped the plaintiff because of a civilian complaint regarding bike and ATV usage in the area.

12. Defendant Thompson's pointing of the gun at plaintiff was unnecessary because of the lack of severity of the crime at issue, because plaintiff did not pose an immediate threat to the safety of the police officer or others, and because plaintiff was not actively resisting arrest or attempting to evade arrest by flight.

13. The unnecessary and unprovoked pointing of the gun at the minor plaintiff was a use of excessive force by defendant Thompson, who was acting under color of law and as an agent of defendants City of Millville and City of Millville Police Department.

14. Plaintiff has guaranteed to him by the Fourth Amendment to the United States Constitution the right to be free from unreasonable seizure.

15. Defendant's use of excessive force represented a violation of plaintiff's Fourth Amendment Constitutional rights such that defendants are liable to plaintiff for violation of the NJCRA.

16. Because the above conduct was purposeful, intentional, egregious, and performed with a reckless disregard of the rights of plaintiff, punitive damages are warranted.

COUNT I

NJCRA

17. Plaintiff hereby repeats and realleges paragraphs 1 through 16, as though fully set forth herein.

18. For the reasons set forth above, plaintiff's rights under the NJCRA were violated such that defendants are liable.

WHEREFORE, plaintiff demand judgment against the defendants jointly, severally and in the alternative, together with compensatory damages, non-economic compensatory damages, punitive damages, interest, cost of suit, attorneys' fees, enhanced attorneys' fees, and any other relief the Court deems equitable and just.

COSTELLO & MAINS, P.C.

By:


Kevin M. Costello

Dated:

1/8/15