

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA

NANCY LEFLORE-MILLS
as guardian of the person and
estate of an adult person,
SAMUEL LEFLORE,

PLAINTIFF,

vs

CASE NO.

DILLON MUNHOLLAND and
THE CITY OF McALESTER,

DEFENDANTS.

COMPLAINT
(Jury Trial Demanded)

COMES NOW the Plaintiff, NANCY LEFLORE -MILLS as guardian of the person and estate of an adult, SAMUEL LEFLORE, (hereinafter known as Plaintiff) and for her cause of action against the Defendants alleges and states as follows:

JURISDICTIONAL STATEMENT

1. The Plaintiff is a resident of Pittsburg County , State of Oklahoma.
2. The Defendant Dillon Munholland is believed to be a resident the State of Oklahoma.
3. The Defendant City of McAlester is a municipal corporation located in Pittsburg County, State of Oklahoma.
4. That at all times alleged herein Defendant Munholland was a police officer employed by Defendant City of McAlester and was at all times were acting under color of state law.

5. That all actions complained of occurred in Pittsburg County which is within the jurisdiction of the United States District Court for the Eastern District of Oklahoma and venue and jurisdiction are properly before this Court.

6. That more specifically, Plaintiff's claim is brought pursuant to Title 42 U.S.C. § 1983 and is based on violations of Mr. Leflore's rights as guaranteed by the United States Constitution and its Amendments.

7. Plaintiff's claims is also based on violations of Mr. Leflore's rights as guaranteed by the Oklahoma statutes and the Oklahoma Constitution including but not limited to Section 30, Article II.

STATEMENT OF THE CASE

8. That on or about April 13, 2013 Defendant Munholland was on duty/patrol as a McAlester police officer when he came into contact with SAMUEL LEFLORE.

9. Samuel Leflore is and was an incapacitated adult.

10. That while Samuel Leflore was walking near the police department he was confronted by Defendant Munholland.

11. That Defendant Munholland ordered Samuel Leflore to stop and gave him other orders. That Defendant Munholland then arrested Samuel Leflore and placed him in handcuffs.

12. That after Samuel was placed in handcuffs Defendant Munholland struck him causing injuries to his head and face. The violent force of Munholland's blows to Leflore caused severe injuries to Munholland's hand.

13. That the seizure of Samuel Leflore was unreasonable and the force used upon Leflore was unreasonable, excessive and wrongful.

CAUSES OF ACTION

I. 42 U.S.C. 1983

_____ 14. The United States Constitution guarantees individuals such as Samuel Leflore the right to be free from unreasonable seizures and excessive force from police officers acting under color of law, such as Defendant Munholland.

15. The seizure and arrest of Samuel Leflore by Defendant Munholland was without warrant and probable cause and was unreasonable and unconstitutional.

16. That even if the seizure of Samuel Leflore is found to be constitutional the force used by Defendant Munholland on Samuel Leflore constituted an unreasonable and excessive use of force in violation of Samuel's rights guaranteed by the United States Constitution.

17. That Defendant Munholland acted under color of law as defined by law during the Constitutional deprivations of Mr. Leflore.

18. That Mr. LeFlore suffered harm and that Defendant Munholland is liable to him for such damages and injuries as well as the Constitutional deprivations suffered by Mr. Leflore.

19. As a result of the Constitutional deprivations suffered by Mr. Leflore at the hands of Defendant Munholland, Plaintiff is entitled to recover damages from Defendant Munholland in an amount that will fairly compensate Leflore.

20. Further, Mr. Leflore is entitled to an award of punitive damages for the conduct of each Defendant in an amount that will sufficiently punish the Defendants for their conduct, deter them from such future wrongful conduct and/or make them an example.

COUNT II

OKLAHOMA CONSTITUTION

ARTICLE II, SECTION 30

_____21. The Oklahoma Constitution guarantees Plaintiff the right to be free from excessive and unreasonable seizure and/or force by police officers acting under color of law such as Defendant Munholland.

22. The force used by Defendant Munholland on Mr. Leflore constituted an unreasonable and excessive use of force in violation of his rights guaranteed by Section 30 of Article II of the Oklahoma Constitution.

23. That Defendant Munholland acted under color of law as defined by statute during the Constitutional deprivations of Mr. Leflore.

24. That the City of McAlester is liable for the wrongful harm caused by its employees such as Defendant Munholland pursuant to the doctrine of respondent superior.

25. That the City of McAlester, as the employer of Defendant Munholland, are vicariously liable to the Samuel Leflore for his damages caused by Munholland in violating his rights.

26. That Mr. Leflore suffered harm and that each Defendant is liable to Mr. Leflore for such damage and injuries as well as the Constitutional deprivations suffered by him.

27. As a result of the Constitutional deprivations suffered by Mr. Leflore at the hands of Defendant Munholland, Mr. Leflore is entitled to recover damages from each Defendant in an amount that will fairly compensate him.

28. Further, Mr. Leflore is entitled to an award of punitive damages for the conduct of

each Defendant in an amount that will sufficiently punish the Defendants for their conduct, deter them from such future wrongful conduct and/or make them an example.

29. Plaintiff is entitled to an award of attorneys fees and costs.

WHEREFORE, premises considered, Plaintiff prays that this Court grant him judgment in excess of seventy-five thousand dollars (\$75,000.00) and any other relief deemed appropriate by this Honorable Court.

Respectfully Submitted,

By: /s/ Jeremy Beaver
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ATTORNEY LIEN CLAIMED

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA

NANCY LEFLORE-MILLS
as guardian of the person and
estate of an adult person,
SAMUEL LEFLORE,
PLAINTIFF,

vs

CASE NO. 15-CV-130-RAW

DILLON MUNHOLLAND and
THE CITY OF McALESTER,

DEFENDANTS.

NOTICE OF INTENT TO SETTLE

Notice is hereby given that the Plaintiff, NANCY LEFLORE-MILLS, as Guardian of the Person and Estate of Samuel LeFlore, by and through her attorney, the undersigned, and by agreement of all parties, does hereby advise the Court of a Notice of Intent to Settle in this cause.

Respectfully Submitted,

/S/ Jeremy Beaver

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CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of September, 2015, based on the electronic records currently on file, the Clerk of the Court will transmit a Notice of Electronic Filing to the following ECF registrants:

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/S/ Jeremy Beaver