



**Request for City Council Committee Action
From the City Attorney's Office**

Date: September 17, 2003
To: Ways & Means/Budget Committee
Referral to: None

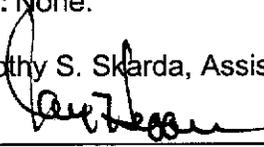
Subject: Styles P. Moore v. City of Minneapolis et al, U. S. District Court file no. 02-510 JRT/FLN.

Recommendation: That the City Council approve settlement of the lawsuit filed by Styles Moore, United States District Court file no. 02-510, in the amount of \$7,750.00, payable to Styles Moore and his attorneys Albert T. Goins, Sr. and Kathryn R. Burke and authorize the City Attorney to execute any documents necessary to effectuate the settlement and release of claims, payable from Fund/Org. 6900 150 1500 4000.

Previous Directives: None.

Prepared by: Timothy S. Skarda, Assistant City Attorney, 673-2553

Approved by:


Jay M. Heffern
City Attorney

Presenter in Committee: Jay M. Heffern, City Attorney

Financial Impact (Check those that apply)

- No financial impact - or - Action is within current department budget.
(If checked, go directly to Background/Supporting Information)
 Action requires an appropriation increase to the Capital Budget
 Action requires an appropriation increase to the Operating Budget
 Action provides increased revenue for appropriation increase
 Action requires use of contingency or reserves
 Other financial impact (Explain): Payment from Fund/Org. 6900 150 1500 4000
 Request provided to the Budget Office when provided to the Committee Coordinator

Community Impact: Build Community

Background/Supporting Information

Styles Moore brought this action alleging civil rights violations of 42 U.S.C. § 1983 for the use of excessive force and state torts of assault and battery. Allegations made against the City of Minneapolis and the Minneapolis Police Department regarding training, supervision and discipline were previously dismissed.

On January 31, 2000, Minneapolis police officers were conducting an undercover drug detail. Officers made a controlled purchase of crack cocaine from the Plaintiff. The Plaintiff fled from officers in a stolen motor vehicle and ultimately bailed out of the vehicle and fled on foot across Minnehaha Creek. Three police officers were in

immediate pursuit of the Plaintiff as he fled on foot. A canine unit was involved in the pursuit. The canine was released and caught up to the Plaintiff. The canine held the Plaintiff by the right leg. The Plaintiff continued to attempt to flee, dragging the dog with him. The canine officer tackled the Plaintiff. The remaining two officers arrived at the scene and attempted to help subdue the Plaintiff after the dog was under control. While the Plaintiff was struggling on the ground, an officer was standing over the Plaintiff with his flashlight in one hand and his service weapon in the other. The Plaintiff was attempting to get to his feet and lunged toward the officer. The officer kicked the Plaintiff a stunning blow to the face with his right foot knocking him to the ground. The officer delivered a second kick when the Plaintiff continued his non-cooperative behavior. The officer is trained in martial arts and described the kicks as delivered to the side of the head to stun the Plaintiff. The officer explained that with his hand full he had to act quickly and decisively. The officer did not want to strike the Plaintiff with his flashlight or use his weapon.

The Plaintiff suffered a black eye and bruising to the side of his head from the blows, but no permanent injury. The Plaintiff alleges scarring to this leg from dog bites.

A settlement conference before Magistrate Judge Franklin Noel was held on September 15, 2003. The settlement conference was attended by the Defendant police officers, Council Member Barret Lane, Deputy Chief Lucy Gerold and Assistant City Attorney Timothy Skarda. At a prior settlement conference the Plaintiff had demanded \$275,000.00 in settlement of all claims. From the nature of the claims, the Plaintiff would also have a claim for attorney's fees and costs should he prevail at trial. The proposed settlement was reached before extensive discovery had taken place giving rise a substantial claim for attorney's fees. A proposed settlement was reached in the amount of \$7,750.00, including all claims for attorney's fees and costs.

The parties involved in the settlement conference believe that the proposed settlement is in the best interests of the City of Minneapolis and jointly recommend its approval. While the use of force in the nature of a kick to the head and the explanation by the officer for the blow appears reasonable when dealing with a struggling and fleeing felon, the delivery of kicks could be viewed as excessive by a jury. We believe that the proposed settlement fairly evaluated the risks posed at trial for loss by the Defendants and the cost of any potential negative verdict.