



DATE: October 6, 2020

TO: Colorado Springs City Council

FROM: Office of the City Attorney

SUBJECT: *Brandon Nicholas Gilpin v. Colorado Springs Police Department/Officer Zachary Case 20-S-379*

This memorandum is to apprise you of the facts alleged in the above-referenced case as you consider the claims made against the officer involved.

NATURE OF THE CASE

Plaintiff, Brandon Gilpin, pro se, brought this claim, in the El Paso County Small Claims Court alleging that Officer Case used excessive force in detaining him and his alleged wife.

Plaintiff claims that on March, 3, 2020, he and Felisha Marie Cunningham were detained for obstructing a police officer. Plaintiff appears to allege that both he and Ms. Cunningham were injured during the detainment. Plaintiff also appears to allege that the detainment of Ms. Cunningham caused the death of an unborn child. Plaintiff is asking for damages in the amount of \$7,500.00 for mental anguish, lost wages, unexpected expenses, and damage to property.

According to police reports, on March 13, 2020, at about 10:46 pm, Officers Case and Brumm were patrolling in the downtown area. Officer Case recognized Plaintiff and believed that there was an active warrant for his arrest. Officer Case verified the existence of the warrant and then approached Plaintiff. As officers approached, Plaintiff pulled an object that resembled a knife out of his backpack and began walking, then running, away. Plaintiff ignored officer's commands to stop until Officer Brumm advised him that he would be tased if he did not stop. Plaintiff then stopped and became compliant without being tased. While Officer Case was detaining Plaintiff, Ms. Cunningham approached and threatened to pull her "piece" and kill both police officers. Officer Brumm turned his attention to Ms. Cunningham believing that she had a gun. Ms. Cunningham crossed the street while shouting at the officers. She then pulled a box cutter out of her pocket, pressed it to her neck, and threatened to commit suicide. When

she briefly fumbled the box cutter, Officer Brumm tased her, noting that she was approaching a busy ice cream store and fearing that her antics may endanger others. Ms. Cunningham dropped the box cutter and was taken into custody. Both Plaintiff and Ms. Cunningham were arrested on multiple charges.

RECOMMENDATION

The Civil Action Investigation Committee has recommended that the City represent the Officer as required by the Colorado Governmental Immunity Act and the Peace Officer's Liability Act. The Officer was acting in the course and scope of his employment, and was acting in good faith. As usual, it is recommended that the City reserve the right not to pay any award of punitive damages.