



IN THE DISTRICT COURT OF CLEVELAND COUNTY  
STATE OF OKLAHOMA

ROBERT RILEY PERRY, an individual, )  
)  
Plaintiff, )  
)  
vs. )  
)  
CITY OF NORMAN, a municipal )  
corporation, )  
)  
Defendant. )  
)

*CJ-14-328 TS*  
Case No. STATE OF OKLAHOMA } S.S.  
CLEVELAND COUNTY }  
**FILED** In The  
Office of the Court Clerk  
**MAR 20 2014**  
DOCKET \_\_\_\_\_ PAGE \_\_\_\_\_ RECORDED  
Rhonda Hall, Court Clerk  
DEPUTY

**PETITION**

COMES NOW, Plaintiff, Robert Riley Perry (hereinafter referred to as "Plaintiff"), and for his *Petition* against Defendant, City of Norman (hereinafter referred to as "Defendant"), asserts and alleges the following:

**JURISDICTION AND PARTIES**

1. Plaintiff, Robert Riley Perry, is an individual residing in Cleveland County, Oklahoma.
2. Defendant, City of Norman, is a municipal corporation located in Cleveland County, Oklahoma. Defendant is responsible for the actions of its agents/employees (i.e., its police officers) if they use excessive force when acting within the scope of their employment pursuant to the doctrine of *respondeat superior*.
3. The acts of Defendant and the facts giving rise to Plaintiff's claim occurred in Cleveland County, Oklahoma giving this Court jurisdiction over the parties with venue being proper in Cleveland County.

## FACTS OF THE CASE

Plaintiff incorporates by reference paragraphs 1 through 3 above, and alleges the following:

4. Plaintiff and his friends attended the Norman Music Festival (hereinafter referred to as the "Festival") in Norman, Oklahoma on April 26, 2013, into the early morning of April 27, 2013. At around 2:00 am on April 27, 2013, Plaintiff and his friends left the Festival on bicycles to go home.

5. On their way home, Plaintiff's friends were approached by a Norman police officer on a bicycle. Plaintiff's friends were being issued a citation for running a stop sign on their bicycles.

6. The citation-issuing police officer asked Plaintiff if he was interfering with his traffic stop (of Plaintiff's friends). Plaintiff stated "no," and was just waiting for the incident to conclude so they could continue on their way home.

7. The police officer rapidly approached Plaintiff and threw his arm, nightstick in hand, around Plaintiff's throat placing him in a chokehold, applying extreme force to Plaintiff's neck.

8. Plaintiff became terribly frightened and was fighting for air at this point, struggling to get out of the police officer's chokehold. Plaintiff attempted to "tap-out" by tapping the police officer's arm twice, to no avail.

9. As more police officers arrived at the scene, Plaintiff was slammed over onto his stomach with several officers' knees and elbows pressed into his back and limbs, forcing Plaintiff roughly to the ground.

10. Plaintiff had committed no crime and was not resisting arrest.

11. After Plaintiff was thrown to the ground, a police officer then grabbed Plaintiff's arm and twisted it back violently and quickly.

12. Plaintiff's Olecranon (the bone located behind the elbow) suffered a large fracture due to excessive force used by the police officers. Plaintiff experienced extreme pain and tunnel vision, and soon went unconscious from the shock of the fracture occurring and lack of air due to the chokehold.

13. Plaintiff has undergone several medical procedures, including two surgeries, due to the fracture caused by Defendant's police officers exerting excessive force.

### **COUNT I: EXCESSIVE FORCE BOSH<sup>1</sup> CLAIM**

Plaintiff incorporates by reference paragraphs 1 through 13 above, and alleges the following:

14. Defendant's police officers, acting within the scope and course of their employment with Defendant, acted with the intent to use excessive force in violation of Article 2, section 30 of the Oklahoma Constitution<sup>2</sup>.

15. Defendant's police officers exerted unreasonable and excessive force against Plaintiff, directly causing Plaintiff's arm to fracture.

16. Defendant's police officers use of excessive force against Plaintiff violates the Oklahoma Constitution's guarantee against unreasonable searches or seizures. *See*, Okla. Const. art. 2, § 30.

17. Defendant is liable for its police officers use of excessive force under the doctrine of *respondeat superior* because the police officers were acting within the scope of their employment with Defendant when this incident occurred.

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<sup>1</sup> *See, Bosh v. Cherokee County Bldg. Authority*, 2013 OK 9, 305 P.3d 994.

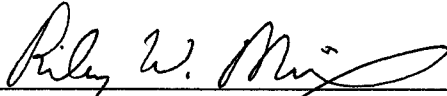
18. Defendant's use of excessive force against Plaintiff directly damaged Plaintiff in an amount in excess of \$10,000.00.

**RELIEF REQUESTED**

WHEREFORE, Plaintiff, Robert Riley Perry, respectfully requests judgment against Defendant for:

- i. Damages in excess of \$10,000.00;
- ii. Punitive damages in excess of \$10,000.00;
- iii. Plaintiff's reasonable attorney's fees and costs incurred in the prosecution of this action and in the post-judgment collection of the debt; and
- iv. Any and all other relief this Court deems fair and just.

Respectfully submitted,



Rand C. Eddy, OBA# 11822  
Riley W. Mulnix, OBA# 30654  
MULINIX OGDEN HALL & LUDLAM, P.L.L.C.  
3030 Oklahoma Tower  
210 West Park Avenue  
Oklahoma City, OK 73102  
Telephone: (405) 232.3800  
Fax: (405) 232.8999  
rand@lawokc.com  
riley@lawokc.com

Attorneys for Plaintiff

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<sup>2</sup> Okla. Const. art. 2, § 30 states in pertinent part: "The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches or seizures shall not be violated...."