

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
CHAMPAIGN COUNTY, ILLINOIS

FILED
SIXTH JUDICIAL CIRCUIT

25 OCT 08 2010

Linda S. Frank
CLERK OF THE CIRCUIT COURT
CHAMPAIGN COUNTY, ILLINOIS

JESHAUN MANNING-CARTER, a Minor Child)
by LAURA MANNING, as Mother and Next Friend)
Plaintiffs,)

vs.)

No. 10-L-202

CITY OF CHAMPAIGN, a Municipal Corporation)
R.T. FINNEY and DANIEL NORBITS, Individually)
and as Employees of the CITY OF CHAMPAIGN)
Defendants.)

COMPLAINT AT LAW

NOW COMES, the Plaintiff, JESHAUN MANNING-CARTER by his mother and next-friend LAURA MANNING, and through his attorney, Alfred D. Ivy, III, and complaining of the Defendants, City of Champaign, R.T. Finney and Daniel Norbits, and in support thereof, Plaintiff states as follows:

JURISDICTION

1. At all times relevant to this action, including on October 9, 2009, and continuing until the present day, Plaintiff was a resident of Champaign County, Illinois, with his principal residence located in Champaign, Illinois.
2. At all times relevant to this action, including on October 9, 2009, and continuing until the present day, Defendant, City of Champaign is a municipal corporation organized, existing and doing business under the laws of the State of Illinois, and at all relevant times provided police services in the City of Champaign through the Champaign Police Department.
3. At all times relevant to this action, including on October 9, 2009, the Defendant City of Champaign employed a force of officers who served through the Champaign Police Department and who were assigned to work within the City of Champaign.
4. At all times relevant to this action, including on October 9, 2009, Defendants R.T. Finney and Daniel Norbits were employed as police officers by Defendant City of Champaign.
5. At all times relevant to this action, including on October 9, 2009, Defendants R.T. Finney and Daniel Norbits were acting within the scope of their employment with the Defendant City of Champaign as sworn police officers.

6. At all times relevant to this action, including on October 9, 2009, each and every event alleged herein took place within the City of Champaign, County of Champaign, State of Illinois.

FACTS COMMON TO ALL COUNTS

7. In the afternoon of Friday, October 9, 2009, Plaintiff Jashaun Manning-Carter saw his best friend, Kiwane Carrington, shot in chest and killed by Defendant City of Champaign, acting by and through Defendants Daniel Norbits and R.T. Finney.
8. Earlier in the day on October 9, 2009, Kiwane Carrington visited Jashaun Manning-Carter at Central High School.
9. Plaintiff Manning-Carter and Carrington, two fifteen year-old minors, left the area of Central High School and went to the residence located at 906 West Vine Street in the City of Champaign, intending to play videogames.
10. Plaintiff Manning-Carter and Carrington were unable to gain entry into the residence, so they stood in the doorway at the rear of the residence to get out the rain and talk.
11. As Plaintiff Manning-Carter and Carrington were standing in the doorway at the rear of the residence, Defendant City of Champaign, acting by and through Defendant Police Officers Daniel Norbits and R.T. Finney confronted Jashaun Manning-Carter and Kiwane Carrington with their guns drawn and leveled at the minors.
12. Upon information and belief Defendant Daniel Norbits was dressed in a full Champaign Police Uniform and Defendant R.T. Finney was dressed in civilian street clothes.
13. Defendant City of Champaign, acting by and through Defendant Police Officers Daniel Norbits and R.T. Finney, yelled, swore and ordered Plaintiff Manning-Carter and Carrington to get on the ground.
14. Plaintiff Manning-Carter and Carrington moved to comply with the Defendants' orders by sitting down on the concrete stoop by the back door of the residence.
15. Kiwane Carrington then stood up and walked towards the Defendants.
16. Defendant City of Champaign, acting by and through Defendant Police Officer R.T. Finney, pushed Kiwane Carrington backwards, causing Carrington to trip over the concrete stoop near the rear door and fall into a seated position.
17. Defendant City of Champaign, acting by and through Defendant Police Officer R.T. Finney then fired a shot downward into the chest of Kiwane Carrington, killing Carrington.

18. Manning-Carter heard Carrington yell "Oww" just after Manning-Carter heard Defendant R.T. Finney's gun discharge.
19. An officer grabbed Plaintiff Jashaun Manning-Carter and threw Plaintiff face first to the ground in the mud and fell on top of him. The Officer who threw Plaintiff to the ground was not Defendant R.T. Finney.
20. Plaintiff then heard officers ask whether anyone else was shot.
21. As he struggled to breathe his last, Carrington kicked Jashaun Manning-Carter in the side, leaving a muddy footprint on Jashaun Manning-Carter's clothes, as both Plaintiff Manning-Carter and Carrington were lying on the ground very near each other.
22. Kiwane Carrington was lying on his back on the concrete stoop and Plaintiff Jashaun Manning-Carter was lying on his stomach in the mud beside the concrete stoop.
23. At this point, Jashaun Manning-Carter looked into his best friend's face and Manning-Carter saw Carrington die with his eyes open.
24. An unknown officer grabbed Jashaun Manning-Carter from the ground and quickly removed Manning-Carter from the scene, with Plaintiff's last vision of Carrington being a pool of blood spreading across his best friend's chest.
25. Neither Jashaun Manning-Carter nor Kiwane Carrington were armed with any gun, burglary tools or other deadly weapon; nor did either Manning-Carter or Carrington pose any threat to Defendant City of Champaign, acting by and through Defendant Police Officers Daniel Norbits and R.T. Finney.
26. Jashaun Manning-Carter was arrested, imprisoned and charged with Aggravated Resisting a Peace Officer for injuries Plaintiff allegedly caused to Defendant City of Champaign, acting by and through Defendant Police Officer R.T. Finney. (See Champaign County Cause Number 09-JD-249)
27. Jashaun Manning-Carter and his family were forced to defend Plaintiff against the allegations made by Defendant City of Champaign, acting by and through Defendant Police Officers Daniel Norbits and R.T. Finney, the charges for which were dismissed approximately six months later on Tuesday, April 13, 2010.
28. Despite therapy and counseling with multiple providers, one year later, Jashaun Manning-Carter still finds it extremely difficult to cope, focus in school, and talk about what happened on the above date.
29. Since that date, Jashaun Manning-Carter struggles to deal with the death of his best friend and often blames himself for what happened.

COUNT I – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS (CITY OF CHAMPAIGN)

30. Plaintiff re-alleges paragraphs 1-29 as though they were fully restated herein.
31. At all times relevant, it was the duty of the Defendant, CITY OF CHAMPAIGN, by and through its duly authorized agents, servants, and/or employee police officers, to refrain from conduct exhibiting a reckless or conscious disregard for the safety of others, including Plaintiff.
32. Notwithstanding said duty, Defendant, CITY OF CHAMPAIGN, by and through its authorized agents, servants, and/or employee police officers committed one or more of the following willful and wanton acts and/or omissions
 - a. Used deadly force against Kiwane Carrington under circumstances in which Carrington presented no threat of death or serious bodily harm to the police officer or any other individual, knowing that Plaintiff Jashaun Manning-Carter would witness said acts and be adversely affected by those acts by way of his friendship with Carrington and proximity to said acts.
 - b. Discharged a firearm at Kiwane Carrington under circumstances in which Carrington presented no threat of death or serious bodily harm to police officers or other individuals, knowing that Plaintiff Jashaun Manning-Carter would witness said acts and be adversely affected by those acts by way of his friendship with Carrington and proximity to said acts.
 - c. Discharged a firearm at Kiwane Carrington when Carrington was unarmed, knowing that Plaintiff Jashaun Manning-Carter would witness said acts and be adversely affected by those acts by way of his friendship with Carrington and proximity to said acts; and
 - d. Recklessly or intentionally discharged a firearm at Kiwane Carrington knowing that it would cause Carrington's death or serious bodily injury, knowing that Plaintiff Jashaun Manning-Carter would witness said acts and be adversely affected by those acts by way of his friendship with Carrington and proximity to said acts.
 - e. Recklessly or intentionally discharged a firearm in such close proximity to Plaintiff Jashaun Manning-Carter under circumstances in which Plaintiff could have been shot or otherwise injured, creating a reasonable apprehension and fear within Plaintiff that he could or would be shot.
 - f. Recklessly or intentionally arresting and charging Plaintiff in a manner that wrongfully attempted to shift responsibility for Carrington's death from Defendant City of Champaign to Plaintiff Jashaun Manning-Carter.

33. Defendant City of Champaign's conduct was extreme, outrageous and without legal justification.
34. As a direct and proximate result of one or more of the following aforementioned acts and/or omissions by the Defendant, Plaintiff Jashaun Manning-Carter has suffered severe emotional distress after witnessing the death of Kiwane Carrington.
35. As a direct and proximate result of one or more of the following aforementioned acts and/or omissions by the Defendant, Plaintiff Jashaun Manning-Carter has suffered severe emotional distress and he is still unable to cope with the events of Friday, October 9, 2009.
36. As a direct and proximate result of one or more of the following aforementioned acts and/or omissions by the Defendant, Plaintiff Jashaun Manning-Carter has suffered severe emotional distress and blames himself for the death of Carrington.
37. As a direct and proximate result of one or more of the following aforementioned acts and/or omissions by the Defendant, Plaintiff Jashaun Manning-Carter has suffered severe emotional distress and unable to concentrate in school or engage socially with friends and family.
38. As a direct and proximate result of one or more of the following aforementioned acts and/or omissions by the Defendant, Plaintiff Jashaun Manning-Carter has suffered severe emotional distress and his next of kin have suffered great losses of a personal and pecuniary nature, and have been deprived of the society, companionship, friendship, comfort, guidance, love and affection of Plaintiff.
39. As a direct and proximate result of one or more of the following aforementioned acts and/or omissions by the Defendant, Plaintiff Jashaun Manning-Carter has suffered severe emotional distress and damage to his reputation in the community.
40. Defendant City of Champaign either knew or should have known that its actions were reckless, intentional and wrongful and that Plaintiff would suffer substantial emotional distress as a direct consequence of Defendant City of Champaign's actions.

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in his favor and award him damages, including: an amount in excess of the \$50,000.00 jurisdictional limit demanded in this action for compensatory damages; punitive damages; fees and court costs; legal interest; attorneys fees; and any additional amounts this Court deems just and equitable.

COUNT II – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS (R.T. FINNEY)

41. Plaintiff re-alleges paragraphs 1-40 as though they were fully restated herein.

42. At all times relevant, it was the duty of the Defendant, R.T. FINNEY, to refrain from conduct exhibiting a reckless or conscious disregard for the safety of others, including Plaintiff.
43. Notwithstanding said duty, Defendant, R.T. FINNEY committed one or more of the following willful and wanton acts and/or omissions
 - a. Used deadly force against Kiwane Carrington under circumstances in which Carrington presented no threat of death or serious bodily harm to the police officer or any other individual, knowing that Plaintiff Jashaun Manning-Carter would witness said acts and be adversely affected by those acts by way of his friendship with Carrington and proximity to said acts.
 - b. Discharged a firearm at Kiwane Carrington under circumstances in which Carrington presented no threat of death or serious bodily harm to police officers or other individuals, knowing that Plaintiff Jashaun Manning-Carter would witness said acts and be adversely affected by those acts by way of his friendship with Carrington and proximity to said acts.
 - c. Discharged a firearm at Kiwane Carrington when Carrington was unarmed, knowing that Plaintiff Jashaun Manning-Carter would witness said acts and be adversely affected by those acts by way of his friendship with Carrington and proximity to said acts; and
 - d. Recklessly or intentionally discharged a firearm at Kiwane Carrington knowing that it would cause Carrington's death or serious bodily injury, knowing that Plaintiff Jashaun Manning-Carter would witness said acts and be adversely affected by those acts by way of his friendship with Carrington and proximity to said acts.
 - e. Recklessly or intentionally discharged a firearm in such close proximity to Plaintiff Jashaun Manning-Carter under circumstances in which Plaintiff could have been shot or otherwise injured, creating a reasonable apprehension and fear within Plaintiff that he could or would be shot.
 - f. Recklessly or intentionally arresting and charging Plaintiff in a manner that wrongfully attempted to shift responsibility for Carrington's death from Defendant City of Champaign to Plaintiff Jashaun Manning-Carter.
44. Defendant R.T. FINNEY's conduct was extreme, outrageous and without legal justification.
45. As a direct and proximate result of one or more of the following aforementioned acts and/or omissions by the Defendant, Plaintiff Jashaun Manning-Carter has suffered severe emotional distress after witnessing the death of Kiwane Carrington.

46. As a direct and proximate result of one or more of the following aforementioned acts and/or omissions by the Defendant, Plaintiff Jashaun Manning-Carter has suffered severe emotional distress and he is still unable to cope with the events of Friday, October 9, 2009.
47. As a direct and proximate result of one or more of the following aforementioned acts and/or omissions by the Defendant, Plaintiff Jashaun Manning-Carter has suffered severe emotional distress and blames himself for the death of Carrington.
48. As a direct and proximate result of one or more of the following aforementioned acts and/or omissions by the Defendant, Plaintiff Jashaun Manning-Carter has suffered severe emotional distress and unable to concentrate in school or engage socially with friends and family.
49. As a direct and proximate result of one or more of the following aforementioned acts and/or omissions by the Defendant, Plaintiff Jashaun Manning-Carter has suffered severe emotional distress and his next of kin have suffered great losses of a personal and pecuniary nature, and have been deprived of the society, companionship, friendship, comfort, guidance, love and affection of Plaintiff.
50. As a direct and proximate result of one or more of the following aforementioned acts and/or omissions by the Defendant, Plaintiff Jashaun Manning-Carter has suffered severe emotional distress and damage to his reputation in the community.
51. Defendant R.T. FINNEY either knew or should have known that his actions were reckless, intentional and wrongful and that Plaintiff would suffer substantial emotional distress as a direct consequence of Defendant Daniel Norbits' actions.

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in his favor and award him damages, including: an amount in excess of the \$50,000.00 jurisdictional limit demanded in this action for compensatory damages; punitive damages; fees and court costs; legal interest; attorneys fees; and any additional amounts this Court deems just and equitable.

COUNT III -- INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS (R.T. FINNEY)

52. Plaintiff re-alleges paragraphs 1-51 as though they were fully restated herein.
53. At all times relevant, it was the duty of the Defendant, R.T. FINNEY, to refrain from conduct exhibiting a reckless or conscious disregard for the safety of others, including Plaintiff.

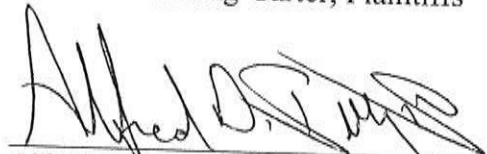
54. Notwithstanding said duty, Defendant, R.T. FINNEY committed one or more of the following willful and wanton acts and/or omissions
 - a. Recklessly or intentionally arresting and charging Plaintiff in a manner that wrongfully attempted to shift responsibility for Carrington's death from Defendant City of Champaign to Plaintiff Jashaun Manning-Carter.
 - b. Recklessly, intentionally and falsely leading others to believe Plaintiff Jashaun Manning-Carter caused injury to Defendant Finney's person.
 - c. Recklessly, intentionally and falsely leading others to believe Plaintiff Jashaun Manning-Carter resisted Defendant Finney in any manner.
55. Defendant R.T. FINNEY's conduct was extreme, outrageous and without legal justification.
56. As a direct and proximate result of one or more of the following aforementioned acts and/or omissions by the Defendant, Plaintiff Jashaun Manning-Carter has suffered severe emotional distress after being arrested, imprisoned and charged with a felony criminal offense.
57. As a direct and proximate result of one or more of the following aforementioned acts and/or omissions by the Defendant, Plaintiff Jashaun Manning-Carter has suffered severe emotional distress and he is still unable to cope with the events of Friday, October 9, 2009.
58. As a direct and proximate result of one or more of the following aforementioned acts and/or omissions by the Defendant, Plaintiff Jashaun Manning-Carter has suffered severe emotional distress and blames himself for the death of Carrington.
59. As a direct and proximate result of one or more of the following aforementioned acts and/or omissions by the Defendant, Plaintiff Jashaun Manning-Carter has suffered severe emotional distress and unable to concentrate in school or engage socially with friends and family.
60. As a direct and proximate result of one or more of the following aforementioned acts and/or omissions by the Defendant, Plaintiff Jashaun Manning-Carter has suffered severe emotional distress and his next of kin have suffered great losses of a personal and pecuniary nature, and have been deprived of the society, companionship, friendship, comfort, guidance, love and affection of Plaintiff.
61. As a direct and proximate result of one or more of the following aforementioned acts and/or omissions by the Defendant, Plaintiff Jashaun Manning-Carter has suffered severe emotional distress and damage to his reputation in the community.

62. Defendant R.T. Finney either knew or should have known that his actions were reckless, intentional and wrongful and that Plaintiff would suffer substantial emotional distress as a direct consequence of Defendant Finney's actions.

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in his favor and award him damages, including: an amount in excess of the \$50,000.00 jurisdictional limit demanded in this action for compensatory damages; punitive damages; fees and court costs; legal interest; attorneys fees; and any additional amounts this Court deems just and equitable.

Plaintiff demands trial by jury on all the issues in this cause.

Respectfully,
Laura Manning and
Jeshaun Manning-Carter, Plaintiffs


Alfred D. Ivy, III - Plaintiff's Attorney

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