

M E M O R A N D U M  
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RE: THOMAS P. McCONNELL, Administrator for the Estate of  
CURTIS McCONNELL, Deceased, vs. CITY OF DETROIT, and  
GARY BOIGER

CIVIL ACTION NO. 75 058 485 NO

This civil suit for wrongful death arises out of an incident which occurred on March 14, 1972, at approximately 9:00 p.m. At said time, Defendant Police Officer Gary Boiger and Officers Patrick Devine and David Siebert, assigned to a Stress Unit, were in the vicinity of Kercheval and Drexel due to the high incidence of street robberies in said area.

Defendant Boiger states that he was acting as a target with Officers Devine and Siebert his cover. He was walking east on the south side of Kercheval from Dickerson when he observed five black males walking toward him. They passed him and afterwards, on hearing voices behind him, he turned and observed the same men following him. At Drexel, Defendant Boiger stopped and the five men passed by.

Defendant Boiger states that he then proceeded south on Drexel on the west side of the street. The five black males overtook him in front of 1375 Drexel. He backed up to the porch at said dwelling and the five men gathered around him in a semi-circle.

Curtis McConnell, decedent for whom Plaintiff Thomas McConnell, decedent's father, brings this suit, was one of the individuals who gathered around Officer Boiger. Decedent, while holding a knife in his right hand, told Officer Boiger to give them his money. Officer Boiger took a marked five dollar bill in a money clip from his pocket and threw it to decedent, who was approximately six feet from said officer. At this point, Officer Boiger identified himself as a police officer and told them that they were under arrest for robbery armed. Decedent started lunging toward Officer Boiger with the knife in his right hand. The other four males also advanced on him. Officer Boiger pulled out his 44 Magnum revolver and fired one shot at decedent who fell to the ground. The other assailants turned and fled and Officer Boiger fired five more shots, wounding two of them. Decedent was conveyed to Detroit General Hospital and pronounced DOA by Dr. John Corr. The other four males were apprehended by Officer Boiger's cover and other officers summoned to the area.

The four assailants, in part, contradict the story of Officer Boiger. They do admit approaching Officer Boiger for the purpose of getting money from him. However, they all deny that any of them had a knife, including decedent. Moreover, they state that they had approached Officer Boiger, asked him for money and he pulled his weapon. They turned to flee when he started shooting, hitting decedent and two others.

Officer Siebert and Devine, who observed the incident from a distance, did note an object in decedent's hand but they could not identify it as a knife. Further, the knife recovered at the scene was not checked for fingerprints to connect it with decedent. Finally, the wound which the decedent suffered entered his body in the area of the left armpit, travelled through his body and came to rest in the vicinity of the right shoulder blade. (See Attachment A)

The above facts clearly indicate that the five black males attempted to rob Officer Boiger. However, based upon the physical evidence of the entry and path of the bullet within decedent's body, it would tend to corroborate the assailants' version of the incident; that is, that decedent was turning to flee when shot as opposed to lunging at Officer Boiger with a knife in his right hand.

This case definitely is not the type which should go to trial. The fact that it is an incident involving a Stress Unit is inflammatory enough. However, added to this is the physical evidence which suggests that Officer Boiger did not shoot decedent while he was lunging at said officer.

Based on the above-facts, it is very plausible that the jury would find Officer Boiger used unjustified deadly force in this situation. Furthermore, the fact that decedent was only 15 years old would generate considerable sympathy. Consequently, I believe taking this case to trial would cause the City unreasonable exposure to a very large verdict.

In light of the substantial unfavorable factors herein, I recommend your Honorable Body approve this matter for settlement in the sum of \$190,000.

THOMAS A. SMITH SUIT