

CJ-15-4217
Stewart



IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

DEMETRIA M. CAMPBELL, individually,

Plaintiff,

v.

CITY OF OKLAHOMA CITY, a municipality; and
DANIEL HOLTZCLAW in his official capacity as Police
Officer of The Oklahoma City Police Department, and
DANIEL HOLTZCLAW, individually,

Defendants.

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)
) CJ 2015-4217
) Case No. _____
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)
) JURY TRIAL
) DEMANDED
) ATTORNEY LIEN
) CLAIMED
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)

PETITION FOR RELIEF

COMES NOW the Plaintiff, Demetria M. Campbell, individually, (hereinafter
"Plaintiff"), and for her causes of action against the Defendants, and each of them, avers
and states as follows:

FILED IN DISTRICT COURT
OKLAHOMA COUNTY
TIMOTHY J. CLARK
CLERK
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1. The Plaintiff for all material times is and was a resident of Oklahoma County, State of Oklahoma, and so resided for all material times relevant to the claims made in the Petition.
2. Defendant, the City of Oklahoma City, is a municipality in Oklahoma County, in the State of Oklahoma and the Oklahoma City Police Department is a law enforcement agency under the direction of the City of Oklahoma City, Oklahoma.
3. Defendant, Daniel Holtclaw, for all material times for purposes of this Petition, was a police officer of the Oklahoma City Police Department.
4. Upon information and belief, all the Defendants are residents of Oklahoma County, State of Oklahoma, for purposes of this lawsuit.

5. The incidents giving rise to this cause of action occurred in Oklahoma County, State of Oklahoma.

6. Personal jurisdiction is proper pursuant to 12 O.S. § 2004(f) and venue is properly laid pursuant to 12 O.S. § 133.

7. On or about November 3, 2014, Plaintiff properly gave notice of her Tort Claim pursuant to 51 O.S. § 151 *et seq.*, to the City of Oklahoma City through its City Clerk's Office-Claims, and accordingly has complied with all pre-filing requirements set forth therein. Because such claim was not approved within the (90) day statutory period, the same has been deemed denied on February 1, 2015 for purposes of this litigation pursuant to 51 O.S. § 157(A). Plaintiff timely brings this action within one hundred eighty (180) of said denial.

STATEMENT OF FACTS

8. During all relevant times to the Petition, Defendant Daniel Holtzclaw ("Holtzclaw") was acting under the color and authority of state law.

9. During all relevant times, Defendant Holtzclaw held the position of Police Officer in the Oklahoma City Police Department.

10. In his position as Police Officer in the Oklahoma City Police Department, Defendant Holtzclaw performed duties, including, but not limited to, being responsible for carrying out and enforcing policies and procedures of the Oklahoma City Police Department.

11. On or about November 5, 2013, Demetria M. Campbell, was travelling to TJ's Seafood restaurant on the east side of Oklahoma City to purchase a meal for her daughter who was receiving treatment at a nearby hospital.

12. Plaintiff exited her vehicle and began to walk up to the restaurant when, without provocation or sufficient justification, Defendant Holtzclaw grabbed her while shoving her towards the building. He then slammed her face and head against the brick wall and pressed his crotch area against her backside while exhibiting an obvious erection. Defendant Holtzclaw then handcuffed Plaintiff and thrust her into his patrol vehicle. At no time did Plaintiff threaten Defendant Holtzclaw, nor did she make any threatening gesture or exhibit any aggression towards him.

13. Plaintiff prayed and sobbed as Defendant Holtzclaw travelled with her handcuffed in the backseat of his patrol vehicle through various parts of the city. After some time, Defendant Holtzclaw released Plaintiff without filing charges, but accused her of fitting the description of an individual who had stolen a vehicle.

14. Immediately after Holtzclaw's attack, Plaintiff went to OU Medical Center in the emergency department and sought treatment for her injuries. One of the nurses then called the Oklahoma City Police Department and demanded that a supervisor come to the hospital to address the allegations by Plaintiff and against Defendant Holtzclaw.

15. Thereafter, Lieutenant Brian Bennett of the Oklahoma City Police Department arrived and took a statement from Plaintiff. He apologized to her for what had occurred.

16. On or about August 29, 2014, Defendant Holtzclaw was arrested and charged with a criminal felony consisting of thirty six (36) counts of procuring lewd exhibition, rape, sexual battery, forcible oral sodomy, and inter alia, all against middle-aged African American females on the east side of Oklahoma City.

17. As a result of Defendants Holtzclaw and the City of Oklahoma City's conduct, acts and omissions, Plaintiff Demetria M. Campbell, has suffered damages including but not limited to economic losses, and non-economic losses, including medical bills, pain and suffering and emotional distress, for which she should be compensated in an amount believed to be in excess of \$75,000.00.

FIRST CLAIM FOR RELIEF

[Use Of Excessive Force and Negligent Supervision
In Violation Of Okla. Const. Art. 2 §§ 9, 30
Against Defendants City of Oklahoma City and Holtzclaw]

Plaintiffs, for her First Claim For Relief, incorporates each and every allegation found in numerical paragraphs 1-17 above as if fully restated herein, and further states as follows:

18. On November 5, 2013, Defendant Holtzclaw was an employee of the Oklahoma City Police Department and acting under the color of state law and the Constitution of the State of Oklahoma, and authority as a servant and employee of the city of Oklahoma City.

19. The acts described above represent: (a) a common law assault and battery; and (b) a use of excessive force in violation of Oklahoma Constitution Article 2, §§ 9, 30.

20. The City of Oklahoma City had constant access to Holtzclaw's dispatch communications and patrol cameras, therefore the City of Oklahoma City is liable for its own negligence in failing to adequately supervise and discipline Holtzclaw.

21. As a direct result of the City of Oklahoma City's and Holtzclaw's wrongful acts and conduct, Plaintiff sustained damages and injuries in an amount in excess of \$75,000.00, the actual amount to be determined by a jury at trial.

Wherefore, Plaintiff prays for judgment against the City of Oklahoma City and Holtzclaw to include all costs and attorney fees and such other relief as may be available in law and equity.

SECOND CLAIM FOR RELIEF
[Negligence-City of Oklahoma City and Holtzclaw]

Plaintiff, for her Second Claim For Relief incorporates each and every allegation found in numerical paragraphs 1-21 above as if fully restated herein, and further states as follows:

22. The City of Oklahoma City and Holtzclaw owed a duty of care to Plaintiff to protect her from the infliction of excessive force and that Officer Holtzclaw would be adequately supervised and controlled when dealing with the public.

23. Defendants have breached their duty to Plaintiff.

24. As a direct result, Plaintiff sustained damages in an amount in excess of \$75,000.00, the actual amount to be determined by a jury at trial.

Wherefore, Plaintiff prays for judgment against the City of Oklahoma City and Holtzclaw to include all costs and attorney fees and such other relief as may be available in law and equity.

THIRD CLAIM FOR RELIEF

[Governmental Liability: Excessive Force, Civil Battery, Civil Assault, Negligence-
City of Oklahoma City]

Plaintiff, for her Third Claim For Relief incorporates each and every allegation found in numerical paragraphs 1-24 above as if fully restated herein, and further states as follows:

25. Each and every action complained of as to Defendant Holtzclaw and made a cause of action herein was committed while Holtzclaw was an employee of the Oklahoma City Police Department, through the City of Oklahoma City, and said causes of action were suffered by Plaintiff in the course of Holtzclaw's employment and within the scope of Holtzclaw's duties and authority.

26. The torts committed by Holtzclaw as herein described were incidental to and done in furtherance of the business of the Oklahoma City Police Department under the authority of the City of Oklahoma City.

27. The City of Oklahoma City is liable for damages to Plaintiff because such acts and conduct of Holtzclaw are not exempt from immunity and Defendants are liable pursuant to the Oklahoma Constitution, Art. 2, §§9, 30.

28. As a direct result of Holtzclaw's wrongful acts and conduct, imputed to the City of Oklahoma City, Plaintiff sustained damages and injuries in an amount in excess of \$75,000.00, the actual amount to be determined at trial by a jury.

WHEREFORE, premises considered, Plaintiff prays for judgment against the City of Oklahoma City for the Claims for Relief recited together with all costs, attorney fees, prejudgment interest and such other and further relief as may be available in law and equity.

FOURTH CAUSE OF ACTION

[Negligent Infliction Of Emotional Distress As Against-All Defendants]

Plaintiff, for her Fourth cause of action, hereby incorporates the allegations stated in paragraphs one (1) through twenty-nine (28) above as if fully stated herein and incorporates the same by reference, and further alleges and states:

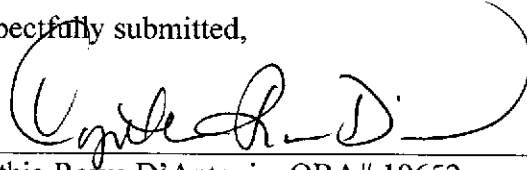
29. As a direct and proximate cause of Defendants' negligence, Plaintiff sustained and suffered both physical and emotional injuries.

30. The injuries suffered by Plaintiff, due to the negligence of Defendants, has caused permanent emotional and extensive physical damage and physical harm.

31. As a direct and proximate cause of Defendants' negligence, and the physical harm sustained, Plaintiff's quality of life has been negatively impacted, including, but not limited to, her social lifestyle, personal relationships and the imposition of restrictions in her day-to-day personal conduct. Accordingly, as a direct consequence of her physical and emotional injuries, Plaintiff has suffered and will continue to suffer mental anguish, psychological distress, humiliation, depression and related symptoms resulting from the loss of such quality of life benefits caused by Defendants' negligence.

32. Plaintiff was damaged by the acts, conduct and failures by Defendants and each of them, and as a result of injuries sustained by such negligence, Plaintiff suffered mental anguish and distress caused by Defendants Holtzclaw and the City of Oklahoma City, and each of them, in an amount in excess of \$75,000.00 and which sum and total damages amount Plaintiff will provide such proof as necessary at the trial in this matter.

Respectfully submitted,



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