

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

A.E., by his parent and natural guardian)
SHEILA WEATHERSPOON,)
)
Plaintiff,)
)
v.)
)
CITY OF SYRACUSE; OFFICER)
JAMES STONE, in his individual and)
official capacities; and OFFICER JAMES)
MORRIS, in his individual and official)
capacities,)
Defendants.)
)

Civil Action No. _____

JURY TRIAL DEMANDED

PRELIMINARY STATEMENT

1. This is an action about the rights of students to be educated in a safe environment free from unnecessarily violent and frightening encounters with the armed police officers who permanently patrol their schools. Plaintiff A.E., fifteen years old at the time of the incident described herein, brings this action against the City of Syracuse and three of its police officers who recklessly injured him with a taser and handcuffed him when he was trying to break up a fight between two female classmates.

2. The police officers' actions were an unfortunate but inevitable result of the City of Syracuse's policies and practices governing the deployment of armed police officers in Syracuse public schools, which were designed to govern police activity on the streets of Syracuse, not the hallways and the playgrounds of its schools. The officers who shot and handcuffed A.E. were guided by policies and training that failed to acknowledge the important differences between regulating adult criminal behavior and regulating children within the educational environment.

3. The officers' actions were also a result of the City of Syracuse's failure, as a matter of policy and practice, to treat tasers as weapons capable of inflicting serious injury and even death. The Syracuse Police Department's current policies and practices encourage officers to deploy tasers in a manner that poses undue risks to people, especially the students who are continuously monitored by Syracuse police officers in the schools.

4. As a result of his traumatic encounter with police officers, A.E. suffered serious injury and continues to suffer from pain and emotional distress. His family also incurred medical costs resulting from his injuries. A.E. therefore asks this Court to declare the actions of the Syracuse Police Department and its officers to be in violation of his Constitutional and state law rights and to order Defendants to compensate him for these injuries.

PARTIES

5. At the time of the events alleged herein Plaintiff A.E. was a fifteen year-old student at Fowler High School and a resident of Syracuse, New York. He appears in this action by and through his mother, Sheila Weatherspoon.

6. Defendant CITY OF SYRACUSE controls and is responsible for the actions of the Syracuse Police Department and its officers.

7. Defendant OFFICER JAMES STONE is a police officer employed by the Syracuse Police Department and is assigned as a School Resource Officer to Fowler High School. At all times relevant to this complaint he was acting in the course and scope of his employment with the Syracuse Police Department. He is sued in his official and individual capacities.

8. Defendant OFFICER JAMES MORRIS is a police officer employed by the Syracuse Police Department. At all times relevant to this complaint he was acting in the course and scope

of his employment with the Syracuse Police Department. He is sued in his official and individual capacities.

FACTS

Tasers are Extremely Dangerous, Potentially Lethal Weapons

9. A taser is a weapon that delivers debilitating electric shocks in order to cause neuromuscular incapacitation and force compliance with police orders through pain. Typical deployment of the taser involves firing two barbs containing electrodes at the victim. The barbs are designed to penetrate clothing and pierce the body of a target. The officer can then deliver painful and possibly incapacitating electric shocks to the victim.

10. The victim feels extreme pain and helplessness upon being shocked by a taser.

11. Tasers can be lethal.

12. Amnesty International reports that over 350 people in the United States have died after being struck with tasers.

13. TASER International, Inc., the manufacturer of the tasers used by the Syracuse Police Department, has admitted that its weapons “may result in serious, permanent bodily injury or death to those involved. Our products may cause or be associated with these injuries.”

14. TASER International, Inc.’s warnings for the use of tasers include risks of scarring, burns, bone damage from the dart, infection, and eye damage.

15. In New York State, possession of tasers by civilians is banned because of the weapons’ dangerous, potentially lethal nature.

16. In response to increased experience with and additional information about taser use, police departments and affiliated organizations across the country have seriously restricted

permissible taser use, made recommendations to curtail taser use substantially, or have stopped using tasers completely.

Inadequate Training and Poor Policies Governing the Armed Police Officers in Syracuse City Public Schools

17. In the Syracuse City School District, some police officers are permanently stationed at every middle school and high school in the city, with students as young as sixth grade. These officers are known as School Resource Officers.

18. School Resource Officers wear Syracuse Police Department uniforms and are armed with both guns and tasers.

19. At the time of the incident described herein, neither School Resource Officers nor other Syracuse Police Officers received any special training to prepare them for being posted in a school environment or for dealing with young people or youth behavior.

20. The taser-related training provided to School Resource Officers and Syracuse Police Officers was designed by the manufacturer of taser weapons, TASER International, Inc. It does not include any special training regarding the use of tasers in the school environment or on youth and does not speak to the circumstances in which officers should deploy tasers, the placement of tasers on the use-of-force spectrum, whether officers should warn prior to deploying a taser, and whether officers should attempt to use other, less-serious force prior to using tasers.

21. The Syracuse Police Department's use of force policy governing tasers states that an officer may use a taser where "reasonably necessary for self-defense, protection of a third person, and/or to effect a lawful arrest."

22. This policy does not differentiate between the use of tasers in a school and on the street. It does not differentiate between the use of tasers on children and adults.

23. The policy does not require officers to issue a warning prior to using a taser or encourage officers to consider other, less serious force prior to using a taser.

24. Numerous excessive force suits have been brought against the Syracuse Police Department because of their use of tasers.

25. News reports indicate that the Syracuse Police Department discharged tasers more than 700 times between 2005 and 2009.

Syracuse Police Officers' Unlawful Use of a TASER Gun and False Arrest of A.E.

26. A.E. moved from Flint, Michigan to Syracuse, New York to live with his mother in August of 2009.

27. A.E.'s first day at Fowler High School was on September 22, 2009.

28. Because he was a new student, A.E. did not know most of his classmates at Fowler. One of the few students he got to know in his first weeks at the school is a female classmate named K.E., who was one of his neighbors.

29. On September 28, 2009, his fifth day at his new school, at approximately 3:00 p.m., A.E. was on a school bus in front of the school waiting to be taken home. K.E. was also on the bus.

30. K.E. asked A.E. if she could borrow his mobile phone to call her sister. A.E. lent her his phone.

31. While talking on the phone to her sister, K.E. stepped off the bus onto a paved area in front of the school entrance. A.E. followed her in order to retrieve his phone.

32. Just as A.E. stepped off the bus, he saw another female student rushing towards him and K.E. as if to hit her.

33. At that moment, A.E. did not see or hear any police officers or school administrators nearby who could protect K.E. or prevent or break up the fight.

34. A.E. was particularly concerned about K.E. because he knew she had a baby, and he did not want to see her get hurt or get in trouble and be unable to care for the child.

35. A.E. stepped between K.E. and the other student to prevent her from striking K.E.

36. At the same time, A.E. also tried to break up the confrontation by loudly stating words to the effect of, "Why are you trying to fight? You need to chill out."

37. As these events unfolded, Officer Stone, Officer Morris, the Vice Principal of the school, and other school officials and/or police officers arrived at the scene.

38. A.E. was not aware of the officers' arrival, did not hear or see any indication of their arrival, or of their intent to use force.

39. Although the officers had been informed that a student fight was underway, none of the officers had any reason to believe that the students were armed.

40. Within seconds of arriving, Officer Stone, standing approximately three or four feet behind A.E., pointed and discharged his taser.

41. Neither Officer Stone nor the other officers at the scene made their presence known to A.E., nor, upon information and belief, did they issue a warning stating that they were going to shoot A.E. with a taser.

42. Neither Officer Stone nor the other officers at the scene made any attempt to separate A.E. and the other student or address the situation prior to using the taser.

43. At least one of the barbs stuck in A.E.'s arm, causing a painful laceration.

44. When the taser barbs lodged in his arm, A.E. turned toward Officer Stone, seeing him for the first time.

45. Without warning, Officer Stone pulled the trigger on the taser and A.E. felt an extremely painful shock run through his left arm. The shock caused A.E.'s arm to tense up and caused him to spin around in pain and confusion.

46. A.E. immediately felt a second shock, similar in strength and lasting as long as the first shock, run through his arm.

47. A.E. was not resisting arrest or resisting any lawful order of any of the police officers when Officer Stone deployed his taser and shocked A.E.

48. Scared and overwhelmed with pain, A.E. yelled out to Officer Stone, saying words to the effect of "Why did you do that? You have got the wrong person."

49. The officers then yelled at A.E. to get on the ground.

50. A.E. made no attempt to resist the officers and went to the ground, laying on his stomach as the officers requested.

51. Officer Stone and Officer Morris handcuffed A.E., leaving the taser barbs in his arm, in front of approximately 30 to 40 of A.E.'s peers, many of whom A.E. had never met because he was new to the school. A.E. felt very fearful that he was going to go to jail.

52. As A.E. lay handcuffed on the ground, witnesses continuously asserted that A.E. was simply attempting to prevent the fight from occurring.

53. A.E., too, reiterated to the officers that he was not fighting and was attempting to break up the fight.

54. After several minutes, A.E. was moved to the ambulance, still handcuffed, where a paramedic removed the taser barbs from his arm.

55. When the barbs were removed, A.E.'s arm bled where the barbs had penetrated his skin.

56. After several more minutes, a police officer removed the handcuffs from A.E. and told him that the police would not charge him with any crime.

57. A.E. was taken to SUNY Upstate Medical University Hospital by ambulance.

58. At the hospital, an unidentified Syracuse Police Officer told A.E.'s mother that the use of a taser on A.E. had been a "mistake."

59. No criminal charges stemming from this incident were ever brought against A.E.

The TASER Incident and the False Arrest Have Caused Serious Harm to A.E. and His Family

60. A.E.'s family incurred substantial medical expenses from the incident, including from his initial visit to the emergency room, from follow-up doctor visits, and from pain medicine that A.E. has taken on a regular basis after the incident.

61. A.E. experienced continuous pain in his left arm for three to four weeks after the taser shock.

62. Months later, A.E. still experiences recurring pain in his left arm.

63. A.E. had to sit out of some of his gym classes at school because of the pain he has felt in his arm.

64. A.E. still has a scar on his arm from being hit by the barbs from Officer Stone's taser.

65. A.E. has additionally experienced recurring headaches since the incident, some of which have been severe enough to wake him during the night.

66. A.E. has suffered emotional distress from the incident. The incident deeply embarrassed A.E. in front of a large number of his new classmates, and A.E. has been the subject of rumors and jokes about the incident.

67. Officer Stone is regularly at Fowler High School in his capacity as a School Resource Officer.

68. Neither Officer Stone nor any other officers involved in shocking and arresting A.E. have ever apologized to A.E. for their treatment of him.

JURISDICTION AND VENUE

69. This Court has subject-matter jurisdiction over plaintiff's claims pursuant to 28 U.S.C. §§ 1331, 1343(a).

70. Venue is proper pursuant to 28 U.S.C. § 1391(a)(2) in that the plaintiff's claims arise within the Northern District of New York and pursuant to 28 U.S.C. § 1391(b)(1) in that the defendants reside within the Northern District of New York.

71. This Court has supplemental jurisdiction over all state common law claims pursuant to 28 U.S.C. § 1367(a).

FIRST CAUSE OF ACTION (Excessive Force in Violation of the U.S. Constitution)

72. By their actions in this complaint, Defendants acted under color of state law to deprive plaintiff A.E. of his right to be free from the use of excessive force as guaranteed by the Fourth and Fourteenth Amendment of the Federal Constitution, as enforced by 42 U.S.C. § 1983.

SECOND AND THIRD CAUSES OF ACTION (False Arrest and False Imprisonment in Violation of the U.S. Constitution)

73. By their actions in this complaint, Defendants acted under color of state law to deprive plaintiff A.E. of his right to be free from false arrest and false imprisonment as guaranteed by the Fourth and Fourteenth Amendment of the Federal Constitution, as enforced by 42 U.S.C. § 1983.

FOURTH AND FIFTH CAUSES OF ACTION (False Arrest and False Imprisonment in Violation of New York law)

74. Defendants subjected plaintiff A.E. to false arrest and false imprisonment in violation of the laws of New York State, since the plaintiff was wrongfully, unlawfully, unjustifiably, and forcibly detained and deprived of his liberty against his will. The defendants did so while acting as employees of the City of Syracuse, in the course of their employment and the scope of their authority in furtherance of the interest of their employer.

**SIXTH CAUSE OF ACTION
(Battery in Violation of New York law)**

75. Defendants committed battery and excessive force upon plaintiff A.E., by intentionally initiating offensive bodily contact with A.E that is unreasonable under New York law. The defendants did so while acting as employees of the City of Syracuse, in the course of their employment and the scope of their authority in furtherance of the interest of their employer.

**SEVENTH CAUSE OF ACTION
(Assault in Violation of New York law)**

76. Defendants committed an assault upon plaintiff A.E., by undertaking physical conduct that unjustifiably placed A.E. in imminent apprehension of harmful contact that is unreasonable under New York law. The defendants did so while acting as employees of the City of Syracuse, in the course of their employment and in the scope of their authority in furtherance of the interest of their employer.

WHEREFORE, the plaintiff requests the Court award:

- (a) a declaration that the actions of the Defendants violated the U.S. Constitution and New York law;
- (b) compensatory damages in an amount to be determined according to proof at trial;

- (c) attorney's fees and costs pursuant to 42 U.S.C. §1988; and
- (d) such other and further relief as the court deems proper.

Respectfully submitted,

/s/ Corey Stoughton
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Dated: December 21, 2010
New York, NY

On the Complaint:

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