



DATE: July 23, 2024

TO: Colorado Springs City Council

FROM: Office of the City Attorney

SUBJECT: *Jacob Root vs Officer Robert Comstock and the City of Colorado Springs
1:24-cv-1293-MEH*

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, Jacob Root, by and through his attorneys, brought this case in the United States District Court, District of Colorado, alleging that Officer Comstock violated his rights pursuant to the Fourth Amendment of the United States Constitution and the Colorado Constitution through Colorado Revised Statute 13-21-131. Specifically, Plaintiff claims that the officer used excessive force when he tased Plaintiff who was running away from the officer and down an embankment.

Plaintiff alleges that on May 16, 2022, a team of law enforcement officers was tracking a stolen Ford Fusion. Plaintiff claims that after the vehicle escaped officers, they tracked it to the Kum & Go gas station at 2588 Airport Road. There, officers observed Plaintiff get out of the car and enter the gas station. As Plaintiff came out of the store, he saw the officers and began to run away. Plaintiff claims that Officer Comstock began chasing him as he ran through the parking lot. According to Plaintiff, after he left the parking lot and began running down an elevated slope, Officer Comstock shot him in the back with a taser without warning. Because of the taser's effects, Plaintiff claims that he fell head-first into Airport Road without the ability to use his hands or arms to cushion his fall. Plaintiff alleges that the fall broke his neck and rendered him a quadriplegic. According to Plaintiff, he did not make any threats or use any force against any person at the Kum & Go gas station. He alleges that it was unnecessary and excessive for the officer to tase him without a warning. He further claims that the officer was acting in accordance with his training and an unofficial custom or policy at CSPD that condones officers using excessive force in situations like this one. Plaintiff is asking for compensatory, economic, consequential, and punitive damages as well as fees, costs, and interest.

According to reports, on May 16, 2022, Officer Comstock was part of a team focused on automobile theft related crimes. On that day, the team was tracking and following a stolen Ford Fusion. The team observed Plaintiff driving the vehicle. When the team attempted to stop the car at the Aspen Lodge Hotel, Plaintiff took evasive action, struck a police cruiser, and got away. Officers did not chase the car but instead tracked it to the Kum & Go gas station at 2588 Airport Road. There they observed Plaintiff exit the car and enter the convenience store. They began to position themselves outside the store to arrest Plaintiff. As the officers approached the building, Plaintiff came out of the store, saw them, and immediately began to run. Officer Comstock began chasing Plaintiff. As he was running, Officer Comstock identified himself as a police K-9 officer and repeatedly told Plaintiff to stop. As Plaintiff approached Airport Road, Officer Comstock deployed his taser hitting Plaintiff in the back. Plaintiff fell, landing in the right most lane of Airport Road. Officers immediately called for medical support and applied first aid to a wound on Plaintiff's head. Plaintiff was then transported via ambulance to Memorial Hospital.

RECOMMENDATION

The Civil Action Investigation Committee has recommended that the City represent the above-named 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.