

SoBo police seek to dismiss lawsuit

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South Boston Police Chief Jim Binner and co-defendants have filed a motion in federal court to dismiss the \$25 million civil suit filed against it by the estate of Linwood Raymond Lambert Jr.

Lambert died after officers stunned him with a Taser on May 4, 2013 after taking him into custody at the Super 8 Motel on U.S. 58 in South Boston, according to the lawsuit filed April 29 in U.S. Western District Court in Danville.



Gavel

Gwendolyn Smalls of Richmond, the sister of Lambert who is named the administrator of Lambert's estate, filed the lawsuit.

Binner, the Town of South Boston, South Boston Police Department Deputy Chief B. K. Lovelace, Corporal Tiffany Bratton and Officers Clinton Mann and Travis Clay were named as defendants in the motion to dismiss the suit, which denies several claims by the plaintiff, including deprivation of civil rights, denial of medical attention, conspiracy to violate civil rights and intentional infliction of emotional distress.

In its 22-page motion to dismiss, the defendant admits Lambert was unarmed in the early morning hours of May 4, 2013, and that police officers chose to transport him to Halifax Regional Hospital for a mental health evaluation.

The defendants state the plaintiff's claims are "in part, frivolous and without any reasonable foundation or support in law or in fact..."

They further request "that any such frivolous allegation be dismissed with prejudice, that defendants be awarded their attorney's fees and costs with respect to any such frivolous allegation, and that the court enter an order sanctioning plaintiff for filing any said frivolous allegation."

The defendant South Boston Police Department maintains it is "non sui juris" and cannot be sued.

In the motion to dismiss, the defendant admits that Tasers were employed in the direction of Lambert outside the hospital in response to Lambert's actions, specifically "kicking out the window of the patrol car, running directly into the sliding glass doors to the hospital and separating them from their track and refusing to be placed under lawful arrest."

The defendant also agrees with the portion of the plaintiff's complaint that alleges the rescue squad was summoned to the Blue Ridge Regional Jail after Lambert was placed under arrest, taken to the jail and found to be unresponsive in the back of a police vehicle.

However, the defendant denies allegations of the plaintiff that alleges the defendant "cover(ed) up the deprivation of Linwood Lambert's civil rights and conceal(ed) the conduct...of any officer as no such cover up or deprivation of Linwood Lambert Jr.'s rights occurred."

The deployment of Tasers was justified in the case, counter to allegations made by the plaintiff in the case, according to the defendant.

"Defendants are aware that the use of Tasers in other jurisdictions has been alleged to have caused death," the motion to dismiss states.

"However, the deployment of Tasers when a subject has become violent, causing damage to property and placing the safety of persons at risk, as was the case with Linwood Lambert Jr., is an appropriate and necessary use of force alternative to more harmful and lethal options available to law enforcement officers."

In its motion to dismiss, the defendant admits that police officers responding to Lambert's Super 8 hotel room on May 4 determined that a mental health evaluation needed to be performed on Lambert at Halifax Regional Hospital "because of the destruction observed by officers to his hotel room, Linwood Lambert Jr.'s comments that he had murdered two people and hidden the bodies in the ceiling and his demeanor and affect as personally observed by the officers."

Virginia State Police has conducted an initial investigation into the actions of the South Boston Police officers involved, according to Halifax County Commonwealth's Attorney Tracy Quackenbush Martin.

"After the Virginia State Police completed their initial investigation they submitted their interviews, videos and their case file to the Office of the Commonwealth's Attorney," said Martin, adding the report had been received before she came into office.

"After that, I reviewed it, started conducting research and began to make some initial determinations into the case, but frankly it's been a complex and complicated matter of great import to the community and to the family."

Martin has enlisted the help of City of Richmond Commonwealth's Attorney Michael Herring in reviewing the case.

Caution in her deliberation has been a priority to her, Martin noted.

"That's the main reason behind asking for a special assistant, a commonwealth's attorney who's been conducting this kind of case in the past," she explained.

“The purpose of me asking for that is to get a separate review and another set of eyes to review what I’ve seen.

“He’s seen my entire case file to get feedback from him to assess the matter and for him to report his findings to me.

“We are still working as a team to see where we are, and it’s still very much an active investigation in my office,” Martin said.

Senior U.S. District Judge Jackson Kiser has ordered the case set for trial.

Magistrate Judge Robert S. Ballou has been charged with presiding over discovery and other pre-trial motions.

The town is being defended by the law firm of Daniel, Medley and Kirby, PC of Danville.