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In July 20, 1998, Mr. Robert J. Smith was arrested by the Memphis Police Force, which arrested Mr. Smith at his residence.

Mr. Smith advised that on July 15, 1998, he was in the area of 2628 Fizer and was blocked in by a vehicle. Mr. Smith stated that he was also advised that when he was arrested, he was taken to the Memphis Police Force. He stated that the last thing he remembers is being taken to the MPD. He stated he does not know who Mr. Smith gave the business card to at the residence, but he was advised that the card was given to the person who was arrested.

The investigation is continued by Memphis Police Force. This document is attached as part of this file.

At Memphis, a typed report was prepared and forwarded to the Memphis Police Force. This document is attached as part of this file.

Also on July 22, 1998, the Memphis Police Force advised that the person who was arrested on July 20, 1998, is identified as Robert J. Smith.

On July 21, 1998, at 11:24 p.m., a search canvass was conducted in the area of 2628 Fizer and 2628 Fizer by Sgt. P. Burnett and the writer. There was no answer at 2628 and 2628 Fizer, however, a business card was left at these residences. Mr. Joe Griffin advised that he was the incident, but he was not the person who was arrested. Mr. Griffin was at a party to get back in the area of 2628 Fizer. Mr. Griffin was not contacted this office.

At 1:17 p.m., Mr. Robert Wright (phonetic) contacted the writer and advised that she would have during the time of the incident. Mr. Wright advised that she looked out her front door and noticed a car parked in her driveway near the bridge. She stated that when she went outside, an officer advised her to stay in the house. Mr. Wright stated that she did not see a suspect or any type of altercation. Mr. Wright also stated that no one by the name of Carl E. King (phonetic given by Mr. Smith) lives with her.

On July 22, 1998, Mr. Smith's arrest history was obtained from the Shelby County Sheriff's Department Bureau of Identification. This document is attached as part of this file.

On July 28, 1998, at 1:20 p.m., Officer Donald Tate (phonetic) contacted this office and spoke with Sgt. P. Burnett in regards to the business card left at 2628 Fizer. Officer Tate stated that Mr. Tate lives at 2628 Fizer, however, he is in the hospital recovering from surgery.

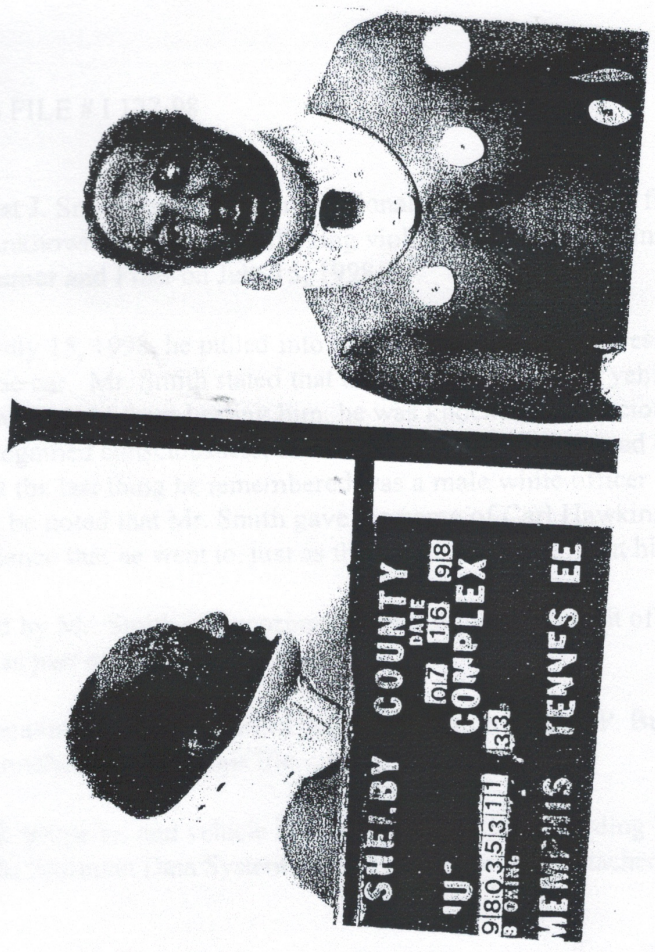


Exhibit J

Robert Smith

On July 20, 1998, Mr. Elbert J. Smith came to the Inspectional Services Office to file a complaint against several unknown male officers alleging violation of DR-301, Unnecessary Force, which occurred at Lamar and Fizer on July 15, 1998.

Mr. Smith alleged that on July 15, 1998, he pulled into a friend's driveway (address unknown) and was blocked in by a blue car. Mr. Smith stated that the officers rushed his vehicle and pulled him out. He stated that as a result of them beating him, he was knocked unconscious. Mr. Smith also advised that when he regained consciousness, he was in the back of the squad car having convulsions. He stated that the last thing he remembered was a male white officer transporting him to the MED. It should be noted that Mr. Smith gave the name of Carl Hawkins as that of the friend that lives at the residence that he went to, just as the police pulled him out his vehicle.

The allegations as indicated by Mr. Smith are incorporated in a signed Affidavit of Complaint. This document is attached as part of this file.

At 12:46 p.m., a typed statement was obtained from Mr. Elbert Smith by Sgt. P. Burnett and the writer. This document is attached as part of this file.

Also on this date, the arrest, property, and vehicle impound information regarding Mr. Smith's arrest was obtained from the Spillman Data System. These documents are attached as part of this file.

On July 21, 1998, at 12:25 p.m., a scene canvass was conducted in the area of Lamar and Fizer by Sgt. P. Burnett and the writer. There was no answer at 2618 and 2628 Fizer; however, a business card was left at these residents. Mr. Joe Griffen) advised that he saw the incident; but, he really didn't want to get involved. Mr. Griffen advised that he was in a hurry to get back on a job site however, he would contact me at a later date. Mr. Griffen has not contacted this office to this date.

At 1:37 p.m., Ms. Charlene Wright) contacted the writer and advised that she was at home during the time of the incident. Ms. Wright advised that she looked out her front door and noticed a tan color vehicle parked in her driveway near the hedges. She stated that when she went outside, an officer advised her to stay in the house. Ms. Wright stated that she did not see a suspect nor any type of altercation. Ms. Wright also stated that no one by the name of Carl Hawkins (name given by Mr. Smith) lives with her.

On July 22, 1998, Mr. Smith's arrest history was obtained from the Shelby County Sheriff's Department Bureau of Identification. This document is attached as part of this file.

On July 23, 1998, at 1:20 p.m., Officer Donald Tate () contacted this office and spoke with Sgt. P. Burnett in regards to the business card left at 2628 Fizer. Officer Tate stated that his father lives at 2628 Fizer, however, he is in the hospital recovering from surgery.

Officer Tate stated that he would advise his father to contact this office once he is out of the hospital and feeling better.

On July 24, 1998, the log sheets for Officers W. Youngman & M. Whittington, Officers M. Miller & K. Covington, Officer W. Crawford and Officer S. Craig, were obtained from the East Precinct by Sgt. E. Prewitt. Mr. Smith's arrest history was obtained from the Shelby County Sheriff Department's Bureau of Identification by Sgt. Prewitt. These documents are attached as part of this file.

On July 28, 1998, at 11:50 a.m., the writer obtained Mr. Smith's medical records from Methodist Hospital (Central) Emergency Room. These records indicate that on July 20, 1998, at 5:15 p.m., Mr. Smith arrived at the emergency room with the complaints of back pain and blood in his urine. Mr. Smith was diagnosed with Hematuria, Lumbar Spur, and Transverse Process Fractures. Mr. Smith was treated and released at 11:10 p.m. These records are attached as part of this file.

On July 30, 1998, at 12:10 p.m., the writer obtained Mr. Smith's medical records from the Bryant Family Practice Clinic, P.C. (5220 Park Ave., Suite 100, Memphis, Tn., 38119). These records indicate that Mr. Smith chief complaint was back pain. Mr. Smith's Radiology Report indicated that there appeared to be fractures involving the left transverse processes (ribs) of L1, and probably L2, and L3 through L4. The age of the fractures was indeterminate. These records are attached as part of this file.

At 3:15 p.m., the writer contacted Officer Donald Tate concerning his father's health. Officer Tate advised that his father (Mr. Carl Tate) was at home and able to speak. At 3:30 p.m., the writer contacted Mr. Tate who advised that he does not recall an incident taking place on June 30, 1998, in front of 2618 Fizer.

On August 3, 1998, at 12:30 p.m., Mr. Smith's booking photo (7/16/98) was obtained from the MPD Photo lab. This photo is attached as part of this file.

It should be noted that on August 5, 1998, at 8:00 a.m., the writer received a letter from Mr. Smith's attorney, Mr. James H. Bostick. In this letter, Mr. Bostick requested information that is not pertinent to this complaint. He also advised that after reviewing Mr. Smith's statement given to this office, Mr. Smith gave a "erroneous" answer as it pertained to his involvement with illegal drugs. The writer advised Lt. C. Jackson (supervisor) concerning this letter.

At 11:15 a.m., Lt. Jackson contacted Mr. Bostick's office and left a message with his secretary advising him to contact Mr. Gerald Thorton, MPD Legal Advisor regarding any information concerning this investigation. This letter is attached as part of this file.

On August 6, 1998, at 11:30 a.m., Mr. Smith's medical records were obtained from the Regional Medical Facility by the writer. These records indicate that Mr. Smith had multiple abrasions and lacerations to the face, neck, and upper arm. Mr. Smith also complained about tenderness in the chest, left side, and left quad (quadricep). X-rays were taken; however, there was no mention of broken bones. These records also indicate that Mr. Smith's urine test was "unconfirmed positive" for cocaine. These records are attached as part of this file.

On August 10, 1998, at 12:30 p.m., the writer obtained the communications printout event # 98196/2196, from the MPD Communications Bureau. This document is attached as part of this file.

On August 18, 1998, at 11:00 a.m., the writer went to Mr. Smith's residence and obtained a signed medical release form. This form is for treatment he is receiving from Physiotherapy Associates, 3860 New Covington Pike, Memphis, Tn. It should be noted that Mr. Smith showed the writer a business card that noted his future appointments. The dates for the appointments are: August 24, 1998 and August 27, 1998. This document is attached as part of this file.

On September 25, 1998, at 1:10p.m., the writer spoke with Jill Sojourner, Physiotherapy Associates, concerning Mr. Smith's final therapy records. Ms. Sojourner faxed Mr. Smith's progress notes to this office. This final progress report is attached as part of this file.

S U M M A R Y

The facts of this investigation revealed that on July 15, 1998, at 9:56 p.m., Officer M. Whittington (Car 6332) advised the east frequency dispatcher that he had a subject bail out of a vehicle at Lamar and Fizer, and ran westbound. He advised that the charges on this subject were possibly drug and auto theft charges. Seconds later, also at 9:56 p.m., Officer Whittington advised that the subject was in custody. During this short period, a struggle ensued in the driveway of 2618 Fizer. During this brief struggle, Mr. Smith received several cuts, abrasions, a blackened right eye, and four fractured ribs (determined later). Mr. Smith was taken into custody by Officer M. Whittington, Officer P. Craig and Officer L. Youngman. Officer M. Miller, Officer K. Covington and Officer W. Crawford, all arrived on the scene after Mr. Smith had been handcuffed. Lt. M. Bailey (Car 305 D) made the scene and advised the officers concerning the arrest. Mr. Smith was arrested on the charges of Reckless Driving, Evading Arrest, Resisting Official Detention and Possession of a Controlled Substance With Intent to Manufacture/Deliver/ Sell. During this struggle, Mr. Smith received injuries and was transported to the Regional Medical Facility (MED) at 10:39 p.m., by Officer W. Crawford (Car 356 D).

It should be noted that Officer Whittington, Officer Youngman, and Officer Craig, admitted to using force in order to take Mr. Smith into custody. Based on the officers statements, Mr. Smith

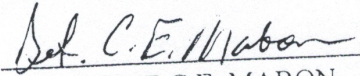
resisted being arrested in two ways. First, by attempting to flee the scene before being caught by Officer P. Craig. According to Officer Craig, Mr. Smith attempted to jump two fences before he grabbed him and the two of them fell from the fence surrounding the car lot. According to Officer W. Youngman, once Officer Craig and Mr. Smith fell from the fence, he tackled both of them to the ground. The approximate distance from the driveway of 2618 Fizer to the car lot fence is less than 20 yards. The time of custody given by Officer Whittington was less than one minute.

Secondly, Mr. Smith resisted by swinging his elbow and refusing to place his hands behind his back. According to the officers, while they struggled with Mr. Smith on the ground, he kept his hands tucked underneath him. The officers also stated that with three of them holding him, Mr. Smith still managed to struggle. The officers advised that Mr. Smith did not strike either of them during this struggle. Officer W. Youngman advised that Mr. Smith's head struck the ground while he had him in a headlock. Officer P. Craig advised that while sitting on Mr. Smith's back, he struck him several times in the lower back and kidney area with his fist. Officer Craig stated that he did this in order to stop Mr. Smith from swinging his elbow, and that they might get his hands behind his back. He stated that at the same time, the officers were commanding Mr. Smith to place his hands behind his back. The officers also stated that they did not use their chemical spray during this incident.

It should also be noted that Mr. Smith could not recall any information concerning a struggle with the officers. He advised that he was knocked unconscious once he got out of his vehicle. Mr. Smith did state that he never ran from the officers, attempted to climb a fence, had any drugs on him, nor did he struggle with the officers. This investigation revealed no independent witness(es) that could either confirm or deny the validity of the statements given by the complainant and the officers.

Even though Mr. Smith received injuries, this investigation could not determine if in fact Mr. Smith resisted, and how much force the officers used to arrest him. Due to the fact that there were no witnesses and due to the conflicting statements of the complainant and the officers, there is INSUFFICIENT EVIDENCE to SUSTAIN the allegation of DR-301, UNNECESSARY FORCE against OFFICER M. WHITTINGTON, IBM # 9472, OFFICER W. YOUNGMAN, IBM # 9924, and OFFICER P. CRAIG, IBM # 1663.

INVESTIGATED BY:


DETECTIVE C.E. MABON