

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

KEITH COCKRELL
c/o Gerhardstein & Branch
432 Walnut Street, Suite 400
Cincinnati, OH 45202,

Plaintiff,

v.

CITY OF CINCINNATI, OHIO
801 Plum St.
Cincinnati, OH 45202

and

DAVID HALL
c/o City of Cincinnati Police
Department
301 Ezzard Charles Dr.
Cincinnati, OH 45202,

Individually and in his official capacity
as an employee of the City of
Cincinnati,

Defendants.

Case No. 1: 10-cv-00270

Judge

CIVIL COMPLAINT AND JURY
DEMAND

I. PRELIMINARY STATEMENT

1. This civil rights case challenges as excessive force the use of a Taser to stop Plaintiff on July 3, 2008. Plaintiff Cockrell was suspected of jay walking when he was Tased in the back by Defendant David Hall. Mr. Cockrell was not suspected of any violence and at no time was Defendant Hall in any fear for his safety. Plaintiff was running when shot and immediately collapsed onto the pavement without breaking his fall in any manner. Plaintiff suffered severe lacerations and abrasions to his face and across the front of his body. Well before the Taser deployment in this case, Taser International had issued a

product warning indicating that the device can cause “serious injury or death... especially at risk are persons...who are running.” Police agencies and other organizations who have studied Tasers have recommended that the device not be used against nonviolent persons suspected of minor crimes who are running. Plaintiff brings this case seeking fair compensation and seeking a review of the policies and training within the Cincinnati Police Department to insure that Tasers are only deployed consistent with constitutional limits on use of force.

II. PARTIES

2. Plaintiff, Keith Cockrell, is and was at all relevant times a citizen of the State of Ohio and is a resident of Cincinnati, Ohio.
3. Defendant City of Cincinnati is a unit of local government organized under the laws of the State of Ohio.
4. Defendant David Hall was at all times relevant to this action a police officer employed by the City of Cincinnati. He is sued in his individual and official capacity.

III. FACTS

5. On July 3, 2008, Plaintiff Keith Cockrell walked to friend’s a residence on President Dr. in Cincinnati, Ohio. He was visiting the neighbor to borrow a pair of hair clippers.
6. At that time, Defendant Hall allegedly suspected Mr. Cockrell of jay walking, a nonviolent, minor pedestrian violation.
7. Plaintiff fled from the premises as Defendant Hall approached.
8. At no time did Plaintiff possess or display a weapon or pose any physical threat in any manner towards Defendant Hall or any other person.

9. At no time was Plaintiff accused of or suspected of a serious crime that merited use of deadly force.
10. Despite the fact that he was unarmed and posed no reasonable threat to the officer or the public, Defendant Hall stopped Plaintiff by deploying his X26 Taser device in “probe mode” striking Mr. Cockrell’s back and right leg.
11. “Probe mode” is a function of the Taser device whereby two barbs are deployed from a distance of up to 25 feet and a continuous electric shock is administered to the suspect through the barbs.
12. Mr. Cockrell immediately lost control of his body and collapsed, mid-run, onto the pavement without breaking his fall in any manner.
13. At the time of this use of force the City of Cincinnati Police Department Use of Force Policy and related training materials authorized use of the Taser to stop persons fleeing even though the persons are suspected only of nonviolent misdemeanors, including pedestrian violations. This policy and training by the Defendant City violated clearly established law which required an officer choosing to use force to balance the government interest in seizing a person fleeing from arrest for a pedestrian violation and nonviolent misdemeanors against the intrusion on the citizen, including the likelihood of serious injury to the citizen.
14. At the time of the use of force in this case, Taser International, the company that manufactures the Taser, had issued a product warning known to Defendants indicating that the device can cause “serious injury or death... especially at risk are persons...who are running.” Defendants ignored that product warning.

15. Law enforcement agencies and other organizations in the United States and elsewhere who have studied Tasers have recommended that the device not be used against nonviolent persons suspected of minor crimes who are running. Defendants have ignored these findings and recommendations.
16. The policy, practice, custom and training of the Defendant City of Cincinnati regarding the deployment of Tasers against nonviolent, misdemeanor persons who are running was a moving force behind the excessive force used on Mr. Cockrell by Defendant Hall in this case.
17. Mr. Cockrell suffered serious lacerations and abrasions to his face, chest, arms and elsewhere across his body. The use of force caused severe pain, physical injuries, humiliation, embarrassment and emotional distress. Defendants' actions described above directly and proximately caused these injuries to Plaintiff.

IV. CLAIM FOR EXCESSIVE FORCE (42 U.S.C. §1983)

18. Defendants have, under color of state law, deprived Plaintiff of rights, privileges, and immunities secured to the Plaintiff by the United States Constitution including the prohibition on unreasonable searches and seizures contained in the Fourth Amendment to the United States Constitution.

V. JURY DEMAND

19. Plaintiff requests a jury trial on all claims triable to a jury.

VI. PRAYER FOR RELIEF

WHEREFORE, plaintiff requests that this Court award him:

- A. Compensatory damages in an amount to be shown at trial;
- B. Punitive damages against Defendant Hall only in an amount to be shown at trial;

- C. Costs incurred in this action and reasonable attorney fees under 42 U.S.C. §1988;
- D. Prejudgment interest; and
- E. Such other and further relief as this Court may deem just and proper.

Respectfully submitted,

s/ Alphonse A. Gerhardstein
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