

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

**PALM BEACH DIVISION
CASE NO. 12:80648-CIV-MARRA
MAGISTRATE JUDGE P.A. WHITE**

LEGAL MAIL
PROVIDED TO LAWTEY C.I.
5/29/13 FOR MAILING.
INITIALS AE

ANTHONY GEORGE EVANS,
Plaintiff,

Vs

DAVID STEED, et. al.
Defendants.

FILED by [Signature] D.C.
JUN 4 2013
STEVEN M. LARIMORE
CLERK U. S. DIST. CT.
S. D. of FLA. - MIAMI

**PLAINTIFF'S VERIFIED RESPONSE IN OPPOSITION TO
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

Comes Now Plaintiff, ANTHONY GEORGE EVANS, in the above-entitled action pursuant to Rule 56, Federal Rules of Civil Procedure, and the Court's order of May 9th, 2013, allowing Plaintiff to respond to defendant's motion for Summary Judgment, and responds moves the court for an order directing entry of a summary judgment in favor of Plaintiff. Because Plaintiff is pro se and access to the facility law library is limited, should the Court deem any portion of Plaintiff's response insufficient, Plaintiff requests fifteen days pursuant to section 56(c) of the Federal Rules of Civil Procedure to supplement his response to Defendant's motion.

1. Basis of the Motion:

The defendant's have moved for summary judgment alleging that the use of force by apprehending officers and their supervisor were not violative of the plaintiff's constitutional protections against excessive force. Additionally, Defendants totally disregard the fact that Defendant Steed, had a prior hostile and adversary relationship with Plaintiff as a result of civil proceedings. The motion also fails to respond to the allegations of excessive and unnecessary force, force evidenced by photographs taken by the sheriff's department and to which the defendants have failed to respond. Additionally, defendants fail to respond to the Plaintiff's motion for summary judgment or the request for admissions detailing a history of excessive force by both of the name defendants.

2. Facts of the Case:

The following material facts essential to plaintiff's cause of action are uncontroverted by defendant: Plaintiff's complaint alleges excessive force in his arrest. The complaint is drafted on the form required by the federal court for allegations of 42 USC 1983 violations.

Delray Beach Police Officer David Steed and his supervisor Lieutenant Michael Moschette committed an act of unnecessary violence and employed unneeded and malicious excessive force while taking the Plaintiff into custody. The officer and his supervisor battered the Plaintiff causing him to require medical

treatment and injuring him for no proper purpose. Both the officer and the lieutenant have a history of investigations for excessive force, a history which the Plaintiff has only recently been able to discover and which is the subject of additional discovery requests. Officer Steed has been the subject of eight separate disciplinary actions while in the employ of the Delray Beach Police Department. Lieutenant Moschette has been the subject of twenty-four investigations, including the death of a prisoner in custody, four of which resulted in adverse disciplinary action. The actions giving rise to the complaint occurred on January 26th, 2012 as the Plaintiff was exiting his yard. At the time of the encounter with Officer Steed, the Plaintiff had a pending lawsuit against the officer for previous conduct. Officer Steed, a large individual exceeding 300 pounds, punched and kicked the Plaintiff despite the Plaintiff being a slender man of less than 180 pounds. While striking the Plaintiff, Officer Steed forced his baton into the plaintiff's mouth causing severe injury. Photographs of the Plaintiff's injuries were taken by the Delray Beach Police Department and the Palm Beach County Sheriff's Department. The Delray Beach photographs were inexplicably destroyed though the Sheriff's Department photographs were preserved and copies have been filed with the court.

In direct violation of Police Department Operating Procedure, no Use of Force report was ever filed.

3. Matters of Law to Be Argued:

The substantial matters of law to be argued, on hearing of the defendant's Motion for summary judgment and also raised in Plaintiff's Motion for Summary Judgment, include:

A. Excessive Force in an Arrest.

The complaint is drafted on the form required by the federal court for allegations of 42 USC 1983 violations. The crux of the argument is that the Plaintiff was severely injured unnecessarily though not resisting in any way. The use of force was excessive as the Plaintiff never resisted.

B. Qualified Immunity.

In Fernnel vs Gilstrap 559 F.3d 1212 (US Ct of App, 11th Circ, 2009) a pretrial detainee brought Fourteenth Amendment excessive force claim against sheriff's deputy under § 1983. The United States District Court for the Northern District of Georgia, entered summary judgment for the deputy. The detainee appealed. The Court of Appeals held that once the District Court decided that detainee had shown excessive force, it could not then find that deputy was qualifiedly immune because his use of excessive force was not in violation of clearly established law. The court stated,

“In determining whether an officer has applied force maliciously and sadistically to cause harm, and thus violated the Fourteenth Amendment, a court considers: (1) the need for the application of force; (2) the relationship between the need and the amount of force that was used; (3) the extent of the injury inflicted upon the prisoner; (4) the extent of the threat to the safety of staff and inmates; and (5) any efforts made to temper the severity of a forceful response.”

In like manner, in Oliver vs Fiorino 586 F.3d 898 (US Ct of App, 11th Circ) the survivors of a pedestrian who had died after being shocked by electroshock weapon sued police officers, asserting excessive force claims under § 1983. The United States District Court for the Middle District of Florida, denied the officers' motions for summary judgment based on qualified immunity. The officers appealed. The Court of Appeals, held that the officers' alleged actions, if proven, constituted excessive force, and the law was clearly established that officers' alleged actions were excessive under the circumstances. The court stated,

“Police officers' alleged action of continuing to shock pedestrian with electroshock weapon at least seven more times in two-minute period, after shocking him initially as he struggled to free himself from officer in street, if proven, constituted excessive force in violation of Eighth Amendment, where officers made no attempt to handcuff or arrest pedestrian during shock cycle, and pedestrian, who later died as result of shocks, was not accused of or suspected of any crime, and posed no immediate threat to officers.”

Further guidance can be derived from Galvez vs Bruce (US CT of App, 11th Circ. 2008) Arrestee brought § 1983 Fourth Amendment action against sheriff's deputy, alleging that deputy had used excessive force in effecting arrest for misdemeanors of petit theft and resisting arrest. The United States District Court for the Middle District of granted summary judgment for deputy on qualified immunity grounds. The arrestee appealed. The Court of Appeals held that fact issues existed as to whether force used by deputy in effecting arrest had been disproportionate, and the deputy was not entitled to qualified immunity. The court stated,

“Fact issues existed as to whether sheriff's deputy had used disproportionate amount of force in effecting arrest for misdemeanors of petit theft and resisting arrest without violence, precluding summary judgment for deputy in arrestee's § 1983 excessive-force suit; arrestee alleged that after being handcuffed he had been forcefully dragged outside and then repeatedly slammed into corner of concrete structure, which would constitute disproportionate force given seriousness of charged crimes and alleged lack of resistance.”

C. Recklessness and Malice.

In Thomas vs Bryant 614 F.3d 1288 (US Ct of App 2010) inmates incarcerated at Florida State Prison (FSP) brought § 1983 action against various officers and employees of Florida Department

of Corrections (DOC), alleging that use of chemical agents on inmates with mental illness and other vulnerabilities violated Eighth Amendment's prohibition on cruel and unusual punishment. Claims against individual correctional officers responsible for administering the agents were settled. After five-day bench trial on remaining claims against Secretary of DOC and FSP warden for declaratory judgment and injunctive relief, the United States District Court for the Middle District of Florida, entered findings of fact and conclusions of law and entered final judgment and final permanent injunction in inmates' favor. The Secretary and warden appealed. The Court of Appeals, held that defendants waived any challenge to district court's use of deliberate indifference standard, instead of higher standard applicable to challenges to excessive use of force and district court did not err in concluding that DOC's policy permitting non-spontaneous use of chemical agents, as applied to inmate with mental illness, violated the Eighth Amendment. The court instructed that,

“With respect to subjective inquiry under the Eighth Amendment, in both prison conditions and medical needs cases, relevant state of mind for purposes of liability is deliberate indifference; excessive force claims, however, require showing of heightened mental state, that defendants applied force maliciously and sadistically for the very purpose of causing harm”.

The use of police dogs is an area that the federal courts have addressed in previous opinions. As with any tort claim, the unrestrained use of an attack dog is no different than the use of a loaded trap imposed to ensnare an unsuspecting and unfortunate suspect. The force, if uncontrolled by the dog handler, is by nature excessive because the dog has no parameters on when the suspect is restrained or immobilized.

In **Crenshaw vs Lister** 556 F.3d 1283 (US Ct of App, 2009) Armed robbery suspect who had been bitten 31 times by police dog during his capture brought § 1983 action against sheriff and sheriff's deputies, alleging excessive force in violation of his Fourth and Fourteenth Amendment rights. The United States District Court for the Middle District of Florida, denied deputies' qualified immunity-based motion for summary judgment, and deputies sought interlocutory appeal. The Court of Appeals held that Court of Appeals would not credit suspect's allegation concerning what deputies had seen at time of capture, and use of canine was objectively reasonable, considering deputies' belief that suspect was armed and dangerous, and other factors. The court stated,

“Factors in determining whether arresting officer's use of force was objectively reasonable or excessive include

severity of crime at issue, whether suspect posed immediate threat to safety of officer or others, whether suspect was actively resisting arrest or attempting to evade arrest by flight, relationship between need for force and amount of force used, extent of injury inflicted, and whether force was applied in good faith or maliciously and sadistically.”

D. Failure to Intervene.

In **Galvez vs Bruce** 552 F. 3d 1238 (US Ct Of App, 11th Circ. 2008), Plaintiff, arrestee brought § 1983 Fourth Amendment action against sheriff's deputy, alleging that deputy had used excessive force in effecting arrest for misdemeanors of petit theft and resisting arrest. The United States District Court for the Middle District of Florida, granted summary judgment for deputy on qualified immunity grounds. Plaintiff appealed. The Eleventh Circuit Court of Appeals held that: (1) fact issues existed as to whether force used by deputy in effecting arrest had been disproportionate, and (2) deputy was not entitled to qualified immunity.

In **Dyer vs Lee** 488 F 3d 876 (US Ct of App, 11th Circ, 2007) a case on all fours with the instant case, Plaintiff brought § 1983 action against sheriff's deputies, alleging use of excessive force. The United States District Court for the Middle District of Florida, granted summary judgment for defendants, and arrestee appealed. The Court of Appeals held that the action was not barred by **Heck v. Humphrey**, even though arrestee was convicted of resisting arrest with violence in

state court, and successful § 1983 suit might have indicated that arrestee acted in self-defense. The court stated,

“Arrestee's § 1983 action for excessive force was not barred by Supreme Court's Heck v. Humphrey decision, holding that a § 1983 action for damages in which a judgment for the plaintiff would necessarily imply the invalidity of a state court conviction is barred unless the conviction has already been invalidated, even though arrestee was convicted of resisting arrest with violence in state court, and successful § 1983 suit might have indicated that arrestee acted in self-defense, an affirmative defense to charge of resisting arrest; § 1983 suit would not necessarily establish such affirmative defense, as court could not say, to a logical certainty, that every act of violence by arrestee was charged in the information, and that every such act was act of self-defense in response to officers' use of excessive force. 42 U.S.C.A. § 1983.”

In Ensley vs Soper 142 F.3d 1402, 11 Fla. L. Weekly Fed. C 1473 (US Ct of App, 11th Circ. 1998) Retail store proprietors brought § 1983 action against police officer for false arrest and use of excessive force, in violation of their rights under Fourth and Fourteenth Amendments. The United States District Court for the Northern District of Georgia, No. 1:95-CV-1165-CC, Clarence Cooper, J., found that officer was entitled to qualified immunity for false arrest claims, but it denied officer's motion for summary judgment on excessive force claim. Officer appealed. The Court of Appeals, Birch, Circuit Judge, held that, under the circumstances, officer had no clearly established duty to warn plaintiffs they were entering crime scene, nor to intervene to

protect them from alleged excessive force by other officers, thus entitling officer to qualified immunity. The court stated,

"it is clear that "[i]f a police officer, whether supervisory or not, fails or refuses to intervene when a constitutional violation such as an unprovoked beating takes place in his presence, the officer is directly liable under Section 1983." Byrd v. Clark, 783 F.2d 1002, 1007 (11th Cir.1986)... Further, in order for an officer to be liable for failing to stop police brutality, the officer must be "in a position to intervene." Id.; see also Thompson v. Boggs, 33 F.3d 847, 857 (7th Cir.1994)."

E. Damages and Punitive Damages.

In **Myers vs Central Florida Investments, Inc.** 592 F.3d 1201 (US Ct of App, 11th Circ, 2010) a former employee brought suit against her former boss and his company in state court alleging state and federal claims for sexual harassment and state law battery claim. Following removal, the United States District Court for the Middle District of Florida, granted defendants summary judgment on sexual harassment claims, and remanded battery claim to state court. Employee appealed. The Court of Appeals, reversed and remanded. The District Court found sexual harassment claims to be time-barred, but awarded employee compensatory and punitive damages against both defendants for battery. Defendants appealed, and employee cross-appealed. The Court of Appeals, held that: the award of compensatory damages equal to employee's earnings during year of her discharge was not abuse of discretion and the award of punitive damages award in amount of

statutory cap of \$500,000 was not excessive and punitive award did not violate due process. The court stated,

“In determining whether award of punitive damages is grossly excessive, in violation of due process, court considers: (1) degree of reprehensibility of defendant's actions; (2) disparity between harm or potential harm suffered by plaintiff and his punitive damages award; and (3) difference between this remedy and civil penalties authorized or imposed in comparable cases.”

WHEREFORE, THE Plaintiff requests that the defendant's motion for Summary Judgment be denied and that the Plaintiff's Motion for Summary Judgment as there are no material issues of fact and the Plaintiff is entitled to judgment on Plaintiff's Motion for Summary Judgment as a matter of law.

UNSWORN DECLARATIONS UNDER PENALTY OF PERJURY
PURSUANT TO 28 U.S.C.A. § 1746

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 29th 2013.

Anthony Evans

ANTHONY EVANS

DC# 187491

Lawtey CI

7819 NW 228th Street

Raiford, Florida 32026

Enclosures

- a. **Exhibit 1** Attached Computer docket print-out dated 10/10/2012 pertaining to Michael Moschette as consisting of 24 dated incidents from 9/9/1995 until 6/10/2012.

- b. **Exhibit 2** Attached Computer docket print-out dated 1/11/2011 pertaining to David Steed as consisting of 8 dated incidents from 9/29/2008 to 12/27/2009.

- c. **Exhibit 3** Six Photos from the Sheriff's office, Palm Beach County of the Plaintiff taken 1/26/12 identified as presented in the Plaintiff's notice of Filing.

- d. **Exhibit 4** Plaintiff's written response to Defendant's motion for summary judgment.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was provided to

T. Co. Co., Legal Mail Officer, Lawtey CI, 7819 NW 228th Street, Raiford, Florida 32026 for delivery by first class US mail to Catherine M. Kozol, Esquire, Delray Beach Police Department, 300 West Atlantic Avenue, Delray Beach, Florida 33344 and the Clerk of the Court, United States District Court for the Southern District of Florida, 400 North Miami Avenue, 8th Floor, Miami, Florida 33128 this 29th day of May, 2013.

Anthony Evans
ANTHONY EVANS
DC# 187491
Lawtey CI
7819 NW 228th Street
Raiford, Florida 32026

Investigations By Employee

Report Date: 10/10/2012

Page: 1

Off ID	Employee Name/Rank	Case Nbr	Rpt Date	Occur Date
642	MOSCHETTE, MICHAEL (PTL) Type: UFI Desc: DEATH IN CUSTODY Statute: Dispo: E Date: 12/12/1995 Action:NONE Final Dispo: EXONERATED	IA95044	09/11/1995	09/09/1995
			Rule/Reg: RR5 Charge: NONE	-1
642	MOSCHETTE, MICHAEL (PTL) Type: CIT Desc: UNSAT PERFORM Statute: Dispo: E Date: 07/14/1996 Action:NONE Final Dispo: EXONERATED	SR96089A	05/26/1996	05/25/1996
			Rule/Reg: RR1 Charge:	-2
642	MOSCHETTE, MICHAEL (PTL) Type: ADM Desc: DETAIL O/D FTA Statute: Dispo: S Date: 01/23/1997 Action:VRBL REP Final Dispo: VERBAL REPRIMAND	SR96158	12/09/1996	10/03/1996
			Rule/Reg: RR1 Charge:	-3
642	MOSCHETTE, MICHAEL (PTL) Type: CIT Desc: COMMENT IMPROPER Statute: Dispo: U Date: 06/27/1997 Action:NONE Final Dispo: UNFOUNDED	SR97053	05/28/1997	05/12/1997
			Rule/Reg: RR23 Charge:	-4
642	MOSCHETTE, MICHAEL (PTL) Type: CIT Desc: CONDUCT IMPROPER Statute: Dispo: U Date: 09/29/1997 Action:NONE Final Dispo: UNFOUNDED	SR97061	07/12/1997	07/11/1997
			Rule/Reg: RR23 Charge:	-5
642	MOSCHETTE, MICHAEL (PTL) Type: ADM Desc: ACCIDENT AT FAULT Statute: Dispo: S Date: 12/01/1997 Action:VRBL COUNSEL Final Dispo: VERBAL COUNSELING	SR97099	11/04/1997	11/04/1997
			Rule/Reg: RR26 Charge:	-6
642	MOSCHETTE, MICHAEL (PTL) Type: CIT Desc: DISCOURTESY Statute: Dispo: N Date: 01/06/1998 Action:NONE Final Dispo: NOT SUSTAINED	SR97112	12/02/1997	12/11/1997
			Rule/Reg: RR23 Charge:	-7
642	MOSCHETTE, MICHAEL (SGT) Type: CIT Desc: CONDUCT PROFESSIONAL Statute: Dispo: E Date: 04/24/1998 Action:NONE Final Dispo: EXONERATED	IA98011A	03/11/1998	03/11/1998
			Rule/Reg: RR30 Charge:	-8

ATTACHMENT / EXHIBIT 1

Investigations By Employee

Report Date: 10/10/2012

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Off ID	Employee Name/Rank	Case Nbr	Rpt Date	Occur Date
642	MOSCHETTE, MICHAEL (PTL) Type: CIT Desc: THEFT Statute: Dispo: E Date: 10/12/1998 Action:NONE Final Dispo: EXONERATED	IA98022B	08/17/1998	08/14/1998
			Rule/Reg: RR5 Charge:	
642	MOSCHETTE, MICHAEL (PTL) Type: CIT Desc: EXCESSIVE FORCE CT 1 Statute: Dispo: U Date: 10/12/1998 Action:NONE Final Dispo: UNFOUNDED	IA98022C	08/17/1998	08/14/1998
			Rule/Reg: RR5 Charge:	
642	MOSCHETTE, MICHAEL (PTL) Type: CIT Desc: EXCESSIVE FORCE CT 2 Statute: Dispo: U Date: 10/12/1998 Action:NONE Final Dispo: UNFOUNDED	IA98022D	08/17/1998	08/14/1998
			Rule/Reg: RR5 Charge:	
642	MOSCHETTE, MICHAEL (PTL) Type: CIT Desc: REPORT FALSE Statute: Dispo: E Date: 10/12/1998 Action:NONE Final Dispo: EXONERATED	IA98022E	08/17/1998	08/14/1998
			Rule/Reg: RR20 Charge:	
642	MOSCHETTE, MICHAEL (PTL) Type: CIT Desc: EXCESSIVE FORCE Statute: Dispo: U Date: 10/08/1998 Action:NONE Final Dispo: UNFOUNDED	SR98069	08/28/1998	08/27/1998
			Rule/Reg: RR5 Charge:	
642	MOSCHETTE, MICHAEL (PTL) Type: CIT Desc: EXCESSIVE FORCE Statute: Dispo: U Date: 04/12/1999 Action:NONE Final Dispo: UNFOUNDED	SR99018A	02/25/1999	02/23/1999
			Rule/Reg: RR5 Charge:	
642	MOSCHETTE, MICHAEL (PTL) Type: CIT Desc: PERJURY Statute: Dispo: E Date: 11/17/1999 Action:NONE Final Dispo: EXONERATED	IA99006A	04/14/1999	01/05/1999
			Rule/Reg: RR5 Charge:	
642	MOSCHETTE, MICHAEL (PTL) Type: CIT Desc: PERJURY SUBORNATION Statute: Dispo: E Date: 11/17/1999 Action:NONE Final Dispo: EXONERATED	IA99006B	04/14/1999	01/05/1999
			Rule/Reg: RR30 Charge:	

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Investigations By Employee

Reprt Date: 10/10/2012

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Off ID	Employee Name/Rank	Case Nbr	Rpt Date	Occur Date
642	MOSCHETTE, MICHAEL (PTL) Type: CIT Desc: DEPO PREPAREDNESS Statute: Dispo: E Date: 11/19/1999 Action:NONE Final Dispo: EXONERATED	IA99006C	04/14/1999	01/05/1999
			Rule/Reg: RR1 Charge:	(12)
642	MOSCHETTE, MICHAEL (PTL) Type: CIT Desc: DISCOURTESY Statute: Dispo: E Date: 03/28/2000 Action:NONE Final Dispo: EXONERATED	SR00015	02/14/2000	02/12/2000
			Rule/Reg: RR23 Charge:	-13
642	MOSCHETTE, MICHAEL (PTL) Type: ADM Desc: TRIP TICKET PREP Statute: Dispo: S Date: 06/28/2001 Action:VRBL COUNSEL Final Dispo: VERBAL COUNSELING	SR01030A	03/24/2001	03/23/2001
			Rule/Reg: RR1 Charge:	} 14
642	MOSCHETTE, MICHAEL (PTL) Type: ADM Desc: VEHICLE DAMAGE Statute: Dispo: U Date: 06/28/2001 Action:NONE Final Dispo: UNFOUNDED	SR01030B	03/24/2001	
			Rule/Reg: RR29 Charge:	
642	MOSCHETTE, MICHAEL (PTL) Type: CIT Desc: OC AEROSOL Statute: Dispo: E Date: 11/05/2001 Action:NONE Final Dispo: EXONERATED	SR01064B	09/06/2001	09/04/2001
			Rule/Reg: RR5 Charge:	-15
642	MOSCHETTE, MICHAEL (SGT) Type: CIT Desc: EXCESSIVE FORCE Statute: Dispo: E Date: 04/19/2002 Action:NONE Final Dispo: EXONERATED	IA02001A	01/30/2002	01/30/2002
			Rule/Reg: RR5 Charge:	-16
642	MOSCHETTE, MICHAEL (PTL) Type: CIT Desc: EXCESSIVE FORCE Statute: Dispo: E Date: 05/30/2002 Action:NONE Final Dispo: EXONERATED	IA02007	04/16/2002	04/16/2002
			Rule/Reg: RR5 Charge:	17
642	MOSCHETTE, MICHAEL (SGT) Type: ADM Desc: ACCIDENT Statute: Dispo: E Date: 03/30/2006 Action:NONE Final Dispo: EXONERATED	SR06020	02/16/2006	02/15/2006
			Rule/Reg: RR26 Charge:	18

Investigations By Employee

Report Date: 10/10/2012

Off ID	Employee Name/Rank	Case Nbr	Rpt Date	Occur Date
642	MOSCHETTE, MICHAEL (SGT) Type: CIT Desc: EXCESSIVE FORCE Statute: Dispo: E Date: 10/09/2006 Action:NONE Final Dispo: EXONERATED	IA06005	05/13/2006	05/10/2006
			Rule/Reg: RR5 Charge:	19
642	MOSCHETTE, MICHAEL (SGT) Type: ADM Desc: ACCIDENT Statute: Dispo: S Date: 05/21/2007 Action:VRBL REP Final Dispo: VERBAL REPRIMAND	SR07032	04/06/2007	04/06/2007
			Rule/Reg: RR26 Charge:	20
642	MOSCHETTE, MICHAEL (SGT) Type: CIT Desc: EXCESSIVE FORCE Statute: Dispo: E Date: 12/11/2007 Action:NONE Final Dispo: EXONERATED	IA07014	08/15/2007	04/27/2007
			Rule/Reg: RR5 Charge:	21
642	MOSCHETTE, MICHAEL (SGT) Type: ADM Desc: HOSTILE WORK ENVIRONMENT Statute: Dispo: U Date: 03/13/2008 Action:NONE Final Dispo: UNFOUNDED	IA07021	09/21/2007	
			Rule/Reg: RR10 Charge:	22
642	MOSCHETTE, MICHAEL (SGT) Type: CIT Desc: EXCESSIVE FORCE Statute: Dispo: E Date: 03/17/2008 Action:NONE Final Dispo: EXONERATED	IA07024	12/22/2007	12/21/2007
			Rule/Reg: RR5 Charge:	23
642	MOSCHETTE, MICHAEL (SGT) Type: ADM Desc: R&R#1 DUTY RESP/ACCIDENTAL TASER DISCHARGE Statute: Dispo: S Date: 07/02/2012 Action:VERBAL & REIMB Final Dispo: SUSTAINED	SR12024	06/12/2012	06/10/2012
			Rule/Reg: R&R#1 Charge:	24

Investigations Printed = 30

Investigations By Employee

Report Date: 01/11/2011

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Off ID	Employee Name/Rank	Case Nbr	Rpt Date	Occur Date
944	STEED, DAVID (CIV) Type: ADM Desc: COURT FTA Statute: Dispo: E Date: 11/20/2008 Action:NONE Final Dispo: EXONERATED	SR08084	10/16/2006	09/29/2008
			Rule/Reg: RR25 Charge:	-1
944	STEED, DAVID (PTL) Type: ADM Desc: REPORT FAIL SUBMIT Statute: Dispo: S Date: 06/25/2007 Action:TRAINING Final Dispo: TRAINING	SR07046	05/16/2007	05/15/2007
			Rule/Reg: RR1 Charge:	-2
944	STEED, DAVID (CIV) Type: ADM Desc: ACCIDENT AT FAULT Statute: Dispo: S Date: 11/19/2009 Action:VRBL REP Final Dispo: VERBAL REPRIMAND	SR08081	10/09/2008	10/09/2008
			Rule/Reg: RR26 Charge:	-3
944	STEED, DAVID (CIV) Type: ADM Desc: COURT FTA Statute: Dispo: S Date: 11/24/2008 Action:LETTER REP Final Dispo: LETTER REPRIMAND	SR08085	10/16/2008	10/06/2008
			Rule/Reg: RR25 Charge:	-4
944	STEED, DAVID (PTL) Type: CIT Desc: R & R #1 FAILURE TO REPORT Statute: Dispo: S Date: 05/01/2010 Action:WRITEN REP Final Dispo: SUSTAINED	SR09112B	12/29/2009	12/27/2009
			Rule/Reg: R & R #1 Charge:	-5
944	STEED, DAVID (PTL) Type: ADM Desc: FAILURE TO REPORT DAMAGE TO VEHICLE Statute: Dispo: N Date: 04/02/2010 Action:NONE Final Dispo: NOT SUSTAINED	SR10009	02/06/2010	02/02/2010
			Rule/Reg: R & R #1 Charge:	-6
944	STEED, DAVID (PTL) Type: CIT Desc: R & R #23 CONDUCT TOWARDS PUBLIC Statute: Dispo: N Date: 08/11/2010 Action:NONE Final Dispo: NON- SUSTAINED	SR10045	06/22/2010	06/17/2010
			Rule/Reg: R & R #23 Charge:	-7
944	STEED, DAVID (PTL) Type: CIT Desc: R & R #1 IMPROPER RADIO PROCEDURE Statute: Dispo: S Date: 05/01/2010 Action:VERBAL REP. Final Dispo: SUSTAINED	SR09112A	12/29/2010	12/27/2009
			Rule/Reg: R & R #1 Charge:	-8

Investigations By Employee

Report Date: 01/11/2011

Page: 2

Off ID	Employee Name/Rank	Case Nbr	Rpt Date	Occur Date
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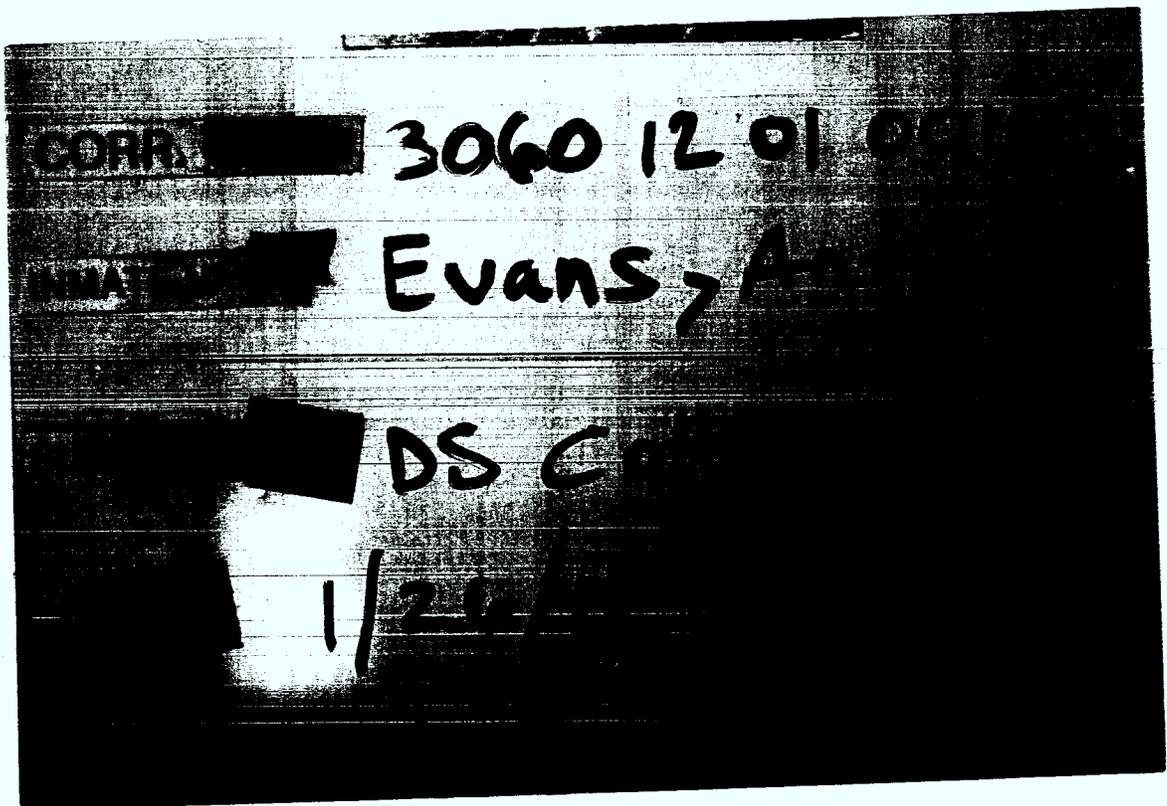
Investigations Printed = 8

Total 8 Cases

PALM BEACH COUNTY SHERIFF'S OFFICE 180566

11/15, 2012
 Received from ANTHONY EVANS
 the sum of \$10⁰⁰ as follows:
 Fine \$ _____ Defendant CN 3060 12-01-151
 Deposit \$ _____ Account of _____
 Costs \$ _____ Case of _____ vs. _____ No. _____
 Suspense \$ _____ Case of _____ vs. _____ No. _____
 Cash Bond \$ _____ Bond Nos. _____
 Other \$ _____ For 5 4x6 photos
 Total \$ _____
 Cash _____ Check M.O.
 Entered _____ Sheriff By Sue Rogers
 TO INDIVIDUAL

PBSO #0081A REV.11/01







THE PLAINTIFFS RESPONSE TO THE DEFENDANTS ARGUMENT SUMMARY JUDGEMENT

1. ON JANUARY 26, 2012 THE DEFENDANT STEED CUT ME OFF WITH HIS PATROL CAR. STEED JUMPED OUT HIS CAR, WITH HIS WEAPON DRAWN ON ME YELLING STOP RESISTING. I NEVER RESISTED, ONLY ASKED WHAT'S THE PROBLEM.
2. THE DEFENDANT STEED NEVER ANNOUNCED THAT HE HAD A PROBABLE CAUSE AFFIDAVIT FOR MY ARREST. STEED IMMEDIATELY BEGAN TO VIOLENTLY ATTACK ME BY SLAMMING ME TO THE GROUND AND HANDCUFFED ME, THEN BEGAN TO BEAT ME WITH HIS FISTS.
3. PAGE 2. I SHOULD BE NOTED, THAT I WAS WALKING DOWN PUBLIC SIDEWALK, STEED FORCED ME ONTO THE BP PROPERTY WHEN HE SLAMED ME TO THE GROUND.
4. PAGE 3. HOW COULD I REACH INTO MY WAISTBAND FOR THE CIGARETTE BOX WHEN BOTH OF MY HANDS WERE TIGHTLY SECURED. SGT. GRIFFITH IS THE ONE WHO SNATCHED THE CIGARETTES FROM MY POCKET, SPILLING ITS CONTENTS. HOW COULD I TRY TO DESTROY THE EVIDENCE HANDCUFFED?
LT. MOSCHETTE NEVER GAVE ME A LOUD COMMAND TO STOP RESISTING WHEN I NEVER RESISTED. LT. MOSCHETTE THEN SPRAYED ME WITH OC CHEMICALS OUT OF HATRED RETALIATION AND WANTON INTENTION TO BLIND ME, AND TO KEEP ME FROM POSITIVELY IDENTIFYING POTENTIAL WITNESSES.
5. PAGE 4. DUE TO THE SEVERE INJURIES FROM THE SAVAGE BEATING, AND BEING HANDCUFFED SO TIGHTLY, I COULD NOT STAND UP ON MY OWN. I NEVER RESISTED THESE CRIMINALS IN UNIFORM. #WAY BEFORE THE JANUARY 26, 2012 USE OF EXCESSIVE FORCE ON THE PLAINTIFF. THE DEFENDANT STEED SERIOUSLY INJURED THE PLAINTIFF ON 9-13-10 AND 3-15-11

EXHIBIT "4"

9. Page 11. THERE WAS NO REASONABLNESS FOR THE VIOLENT USE OF EXCESSIVE FORCE.
- # THERE WAS NEVER A THREAT BY THE PLAINTIFF TO THE SAFETY OF THE DEFENDANTS OR THE PUBLIC STANDBYERS DUE THE PLAINTIFF BEING FACEDOWN ON THE GROUND SECURED
10. PAGE 12. THE PLAINTIFFS HANDS WERE SECURED IN HANDCLIFFS, SO HOW COULD HE REACH INTO HIS WAISTBAND OR POCKET? THE PLAINTIFF NEVER BUCKED TRYING TO GET STEED OFF HIM. THIS USE OF EXCESSIVE FORCE ARISED OUT OF PURE HATRED RETALIZATION FROM EXERCISING MY LEGAL RIGHTS TO FILE COMPLAZNTS TO THE CHIEF OF POLICE AND CITY HALL OFFICALS, EACH TIME THE CITY MANAGER REFUSED TO SEE ME.
11. ATTACK PAGE 15
12. PAGE 16. I NEVER TRIED TO DESTROY ANY EVIDENCE, STEED MADE SURE OF THAT, BY TIGHTLY SECURING BOTH HANDS IMMEDIATELY IN HANDCLIFFS.
STUDY PAGE 16 LAST PARAGRAPH
13. THE PLAINTIFF WAS NEVER AFFORDED THE OPPORTUNITY TO DECOMTAMINATE HIMSELF FROM THE HARMFUL OC CHEMICALS BY THE DEFENDANTS, DELRAY BEACH FIRE RESCUE, AND BETHESDA ~~HOSPITAL~~ HOSPITAL.
14. BEFORE THE CHEMICAL ATTACK BY LT. MOSCHETTE THE PLAINTIFF DID NOT NEED PRESCRIPTION GLASS HE NOW WEARS.
15. WHY WAS THERE NO PHOTOGRAPHS TAKEN OF THE DEFENDANTS ALLEGED INLURIES TO THEIR HANDS AND KNEES?

ATTACK EXHIBITS E, F, H, I, J.

**DELRAY BEACH POLICE DEPARTMENT
 MISCONDUCT INVESTIGATIVE REPORT
 FINAL RESOLUTION**

IA#	11-003
SR#	

cc: ofc. Steed 7/19/11 ppt

To: Chief of Police
 From: Lieutenant Ed Flynn
 Employee: Officer David Steed ID #944
 Complainant: Anthony Evans Alleged Violation(s): R & R #5 Obedience to Laws, Ordinances and Standards (Excessive Force)
 Inquiry Date: 3/25/11
 Time and Date of Violation: 03/15/11 @ 0022

This inquiry has been investigated by:
Lt. E. Flynn Investigator I.D. Number 330 Date 05/25/11
 SUSTAINED Not Sustained
 Unfounded R&R #5 Exonerated
 Attach Narrative Report

I have reviewed the inquiry investigation and understand that I have 48 hours to respond in writing with any additions.
 I have reviewed the inquiry investigation and have nothing to add.
 Employee Signature [Signature] I.D. Number 944 Date 5/27/11

I have, reviewed the investigation on the involved employee and recommend the following action:
 FINDINGS Agree NONE Violation NONE Discipline: NONE
 Disagree
 (If applicable indicate suspension hours. If an assessment or reimbursement indicate percents and monies for payment)
 Sergeant/Supervisor [Signature] ID Number 613 Date 5/27/11
 (Reasons for dissenting the findings must be attached.)

<u>[Signature]</u> Lieutenant/Section Supervisor I.D. Number <u>642</u>	<input checked="" type="checkbox"/> Agree	Date <u>5/28/11</u>
<u>[Signature]</u> Captain/Division Commander I.D. Number <u>449</u>	<input checked="" type="checkbox"/> Agree	Date <u>N/A</u>
<u>[Signature]</u> Assistant Chief I.D. Number <u>518</u>	<input checked="" type="checkbox"/> Agree	Date <u>6/2/11</u>
<u>[Signature]</u> Chief of Police I.D. Number <u>452</u>	<input checked="" type="checkbox"/> Agree	Date <u>06/10/2011</u>

(Indicate Dissent in Written Attachment)

I have read the above allegations, findings and recommendations and accept this action.
 I wish to have a hearing (formal discipline cases only) with the Chief of Police. To appeal disciplinary action: To appeal finding:
 Employee N/A I.D. Number N/A Date N/A

Final Resolution
 Rules & Reg. Violation: R+R # 5 Discipline: UNfounded / NONE
 Rules & Reg. Violation: N/A Discipline: N/A
 Chief of Police [Signature] I.D. Number 452 Date 6/10/2011
 (If applicable indicate suspension hours. If an assessment or reimbursement indicate percents and monies for payment)

Results made available to the complainant by mail on: 7/20/11 Date ppt Name 137 ID #

If applicable, the date Notice of Disciplinary Action was served: _____
 Calendar date(s) of suspension: _____

The employee has complied with the recommended action.