

GRANT F. LANGLEY
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THOMAS O. GARTNER
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MARYNELL REGAN
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KATHRYN Z. BLOCK
MEGAN T. CRUMP
ELOISA DE LEÓN
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KEVIN P. SULLIVAN
BETH CONRADSON CLEARY
THOMAS D. MILLER
HEIDI E. GALVÁN
JARELY M. RUIZ
ROBIN A. PEDERSON
DANIELLE M. BERGNER
Assistant City Attorneys

July 14, 2009

To the Honorable Common Council
of the City of Milwaukee
Room 205 - City Hall

Re: Communication from Attorney Jon Cermele, Cermele & Associates, S.C. for
legal fees for Police Officers Patrick McDermott and Thomas Multhauf
C.I. File No. 07-L-32-2; EC 2442

Dear Council Members:

Returned herewith is a document filed by Attorney Jon Cermele for attorney's fees for representing Police Officers Patrick McDermott and Thomas Multhauf. The claim is in the amount of \$7,447.10, including \$66.10 in disbursements for 67.10 hours of service billed at the rate of \$110.00 per hour. We ask that this matter be introduced and referred to the Committee on Judiciary & Legislation.

We have reviewed this claim and advise that in our opinion, the time spent was reasonable. Legal representation was occasioned by the filing of a citizen's complaint against the officer and sergeant with the Fire and Police Commission. The complaint was dismissed by the Commission.

As we have advised you under similar circumstances in the past, the Common Council has discretion to reject this claim or to pay it in whole or in part. Sec. 895.35, Stats., Bablitch and Bablitch v. Lincoln County, 82 Wis. 2d 574 (1978).

Very truly yours,

A handwritten signature in black ink that reads "Grant F. Langley".

GRANT F. LANGLEY
City Attorney

A handwritten signature in black ink that reads "Jan A. Smokowicz".

JAN A. SMOKOWICZ
Assistant City Attorney

JAS

Enc.

1032-2007-968:147918

CERMELE & ASSOCIATES, S.C.

ATTORNEYS AT LAW

JONATHAN CERMELE
LAURIE A. EGGERT
RACHEL L. PINGS
MATTHEW L. GRANITZ

6310 WEST BLUEMOUND ROAD
SUITE 200
MILWAUKEE, WISCONSIN 53213
(414) 276-8750
FAX (414) 276-8906

March 22, 2007

Mr. Ronald D. Leonhardt
Milwaukee City Clerk
800 City Hall
200 East Wells Street
Milwaukee, WI 53202

**RE: Citizen Complaint of Ms. Shani Turner
Against PO's Patrick McDermott and Thomas Multhauf
Complaint No.: 03-43
Date of Incident: July 7, 2003**

CITY OF MILWAUKEE
2007 MAR 26 PM 3: 02
RONALD D. LEONHARDT
CITY CLERK

Dear Mr. Leonhardt:

The above-named police officers have retained us to represent them in connection with the above-referenced matter.

Consistent with its policy, the City Attorney's Office has refused to represent them and, as they were performing the duties of their office at the time of the events giving rise to the incident, this claim is hereby made on their behalf for the indicated legal fees. This incident involved a traffic stop.

Although we also represented Officer Trent Little in this complaint, we have not included any time spent representing him in the statement since the FPC found him guilty of a rule violation.

The Fire and Police Commission dismissed the complaint. Attached is a copy of the dismissal notice and an itemization of the time and services rendered.

Sincerely,

CERMELE & ASSOCIATES, S.C.

Jon Cermele

CITY OF MILWAUKEE
RECEIVED
2007 MAR 26 PM 3: 22
OFFICE OF
CITY ATTORNEY

/kjs
Attachments
McDERMOTT and MULTHAUF

CERMELE & ASSOCIATES, S.C.

ATTORNEYS AT LAW

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LAURIE A. EGGERT
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March 22, 2007

Mr. Ronald Leonhardt
Milwaukee City Clerk
City Hall
200 East Wells Street
Milwaukee WI 53202

RE: Citizen Complaint of Ms. Shani Turner
Against PO's Patrick McDermott and Thomas Multhauf
FPC No: 03-43
Date of Incident: July 7, 2003
Location of Incident: 91st and Brown Deer
Professional services

	<u>Hours</u>
9/18/2003 Conference with PO McDermott; open file; correspondence to FPC; memo to file; review documents from PO McDermott; correspondence to MPD Open Records.	1.30
9/22/2003 Review of file; memo to file.	0.60
9/25/2003 Review of correspondence from FPC; telephone call to and from FPC.	0.30
10/6/2003 Review documents from Multhauf; correspondence to FPC; review of file.	0.70
10/13/2003 Review of file; telephone call to and from Multhauf; memo to file.	1.60
10/17/2003 Telephone call from Multhauf; review of file.	0.40
10/28/2003 Review of file; memo to file.	0.20
10/29/2003 Review of file.	0.20

	<u>Hours</u>
11/6/2003 Telephone calls from FPC; memo to file; review of file.	0.60
11/10/2003 Telephone call from FPC; review of file; memo to file; telephone call to clients.	0.80
11/11/2003 Review of file; memo to file.	0.10
11/12/2003 Review of correspondence from FPC.	0.10
11/13/2003 Review of file; memo to file; research regarding complaint allegations.	2.00
11/20/2003 Review of correspondence from FPC; memo to file; correspondence to clients; telephone call from client; memo to file.	0.40
12/6/2003 Review of file.	0.10
12/8/2003 Preparation for and appearance at conciliation; conference with clients; memo to file; travel.	2.40
12/10/2003 Telephone call from MPD Open Records.	0.10
12/11/2003 Telephone call from MPD Open records; memo to file.	0.20
12/16/2003 Review documents from MPD Open Records; memo to file.	0.40
1/9/2004 Telephone call to FPC, memo to file.	0.30
1/21/2004 Review document from FPC.	0.10
1/31/2004 Review of correspondence from FPC; memo to file.	0.30
2/4/2004 Telephone call to and from FPC; memo to file.	0.40
3/16/2004 Review document from FPC; memo to file; review of file.	0.20

	<u>Hours</u>
5/14/2004 Review of file.	0.10
5/25/2004 Telephone call from FPC; review of file.	0.10
10/8/2004 Review of file.	0.20
10/14/2004 Review of file.	0.10
11/4/2004 Review of file; review document from FPC; memo to file.	0.20
1/10/2005 Conference with FPC.	0.10
3/15/2005 Review of correspondence from FPC; review of file; telephone call to FPC.	0.40
3/16/2005 Review of file.	0.40
4/7/2005 Review of file; research, draft witness and exhibit list; telephone call to client.	1.80
4/13/2005 Telephone call to clients; memo to file; review of file; draft witness and exhibit list.	1.90
4/14/2005 Review of file.	0.40
4/25/2005 Review of correspondence from DOJ.	0.20
7/12/2005 Review of correspondence from client; telephone call to FPC; memo to file; review of file.	0.30
7/22/2005 Telephone call to FPC.	0.10
11/28/2005 Review of file; memo to file.	0.30
12/9/2005 Telephone call from FPC; review of file.	0.30

	<u>Hours</u>
1/5/2006 Review of correspondence from FPC.	0.10
1/10/2006 Review of correspondence from FPC; memo to file; review file; telephone call to PO McDermott; telephone call to complainant; Internet search regarding complainant.	2.60
1/30/2006 Review file.	0.30
1/31/2006 Review file; correspondence to client; correspondence to MPD Personnel.	0.60
2/8/2006 Telephone calls to clients; correspondence to complainant; research regarding search issues.	2.30
2/13/2006 Telephone call to Dist. #4; telephone call to clients; telephone call from PO Multhauf.	0.30
2/14/2006 Telephone calls to and from IAD.	0.20
2/15/2006 Office conference with PO Multhauf; memo to file; telephone call to Personnel; telephone call to Asst. City Atty. Schrimpf; telephone call to David Heard; telephone call to medical section; telephone call to PO McDermott.	2.60
2/20/2006 Telephone call from PO McDermott; memo to file.	0.30
2/21/2006 Telephone calls to and from FPC; correspondence to FPC; review personnel records; telephone call to PO McDermott; review of correspondence from FPC; telephone call from Heard.	1.10
2/23/2006 Review of correspondence from FPC; telephone calls to clients; correspondence to FPC; telephone call from PO McDermott.	1.80
3/1/2006 Review file; conference with Academy training personnel; telephone call to witnesses.	1.90

	<u>Hours</u>
3/3/2006 Review file; telephone call to Academy personnel; memo to file.	0.80
3/6/2006 Research regarding vehicle search; memo to file; review file; telephone call to client.	1.70
3/7/2006 Conference with client; telephone call from client.	1.30
3/8/2006 Telephone call to Fronk; telephone call to Academy.	0.40
3/9/2006 Telephone call to PO Multhauf; conference with FPC regarding procedure; memo to file.	0.80
3/10/2006 Telephone call from Academy trainer; telephone call to FPC.	0.20
3/13/2006 Review of correspondence from FPC; telephone call from and to FPC; correspondence to complainant; telephone call to Academy.	1.20
3/17/2006 Telephone calls from and to client; telephone call to and from Academy training personnel; memo to file; telephone calls to and from FPC.	1.40
3/22/2006 Telephone call from and to FPC.	0.20
3/30/2006 Telephone call to FPC; correspondence to client.	0.20
4/3/2006 Telephone call from and to FPC; memo to file.	0.30
4/11/2006 Telephone call to FPC.	0.10
4/24/2006 Review of correspondence from PO McDermott; telephone call to FPC.	0.40
5/1/2006 Telephone call from FPC; review file.	0.20
6/1/2006 Telephone call to and from FPC; memo to file; review file.	0.60

	<u>Hours</u>
6/6/2006 Telephone call from FPC; memo to file; telephone call to clients and witnesses; correspondence to complainant; telephone call to PPD.	1.60
6/7/2006 Review file.	0.20
6/20/2006 Review of correspondence from FPC; telephone call from and to Academy; telephone call to clients; telephone call to FPC.	1.10
6/21/2006 Telephone call to and from FPC; prepare for interview with Academy expert.	0.50
6/23/2006 Travel; conference with Academy personnel; memo to file.	2.80
6/28/2006 Draft subpoena; telephone call to FPC; memo to file; review file; correspondence to clients; telephone call to clients.	0.70
7/14/2006 Office conference with PO's as prep for hearing; memo to file; review of correspondence from FPC; telephone call to PPD.	1.70
7/18/2006 Telephone calls to FPC; telephone call to and from Academy; hearing preparation; telephone call from investigator; telephone call from witness.	2.30
7/19/2006 Prepare for hearing; travel; conference with client; appearance at Hearing; return travel.	6.20
9/12/2006 Review file.	0.20
10/20/2006 Review proposed Decision from FPC; correspondence to clients; memo to file.	0.60
11/20/2006 Review file.	0.40
11/21/2006 Review records; draft Brief; correspondence to FPC.	2.80

	<u>Hours</u>
11/27/2006 Revise Brief; telephone call from Fronk.	0.50
1/8/2007 Receive and review Fax from FPC.	0.10
2/6/2007 Review FPC Decision; telephone call to clients; correspondence to clients; close file.	0.80

	<u>Amount</u>
For professional services rendered	67.10
Additional charges:	\$7,381.00
12/8/2003 Parking	2.00
12/15/2003 MPD Open Records request	3.10
4/13/2005 Department of Justice record request re David Williams	18.00
2/20/2006 MPD Open Records request	25.00
3/8/2006 Parking	11.00
7/19/2006 Parking	7.00

Total costs	<u>\$66.10</u>
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Total amount of this bill	<u>\$7,447.10</u>
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Balance due	<u><u>\$7,447.10</u></u>
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(Rate: \$110.00 per hour)

BOARD OF FIRE AND POLICE COMMISSIONERS
OF THE CITY OF MILWAUKEE

In the matter of the complaint of

SHANI TURNER

DECISION OF THE BOARD

Vs.

POLICE OFFICERS TRENT LITTLE,
PATRICK McDERMOTT and
THOMAS MULTHAUF

FPC Complaint No. 03-43

Board members Earl Buford, Woody Welch and Ernesto Baca met on January 10, 2007 for the purpose of conducting deliberations and reaching a Decision regarding the complaint of Shani Turner against Police Officers Thomas Multhauf, Patrick McDermott and Trent Little. Prior to such meeting each of the Board members had been provided with and reviewed copies of the transcript of proceedings conducted on July 19, 2006 before Hearing Examiner Steven Fronk as well as copies of exhibits received on such date, the Recommendation and Proposed Findings of the Hearing Examiner, and the responses to such Recommendation as filed by the parties:

As to Police Officer Thomas Multhauf, the Board does hereby adopt the Findings of the Hearing Examiner, specifically finding that Complainant Turner has failed to show by a preponderance of the evidence that Officer Multhauf violated MPD Rule 4, Section 2/060.00 in any respect whatsoever. The complaint and any/all charges against Officer Multhauf are hereby dismissed.

As to Police Officer Patrick McDermott, the Board does hereby adopt the Findings of the Hearing Examiner, specifically finding that Complainant Turner has failed to show by a preponderance of the evidence that Officer McDermott violated MPD Rule 4, Section 2/060.00 in any respect whatsoever. The complaint and any/all charges against Officer McDermott are hereby dismissed.

As to Police Officer Trent Little, the Board does hereby adopt the Findings of the Hearing Examiner, specifically excluding the Hearing Examiner's Finding 10. Following are our Findings of Fact as to Officer Little, as modified, and our Decision:

Findings of Fact of the Board as to Police Officer Trent Little
Regarding an Alleged Violation of MPD Rule 4, Section 2/060.00

1. Police Officer Trent Little, at all times pertinent hereto, was a member of the Milwaukee Police Department and bound by the rules and regulations thereof.
2. On July 7, 2003, Officer Little made a traffic stop of Shani Turner after observing Turner make lane changes without utilizing her vehicle's turn signals.
3. Ms. Turner was aware that her turn signals were inoperable and testified that she signaled her intention(s) using her left arm. Officer Little testified that he did not see her arm, quite possibly because of the time of night.
4. The greater weight of the evidence in this case would indicate that the traffic stop was legitimately based on a perceived traffic violation. There is insufficient evidence in the record to support Ms. Turner's claim of racial profiling.
5. Officer Little detained Ms. Turner and her passenger and called for assistance due to the fact that neither Ms. Turner nor her passenger had proper identification.
6. Officer Little determined that the passenger had an outstanding warrant. Little advised Officers McDermott and Multhauf of this fact upon their arrival and Officer Multhauf conducted a search of the auto incident to the arrest.
7. There is insufficient evidence in the record to show that Officer Little was aware that Ms. Turner's son was in the car prior to being advised by Officer Multhauf.
8. The entire traffic stop, according to computer aided dispatch records, took less than 35 minutes from start to finish. Ms. Turner was released without a citation.
9. There is insufficient evidence in this record to support a finding that Police Officer Trent Little was discourteous, uncivil or disrespectful, or that he intentionally subjected Ms. Turner or anyone else at the scene to any greater indignity than was necessary to perform his duties on the day in question.
10. Complainant has shown by a preponderance of the evidence that Officer Little failed to be attentive in the discharge of his duties as is required by Milwaukee Police Department Rule 4, Section 2/060.00. We do so find.

Decision

Police Officer Trent Little made a traffic stop and, upon determining that neither of the adult occupants had proper identification, removed those two adults from the vehicle and placed them in his squad. There is nothing in the record that would indicate that these actions were inappropriate or that Officer Little was discourteous or uncivil in violation of Milwaukee Police Department Rule 4, Section 2/060.00. It is clear however, that Officer Little failed in a significant way to be attentive in the discharge of his duties as is also required by Milwaukee Police Department Rule 4, Section 2/060.00. His explanation that he "missed" the child in the backseat of the vehicle is proof of this fact.

Milwaukee Police Department Rule 4, Section 2/060.00 mandates not only that officers be courteous and civil toward the public, but also that they "shall at all times be attentive and zealous in the discharge of their duties." The need for attentiveness serves multiple purposes related to officer safety, citizen safety and basic job performance. As a result of Officer Little's inattentiveness in this instance a small child was left in the backseat of a vehicle in the dark; alone, frightened and unattended. This is unacceptable. Even the most basic visual sweep of the backseat should have revealed the presence of the boy. It is obvious that Officer Little was not adequately attentive in this instance.

We have reviewed the transcript and exhibits in this case as well as Officer Little's record of service with this Department. We would note that Officer Little has repeatedly acknowledged his mistake in this instance and that he was otherwise courteous and professional at the scene, at the district station the following day, and, from what we can gather, throughout these proceedings. He was a relatively new officer in a one person squad and still learning at the time of this incident. We would also note that we are aware of Officer Little's military service in Iraq subsequent to this incident, that he has learned from this incident and his military service, and that he is far more attentive today than he was in July 2003. This is important and it leads us to conclude that, despite our finding that Officer Little violated MPD Rule 4, Section 2/060.00 by failing to be attentive, no discipline or other remedial action is required. We do order, however, that a copy of this Decision be forwarded to the Milwaukee Police Department with a

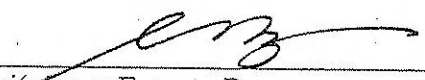
recommendation that our finding of a failure to be attentive in violation of MPD Rule 4, Section 2/060.00 should be noted in Officer Little's personnel record.

We are also concerned that the record appears to indicate that the Milwaukee Police Department may lack standard operating procedures addressing what an officer is to do with children in a vehicle when the supervising adult is removed from that vehicle. Should children ever be left in a vehicle? What are an officer's options? What factors (weather, location, time of day, traffic volume, etc) should an officer consider when deciding how to handle the situation? If there is no standard operating procedure we would hereby recommend that one be drafted immediately. If this issue is not specifically covered in academy and in-service training we would also hereby recommend that an appropriate training component be inserted in the curriculum as soon as possible.

We intend to inquire of Chief Hegerty as to specific training protocols and standard operating procedures regarding safeguarding children while an investigation is taking place. Given what we believe to be our shared concern for the wellbeing of all persons who come into contact with members of the Police Department, we are confident that the situation will be addressed and, if necessary, rectified in the very near future.

Board of Fire and Police Commissioners
Of the City of Milwaukee

By:



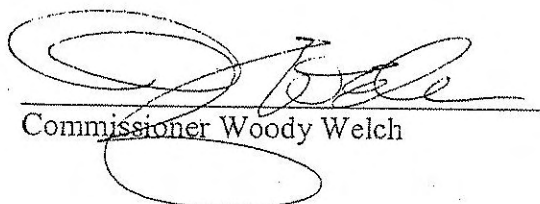
Commissioner Ernesto Baca

01.31.07
Date



Commissioner Earl Buford

2-01-07
Date



Commissioner Woody Welch

1-29-07
Date