

COMMON PLEAS COURT

IN THE COURT OF COMMON PLEAS
MEIGS COUNTY, OHIO

2009 SEP -2 AM 9:27

FILED

Diane Lynch
CLERK OF COURTS
MEIGS COUNTY, OHIO

JAMES GRAY, IV.)
612 1st Avenue,)
Gallipolis, Ohio 45631)
Plaintiff,)

Case No. 09-CV-1197

Vs.)

VILLAGE OF MIDDLEPORT;)
237 Race Street,)
Middleport, Ohio 45760)

MIDDLEPORT POLICE DEPARTMENT ;)
237 Race Street,)
Middleport, Ohio 45760)

and PATROLMAN STEVEN KOEBEL,)
individually and In his capacity as patrolman;)
203 Kineon Drive,)
Gallipolis, Ohio 45631)
Defendant.)

Judge: Fred W. Crow III.

COMPLAINT AND JURY DEMAND

1. The Plaintiff, James Gray IV., is a resident of New Haven, West Virginia.
2. The Defendant, the Village of Middleport, is located in Meigs County, State of Ohio.
3. The Defendant, Middleport Police Department, is a police department regulated under the offices of the County of Meigs and the State of Ohio, located in Meigs County, State of Ohio .

4. The Defendant, Steven Koebel, is a resident of Meigs County, Ohio and is an employee, acting in the position of a police officer, a position for which he was trained and receives compensation.
5. The Defendant, Steven Koebel, is being sued in both his personal and official capacities.
6. At all times relevant, The Defendant, Steven Koebel, was employed by The Defendants, Village of Middleport and the Middleport Police Department.
7. At all times relevant, the Defendant, Steven Koebel was under the direction and control of Defendants, Middleport Police Department and/or the Village of Middleport, State of Ohio, and was duly appointed and acting officer of the Middleport Police Department, acting under the color of law, to wit, under the color of statutes, ordinances, regulations, policies, customs and usages of the State of Ohio and/or the Village of Middleport. The Defendant was acting with their policies, procedures, customs, practices and rules and/or lack of the aforementioned.
8. The Village of Middleport, Ohio is a municipal corporation organized pursuant to the laws of the State of Ohio and the public employer of the said Defendant, Steven Koebel.
9. The Defendants, Village of Middleport, and/or Middleport Police Department, at all times relevant, employed the Defendant police officer exercised and/or had control of said Defendant as agent, servant and/or employee. Said control included, but was not limited to hiring,

commanding, supervision, firing, disciplining, education, reeducating, demoting and reassigning.

10. At all times relevant, the Defendants actions took place within Meigs County, State of Ohio.
11. Upon information and belief, on or about the 15th day of April 2009 the Plaintiff, James Gray, IV., was operating a vehicle on Highway Route 7 in Middleport, Ohio.
12. The Defendant, Steven Koebel, in his capacity as patrolman for the Village of Middleport, Ohio, was patrolling Highway State Route 7 in Middleport, Ohio.
13. Upon information and belief, the Defendant, Steven Koebel, engaged in a high speed pursuit with the Plaintiff for allegedly running a stop sign.
14. The Plaintiff, James Gray IV, crashed his car into a fence and proceeded to step from his vehicle.
15. It is alleged that the Defendant, Steven Koebel, made an unreasonable seizure of the person of James Gray IV, violating his rights under the Fourth and Fourteenth Amendments of the United States Constitution, and that he thereafter assaulted Plaintiff, James Gray IV, by unnecessarily and illegally shooting him in the face. The Defendant, Steven Koebel, fired two shots from his weapon. One shot struck the Plaintiff, James Gray IV., in the side of the face. The bullet went into one side and exited the other, destroying the Plaintiff's teeth and injuring his tongue.

16. It is further contended that the violations were committed as a result of the police customs of the Village of Middleport Police Department, Ohio
17. Defendant, Steven Koebel, is not entitled to governmental or sovereign immunity.
18. Defendant, Steven Koebel, acted with indifference to the rights of James Gray IV, when Defendant, Steven Koebel, aimed a gun at Plaintiff and without cause or justification, shot Plaintiff, James Gray IV., in the face, shattering his teeth and causing permanent disfigurement.
19. Upon information and belief, the Defendant, Steven Koebel, approached the Defendant, who was lying in a large amount of water, and held the Plaintiff at gunpoint as he was lying bleeding profusely until other officers arrived, failing to render any type of aid to the Plaintiff after shooting him.
20. Upon information and belief, the Defendant, in an attempt to stop and/or arrest the Plaintiff and/or in frustration at not being able to stop and/or arrest the Plaintiff for allegedly a failure to obey a traffic sign that affected no bystanders, shot the Plaintiff in the face.
21. The injuries caused to the Plaintiff were wrongful and the force used by the Defendant in his attempts to stop Plaintiff was excessive.
22. The behavior of the Defendant was knowingly, purposeful, willful, wanton, malicious, and/or reckless and/or grossly negligent.
23. The actions of the Defendants constitute assault and battery and attempted murder.

24. As a direct and proximate cause of the Defendants actions, James Gray IV suffered fright, terror, assault, battery, pain, suffering and disfigurement.
25. The aforementioned actions of the Defendants constitute a conscious disregard of the emotions of the Plaintiff, as said Defendants did, pursuant to the aforementioned facts, purposely, intentionally and recklessly inflict emotional distress upon the Plaintiff.
26. As a direct and proximate cause of the actions of the Defendants, upon information and belief, the Plaintiff has suffered severe emotional stress, mental anguish, anxiety, distress, depression, fear, terror and hopelessness and other related damages and injuries.
27. As a direct and proximate cause of the actions of the Defendants, the Plaintiff has suffered damages.

COUNT I

28. Plaintiff repeats and recalleges paragraphs 1 through 27 of his Complaint as though fully set forth herein.
29. That the above described shooting was without legal justification.
30. Steven Koebel, in his capacity as patrolman, had a duty to act prudently and within reasonable care and to otherwise avoid the use of unnecessary, unreasonable and excessive and/or deadly force.

WHEREFORE, the Plaintiff seeks damages including but not limited to pain and suffering, payment of lost wages, medical expenses and reasonable attorneys' fees and costs.

COUNT II

31. Plaintiff repeats and realleges paragraphs 1 through 27 of his Complaint as though fully set forth herein.
32. That this Honorable Court has jurisdiction to herein adjudicate appropriate state law claims.
33. That Defendant Police Officer Steven Koebel owed a duty to act prudently and with reasonable care, and otherwise to avoid the use of unnecessary, unreasonable, illegal, excessive and/or deadly force.
34. That Defendant Police Officer Steven Koebel breached the above duties and acted with willful and wanton reckless conduct and/or so recklessly as to demonstrate a substantial lack of concern as to whether injury or death would result. Defendant's acts included, but were not limited to, the following:
 - A. Improper use of unreasonable, unnecessary, illegal, excessive and deadly force when James Gray IV was unarmed and did not threaten the infliction of bodily harm to Defendant Police Officer Steven Koebel at any time;

- B. Failing to use other methods of detainment, arrest and/or apprehension short of excessive and/or deadly force in the event such action was necessary;
 - C. Any and all additional acts of willful, wanton and reckless misconduct as may become known through the course of time and/or discovery.
35. As a direct and proximate result of Defendant Steven Koebel's willful, wanton and reckless misconduct, James Gray IV sustained permanent and lifelong injuries resulting from being shot in the face.
36. That the aforesaid actions of the Defendants proximately caused Plaintiff to suffer damages including but not limited to the following:
- A. Permanent disability;
 - B. Reasonable hospital and medical expenses;
 - C. Conscious pain and suffering;
 - D. Economic damages including loss of wages and/or loss of earning capacity and benefits;
 - E. Mental distress and anguish;
 - F. Punitive and exemplary damages;
 - G. All damages permissible under Ohio Law

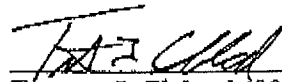
COUNT III.

37. Plaintiff repeats and realleges paragraphs 1 through 27 of his Complaint as though fully set forth herein.
38. At all times relevant to the Complaint, the Defendant, Village of Middleport, through its police department, supervisors and other policymakers, pursued policies, practices and customs that were a direct and proximate cause of the unjustified and illegal shooting alleged herein and were the result of deliberate indifference, and those policies include, but are not limited to:
- A. A failure to properly screen, supervise, discipline, transfer, counsel or otherwise control police officers who are known or should have been known to engage in improper use of excessive force and deadly force.
 - B. A failure to have and implement procedures, safeguards, guidelines and training in the use of deadly force and failing to advise and incorporate training for its officers in the use of firearms;
 - C. A failure to properly screen, supervise, discipline, transfer, counsel or otherwise provide training and education to police officers to immediately provide first aid to individuals who are seriously injured whether as a result of officers actions and/or others;
 - D. A failure to have and implement procedures, safeguards, guidelines and training to provide immediate medical assistance to individuals who are seriously injured and to immediately remove and control

threats to the safety of individuals such as leaving he bleeding individual lying in standing water until paramedics arrived.

39. Plaintiff demands trial by jury on all counts so triable.

WHEREFORE, the Plaintiff demands from the Defendants compensatory damages in an amount which will fairly compensate the Plaintiffs; punitive damages in an amount which will sufficiently punish the Defendants; attorney fees, costs for bringing this action and any other relief that the Plaintiff is entitled to in law or in equity and/or that this Court deems appropriate and proper in this matter.



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