

IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS
STATE OF MISSOURI

RYAN WILLE,)	
)	
Plaintiff,)	
)	
vs.)	
)	
DAVID CERNA,)	
Serve:)	Cause No.
St. Louis County Justice Center)	
41 South Central Avenue)	
St. Louis, MO 63105)	
)	
and)	
)	
CITY OF CHESTERFIELD,)	
Serve:)	
Mayor Bob Nation)	
Chesterfield City Hall)	
690 Chesterfield Parkway W)	
Chesterfield, MO 63017)	
)	
Defendants.)	

PETITION

COMES NOW Plaintiff, Ryan Wille, (hereinafter “Wille”), by and through his attorneys, Devereaux, Stokes, Nolan, Fernandez & Leonard, P.C., and for his cause of action against the above-captioned Defendants, hereby states as follows:

INTRODUCTION

1. This is a civil action seeking monetary damages against the individual Defendant, David Cerna, and his employer, City of Chesterfield, acting through the City of Chesterfield Police Department. The Plaintiff is seeking damages from David Cerna and his employer for various acts of physical and sexual abuse perpetrated by the

Defendant Cerna against Plaintiff. In addition, Plaintiff is seeking damages against the City of Chesterfield for its failure to properly screen, train, supervise and discipline its police officers allowing this type of abuse to occur.

2. The general facts alleged by Plaintiff are that on Christmas day, 2013, he was taken into custody by Defendant, Chesterfield Police Officer, David Cerna, who placed him under arrest after he allegedly got into a fight with another child while playing outside. That day was the Plaintiff's 18th birthday. While in the care and custody of the City of Chesterfield Police Department, Officer Cerna performed various acts of physical and sexual abuse upon the person of Plaintiff. At that time and place, Cerna also videotaped Plaintiff's genitalia without his knowledge or permission. The Plaintiff alleges that the City of Chesterfield, acting through the Chesterfield Police Department and other City employees, are liable in that they performed inadequate screening and background checks on newly hired Chesterfield Police Officers, failed to properly train and instruct their police officers on how to identify and report a fellow officer that they believed to be engaging in improper and unlawful conduct, failed to adopt and implement appropriate guidelines and procedures regarding the arrest and custody of individuals to ensure their safety, and failed to adequately supervise, control and discipline their police officers, and that such failures were a result of official policy, or the customs or practices of the Defendant, so as to compromise a tacit approval or adoption of such practices, and that the policy makers for the Defendant, City of Chesterfield were deliberately indifferent to the rights of citizens who may come into contact with Chesterfield police officers, and that such indifference caused the Plaintiff

to be deprived of his rights as guaranteed under the United States Constitution and the laws of the United States and the State of Missouri.

PARTIES

3. Plaintiff, Ryan Wille, is an individual, now 20 years of age, living in St. Louis County, State of Missouri.

4. Upon information and belief, the Defendant, David Cerna, (hereinafter "Cerna") is an individual who has pled guilty to various felony charges and is currently confined at the St. Louis County Justice Center serving his sentence.

5. The City of Chesterfield (hereinafter "Chesterfield") is a municipal corporation duly organized and existing under Missouri Statutes.

GENERAL ALLEGATIONS

6. On or about December 25, 2013, the Defendant, David Cerna, was on duty as a licensed and uniformed Chesterfield Police Officer and, in his capacity as a Chesterfield Police Officer, responded to a call regarding an altercation near Plaintiff's home in Chesterfield.

7. Officer Cerna placed the Plaintiff under arrest and transported him in his police vehicle back to the Chesterfield Police Station.

8. The Defendant Cerna took the Plaintiff, Ryan Wille, who had just turned 18 years old, to a back room of the police station where, under the guise of performing a body search and pat down, used his hands to touch Ryan Wille's genitals and used a camera to take secret video footage of Ryan Wille's exposed genitals. This video footage was later uploaded to the internet and was made accessible to public viewing.

9. Upon information and belief, the Defendant, City of Chesterfield, maintains a policy of insurance for its officers and the Department that would cover the claims set forth in this Petition, thus, waiving any claims of sovereign or official immunity.

COUNT I

(Battery – Cerna)

COMES NOW Plaintiff, Ryan Wille, and for Count I of his Petition directed to the Defendant, David Cerna, states:

10. Plaintiff incorporates by reference paragraphs 1 through 9 of this Petition as if fully set out herein.

11. On or about December 25, 2013, the Defendant Cerna came into contact with the Plaintiff in his official capacity as a Chesterfield Police Officer.

12. Officer Cerna placed Ryan Wille under arrest and, while in the Chesterfield Police Station and for no good cause or lawful purpose, groped and touched Ryan Wille’s genitalia in such a manner that would cause alarm and distress to a reasonable person under the circumstances. Furthermore, the Defendant Cerna used a camera to take video footage of Plaintiff’s genitalia without his knowledge or permission. This was done by Cerna under the guise of “frisking” the Plaintiff. Defendant Cerna pulled out the waistband of Plaintiff’s sweat pants and underwear with one hand while recording his genitalia with a small camera secreted in the other hand.

13. The Plaintiff has suffered significant damages as a direct and proximate result of the actions of the Defendant Cerna including, but not limited to, severe physical, emotional and mental distress which has caused him to incur past medical, pharmaceutical, counseling and therapy expenses, and which will cause him to incur

similar expenses in the future. Plaintiff has in the past, and will in future, experience great pain, suffering and mental anguish compromising his relationship with his family, friends and peers. In addition, Plaintiff has suffered a wage loss and will in the future be impaired in his earning capacity.

14. The actions of the Defendant, Cerna, as described herein, were willful, wanton and malicious and carried out with a complete disregard and indifference to the health, safety and wellbeing of others, warranting the imposition of punitive damages.

WHEREFORE, for Count I of this Petition directed to the Defendant, Cerna, the Plaintiff, Ryan Wille, prays for damages in a reasonable sum in excess of \$25,000.00, together with his costs herein expended, and for such other and further relief as this Court deems just and proper.

COUNT II

(Invasion of Privacy – Cerna)

COMES NOW Plaintiff, and for Count II of his Petition directed to the Defendant, David Cerna, states as follows:

15. Plaintiff incorporates by reference paragraphs 1 through 9 of this Petition as if fully set out herein.

16. On December 25, 2013, the Defendant, Cerna, carried out an intentional and physical intrusion on the person of Ryan Wille by videotaping his genitals without his consent or knowledge.

17. Defendant further intruded upon the solitude, seclusion and private affairs of Ryan Wille by leading him to believe that he was conducting a legal and lawful pat down when, in fact, he engaged in a touching of the body and genitals of Ryan Wille for his

own personal sexual gratification. The intrusion into the solitude, seclusion and private affairs of Ryan Wille was carried out by unreasonable means and would be highly offensive to any reasonable person.

18. As a result of this invasion of privacy, the Plaintiff, Ryan Wille, suffered significant damages as a direct and proximate result of the actions of the Defendant Cerna including, but not limited to, severe physical, emotional and mental distress which has caused him to incur past medical, pharmaceutical, counseling and therapy expenses, and which will cause him to incur similar expenses in the future. Plaintiff has in the past, and will in future, experience great pain, suffering and mental anguish compromising his relationship with his family, friends and peers. In addition, Plaintiff has suffered a wage loss and will in the future be impaired in his earning capacity.

19. The actions of the Defendant, Cerna, as described herein, were willful, wanton and malicious and carried out with a complete disregard and indifference to the health, safety and wellbeing of others, warranting the imposition of punitive damages.

WHEREFORE, for Count II of this Petition directed to the Defendant, Cerna, the Plaintiff, Ryan Wille, prays for damages in a reasonable sum in excess of \$25,000.00, together with his costs herein expended, and for such other and further relief as this Court deems just and proper.

COUNT III

(Intentional Infliction of Emotional Distress – Cerna)

COMES NOW the Plaintiff, Ryan Wille, and for Count III of this Petition directed to the Defendant, David Cerna, states:

20. Plaintiff incorporates by reference paragraphs 1 through 9 of this Petition as if fully set out herein.

21. The actions of the Defendant, Cerna, as described herein constituted extreme and outrageous conduct that was performed by the Defendant in an intentional or reckless manner.

22. The actions of the Defendant, Cerna, resulted in the Plaintiff suffering severe emotional distress that is medically diagnosable, medically significant and required medical attention and treatment.

23. As a result of this intentional infliction of emotional distress, the Plaintiff, Ryan Wille, suffered significant damages as a direct and proximate result of the actions of the Defendant Cerna including, but not limited to, severe physical, emotional and mental distress which has caused him to incur past medical, pharmaceutical, counseling and therapy expenses, and which will cause him to incur similar expenses in the future. Plaintiff has in the past, and will in future, experience great pain, suffering and mental anguish compromising his relationship with his family, friends and peers. In addition, Plaintiff has suffered a wage loss and will in the future be impaired in his earning capacity.

24. The actions of the Defendant, Cerna, as described herein, were willful, wanton and malicious and carried out with a complete disregard and indifference to the health, safety and wellbeing of others, warranting the imposition of punitive damages.

WHEREFORE, for Count III of this Petition directed to the Defendant, Cerna, the Plaintiff, Ryan Wille, prays for damages in a reasonable sum in excess of \$25,000.00,

together with his costs herein expended, and for such other and further relief as this Court deems just and proper.

COUNT IV

(Negligence – City of Chesterfield)

COMES NOW Plaintiff, and for Count IV of his Petition directed to the Defendant, City of Chesterfield, states as follows:

25. Plaintiff incorporates by reference paragraphs 1 through 9 of this Petition as if fully set out herein.

26. At all times relevant to this Petition, the Defendant, Cerna, as a duly licensed police officer for the City of Chesterfield, was acting under the direction and control of the City of Chesterfield, which acted through its agents and employees, who were responsible for making policy for this Police Department and its officers. At all times mentioned herein, the Defendant, Cerna, was acting pursuant to either official policy or practice and custom of the City of Chesterfield and its Police Department.

27. The Defendant, City of Chesterfield, owed a duty to the public in general and to the Plaintiff, Ryan Wille, specifically to staff its Police Department with law enforcement officers that would not abuse the legal rights or unlawfully physically harm citizens with whom they come into contact.

28. The Defendant, City of Chesterfield, breached that duty in the following manner:

- a) The City of Chesterfield was negligent in the manner in which it hired, screened, tested and trained its law enforcement officers. Specifically, the City of Chesterfield failed to screen prospective officers for aberrant

personality traits and do adequate criminal background checks on prospective police officers who are hired, commissioned and allowed to come into contact with the public;

- b) Acting under the color of law, by and through the policy makers of the City, and pursuant to the official policy or custom and practices, the City of Chesterfield intentionally, knowingly, recklessly and with deliberate indifference to the rights of the inhabitants of the City of Chesterfield, failed to instruct, train, supervisor, control or discipline on a continuing basis Defendant, Cerna, and other Chesterfield law enforcement officers in the performance of their duties, which resulted in the deprivation of the Plaintiff's Constitutional Rights;
- c) As a matter of both policy and practice, the City of Chesterfield undertakes inadequate and defective internal affairs investigations, such that Chesterfield officers are encouraged to believe that their actions will not be subject to scrutiny which in turn encourages a pattern of future abuses, such as those that affected and befell the Plaintiff;
- d) As a matter of both policy and practice, the City of Chesterfield Police Department encourages the very type of misconduct at issue here by failing to adequately train, supervise, and control its police officers, as well as hiring and retaining officers without adequate psychological testing, background checks or pre-hire screening, and with deliberate indifference to the fact that such individuals are not qualified to be police officers due

to lack of experience and training, criminal history, or violent, reckless or sexually predatory tendencies;

- e) As a matter of both policy and practice, the City of Chesterfield Police Department facilitated the type of misconduct at issue here by failing to adequately punish and discipline prior instances of abuse and misconduct by City of Chesterfield police officers, thereby leading City of Chesterfield police officers to believe that their actions would never be scrutinized or that they would not be held accountable for their actions and in that way essentially encouraged future abuses such as those that affected and befell the Plaintiff. The City of Chesterfield Police Department undertakes defective and inadequate internal investigations, thereby contributing to a perception on the part of the City of Chesterfield police officers that they will not be held accountable for their actions;
- f) The City of Chesterfield policymakers and employees of the City of Chesterfield Police Department are aware of and condone and facilitate by their inaction a “code of silence” within the City of Chesterfield Police Department by which officers failed to report misconduct committed by other officers such as the misconduct at issue in this case;
- g) Generally as a matter of widespread practice so as to compromise municipal and county policy, officers of the City of Chesterfield Police Department abuse the constitutional rights of citizens on a frequent basis, yet the City of Chesterfield Police Department makes findings of wrongdoing in a disproportionately small number of cases;

- h) The City of Chesterfield has failed to act to remedy the pattern of abuse described in the preceding subparagraphs, despite actual or constructive knowledge of the same, thereby causing the type of injuries alleged herein;
- i) The police officers for the City of Chesterfield Police Department are improperly trained in making arrests and detention of prisoners and, in particular, vulnerable prisoners such as young adults or persons with mental or emotional dysfunction;
- j) The City of Chesterfield Police Department routinely violates the constitutional rights of its citizens whose safety and well being is put in their charge by arresting, detaining, and prosecuting people in violation of their constitutional rights; and
- k) The Defendant City of Chesterfield failed to provide training or the means by which officers could report improper behavior by other officers thereby denying its officers with a structured means and manner within which they could report the malfeasance and improper actions of other fellow officers.

29. The Defendant City of Chesterfield's negligence as described above has resulted in an atmosphere at the City of Chesterfield Police Department where the use of excessive force, physical abuse, and sexual abuse by its officers is routinely accepted and its officers are led to believe that their actions and their use of improper and illegal force will not be scrutinized. This atmosphere leads to a spiral of abuse by these officers, such as that which occurred in the instant case. The Defendant City's failure to train, supervise, control, and discipline its officers was unreasonable and the

Defendant is not entitled to qualified or sovereign immunity under Missouri or Federal law.

30. The actions of the Defendant, City of Chesterfield, as described herein, were willful, wanton and malicious and carried out with a complete disregard and indifference to the health, safety and wellbeing of others, warranting the imposition of punitive damages.

WHEREFORE, for Count IV of this Petition directed to the Defendant, City of Chesterfield, the Plaintiff, Ryan Wille, prays for damages in a reasonable sum in excess of \$25,000.00, together with his costs herein expended, and for such other and further relief as this Court deems just and proper.

DEVEREAUX, STOKES,
FERNANDEZ & LEONARD, P.C.

/s/ Gonzalo Fernandez

GONZALO FERNANDEZ, #40246
Attorney for Plaintiff
133 South 11th Street
Suite 350
St. Louis, MO 63102
(314) 621-3743
Fax: 314) 621-5705
gonz@stltriallawyers.com