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Professor Matthew Hoffman
PLA1103
21 April 2024
Final

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

HAPPY GOLUCKY,

Plaintiff,

vs.

SOUTHWEST FLORIDA
POLICE DEPARTMENT (“SWFPD”),

Defendant.

Case No. 2:24-CV-100-PMH

**PLAINTIFF’S RESPONSE TO DEFENDANT’S MOTION
FOR SUMMARY JUDGMENT AND MEMORANDUM OF LAW**

COMES NOW the Plaintiff, HAPPY GOLUCKY, by and through undersigned counsel and pursuant to Rule 56, Federal Rules of Civil Procedure and Local Rule 3.01(b), and Responds to Defendant’s Motion for Summary Judgment as follows:

STATEMENT OF FACTS

On March 20, 2024, over eleven thousand dollars (\$11,000) was stolen from the Bank of Broken Dreams in Southwest around 5:20PM, Florida by a suspect wearing blue jeans, a baseball cap, and a black hoodie. HAPPY GOLUCKY (“Plaintiff”), was apprehended by the SOUTHWEST FLORIDA POLICE DEPARTMENT (“SWFPD”) (“Defendant”), while crossing a nearby parking lot to enter their college, shortly after the robbery. The Plaintiff was wearing similar clothing to the suspect, a baseball cap, blue jeans, and a dark hoodie. The Plaintiff did not resist the arrest, the SWFPD pepper sprayed the Plaintiff, kicked, and struck him with their night sticks prior to him being placed in the police vehicle. Soon upon arrival at the police station, the Plaintiff was released as the true suspect was caught shortly after. The Plaintiff received several injuries from the arrest including broken bones, abrasions, and permanent impaired eyesight from

a swollen eye caused by the force used by the SWFPD during the Plaintiff's arrest.

ARGUMENT

The Defendant was not justified in their actions to use excessive force against the Plaintiff, the members of the SWFPD that were on duty during the arrest made a quick assumption based on appearance when apprehending the Plaintiff and caused multiple injuries despite the Plaintiffs cooperation in the wrongful arrest. The facts of this case are similar to *Lee v. Ferraro*, 284 F.3d 118 (11th Cir. 2002). There was an action brought against the arresting officer in *Lee v. Ferraro* under 42 U.S Code § 1983, for alleged excessive force and a false arrest after the officer pulled Lee out of their vehicle by her wrists and slamming her face against her vehicle to handcuff, only after Lee questioned the officer as to why she was being pulled over. There seems to be a theme of act now, ask questions later within police forces. In this current matter and the referenced *Lee v. Ferraro*, the Fourth Amendment is being breached upon, as in both cases the Defendants use unnecessary force and seizures of the individuals without real evidence or cause for apprehending. The Defendant in this case, SWFPD, should not be granted their Motion for Summary Judgement as they were not justified in their force used against the Plaintiff, and the real perpetrator of the crime was caught and arrested shortly after the arrest of the Plaintiff. The Defendant claims that their actions were valid due to the low-light conditions of the time of the incident and the arrest, but these events occurred at approximately 5:20PM, during which the sun would not start setting until approximately 7:30-8:00PM.

CONCLUSION

WHEREFORE, The Plaintiff prays for judgement against the Defendant in the amount of five million dollars (\$5,000,000), plus the costs of suit, for the unnecessary damages the

Defendant has caused to the Plaintiff, and for the denial of the Defendant's Motion for Summary Judgment, as the Defendant's reasoning for their actions against the Plaintiff cannot be supported or justified.

Signed this 20th day of April 2024.

By: /s/Courtney J. Crowe
Courtney J. Crowe, Esq.
FL Bar No.: 2391995
Attorney for Plaintiff

Work Cited

42 U.S Code § 1983 <https://www.law.cornell.edu/uscode/text/42/1983>

Lee v. Ferraro, 284 F.3d 1188 (11th Cir. 2002).

“Excessive Force by Police & Related Legal Claims.” www.justia.com/civil-rights/government-violations-of-civil-rights/excessive-force-by-police/#:~:text=Excessive%20force%20violates%20the%20Fourth,officer%20and%20potentially%20their%20employer.