



DATE: March 4, 2024

TO: Colorado Springs City Council

FROM: Office of the City Attorney

SUBJECT: *Tyrone Moss v. Allen Simmons and Peter Mandry Two Colorado Springs Police Department Officers 23CV32168*

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

NATURE OF THE CASE

Plaintiff, Tyrone Moss, by and through his attorney, brought this case, in the District Court of El Paso County Colorado, alleging that Officers Simmons and Mandry ("Defendant Officers"), violated his rights pursuant to Colorado Revised Statute 13-21-131 and the Colorado Constitution. Specifically, Plaintiff claims that Defendant Officers used excessive force when they tased him after responding to a call for service at or near Woody's Bar and Grill located at 3881 East Pike's Peak Avenue. Plaintiff also claims that both officers caused him to be prosecuted for a crime he did not commit.

Plaintiff alleges that on March 12, 2022, he was a patron at Woody's Bar and Grill. He claims that while he was there, several police officers, including Defendant Officers, arrived looking for a black man wearing a white hoodie who was believed to have a firearm. Plaintiff alleges at about the same time Defendant Officers arrived, he began to walk away from the scene. He claims that Defendant Officers followed him with warnings that he would be tased if he did not stop. Plaintiff alleges that he stopped and turned to ask why Defendant Officers would tase him. According to Plaintiff, he was not making any threatening gestures and his hands were empty and away from his pockets. Even so, he claims that Officer Mandry tased him at Officer Simmons' instruction. After being tased, he claims that officers searched him and did not find a firearm. He alleges that he was unlawfully charged with obstructing a peace officer and that a jury ultimately acquitted him on that charge. Plaintiff is asking for injunctive relief, compensatory damages, fees, costs, and interest.

According to reports, on March 12, 2022, at about 10:31 p.m., CSPD Officers, including Defendant Officers, responded to a disturbance call indicating that four people were fighting and that one male had a gun at or near the intersection of East Pikes Peak Avenue and North Academy Boulevard. The male with the gun was described as a black man wearing a white and grey camouflage hoodie. When Defendant Officers arrived shortly thereafter, they observed a group of males standing in front of 3881 East Pike's Peak Avenue. Plaintiff was part of the group, and his clothing and appearance matched the description of the male with the gun. When Defendant Officers approached, Plaintiff began walking away with his hands in the front pocket of his hoodie. Defendant Officers followed him, with their weapons out, instructing him to stop. Plaintiff kept walking, repeatedly telling Defendant Officers to shoot him. When Plaintiff took his hands out of his pocket, Officer Mandry switched to his taser. As Plaintiff was walking away, Officer Simmons told him that he was going to be tased. Plaintiff then stopped, turned around, took steps toward Defendant Officers and yelled, "for what." Officer Mandry then deployed his taser. The taser was effective, and Plaintiff was handcuffed and searched for weapons. Officers did not find a handgun. Ultimately, Plaintiff was ticketed for obstructing a peace officer and released.

RECOMMENDATION

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