



DATE: March 25, 2024
TO: City Council
FROM: City Attorney's Office
SUBJECT: *Estate of Dizmang v. Reed, et al.*,
Case No. 24-cv-00423-CNS-MDB

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

NATURE OF THE CASE

Plaintiff, the Estate of Kevin Dizmang, filed an action in the United States District Court against Officer Sean Reed and Fire paramedic Nick Fischer. Plaintiff asserts a wrongful death claim against both defendants; a failure to intervene claim against Officer Reed; and an excessive force claim and a deliberate indifference to medical needs claim against Fire paramedic Fischer.

The amended complaint alleges that members of a Crisis Response Team ("CRT") were called to assist Kevin Dizmang. Mr. Dizmang was under the influence of drugs, having a psychotic breakdown, and damaging his residence, a RV trailer, and walking into traffic on a busy road nearby. When CRT arrived, the amended complaint alleges that multiple people were attempting to keep him from walking into traffic. The amended complaint alleges that Officer Reed instructed Mr. Dizmang to sit down or place his hands behind his back. As Officer Reed attempted to place him in handcuffs, Mr. Dizmang pulled away. Officer Reed followed Mr. Dizmang to a grove of trees where Mr. Dizmang continued to pull away from Officer Reed. Seeing this, Paramedic Fischer wrapped his arms around Mr. Dizmang's torso and, the amended complaint alleges, tackled him to the ground.

On the ground, Officer Reed was able to secure Mr. Dizmang's hands. Mr. Dizmang then became unresponsive. The amended complaint alleges that paramedics arrived seven minutes later and transported Mr. Dizmang to the hospital where he was pronounced dead. The amended complaint included a portion of the autopsy report which indicated that Mr. Dizmang died as a result of cardiopulmonary arrest in the setting of physical restraint, acute methamphetamine intoxication, COPD and asthma, cardiomegaly, diaphragmatic paralysis, and obesity.

Plaintiff seeks compensatory and punitive damages and injunctive relief.

RECOMMENDATION

The Civil Action Investigation Committee met on March 13, 2024 and recommended City representation for Officer Reed and Paramedic Fischer as required by the Colorado Governmental Immunity Act and, as it relates to Officer Reed, the Liability of Peace Officers Act. The employees were acting in the course and scope of their employment, and in good faith during the incident. As usual, the Committee should also recommend that the City reserve the right to decline payment of any award of punitive damages.