



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

Date: January 13, 2006
To: Ways & Means/Budget Committee
Referral to: None

Subject: Scott v. City of Minneapolis
U.S. District Court file no. 02-4315 (MJD/AJB)

Recommendation: That the City Council approve settlement of the lawsuit filed by Timothy Scott, United States District Court File No. 02-4315, in the amount of \$5,000.00, payable to Timothy Scott 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: _____
Pro 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

The present case arises out of an incident in which the Plaintiff, Timothy Scott, was arrested after the search of his residence by Minneapolis police officers. The Plaintiff has brought a lawsuit alleging violations of 42 U.S.C. § 1983 for false arrest based on claims that portions of the underlying search warrant had been falsified. Mr. Scott has been pursuing the case without the assistance of an attorney.

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Mr. Scott is a 39 year old resident of Isanti, Minnesota who on March 19, 1998, resided at 4355 13th Avenue South in the City of Minneapolis. Mr. Scott filed this lawsuit on November 14, 2002 while he was an inmate in the Federal Medical Center in Rochester, Minnesota where he was incarcerated on unrelated charges. Mr. Scott was released from custody in December, 2005. The case is currently scheduled for trial in federal district court before the Hon. Michael J. Davis.

On March 19, 1998, Minneapolis police officers served a search warrant at Mr. Scott's residence at 4355 13th Avenue South based on information obtained from a confidential reliable informant ("CRI"). Mr. Scott was not present when the search was initiated, but arrived during the course of the search. Officers discovered approximately 2.2 pounds of cocaine during the search. Mr. Scott has alleged that the search warrant was based on false testimony from the CRI. The criminal case against Mr. Scott was referred to the United States Attorney for prosecution, however, Mr. Scott was not prosecuted for any charges related to the search of March 19, 1998, or related to the drugs discovered during the search. Additionally, the officers have not been able to identify the CRI relied upon as the basis for the search warrant. Even if identified, it is unlikely that the CRI would be available for trial on the civil case. According to the officers, factors related to the identification and testimony of the CRI raised by the United States Attorney were reasons that the federal criminal charges were not prosecuted. The City has not been privy to the federal criminal file.

The Defendants brought a Motion of Summary Judgment on April 21, 2004, before Magistrate Judge Jonathan Lebedoff. Magistrate Lebedoff denied the Motion on July 12, 2004. The Report and Recommendation from Magistrate Lebedoff was affirmed by Judge Michael J. Davis.

A settlement conference was held on January 3, 2006, before Magistrate Judge Arthur Boylan to whom the case was assigned after the retirement of Magistrate Lebedoff. The settlement conference was attended by Deputy Chief Don Harris and Assistant City Attorney, Timothy Skarda. No City Council Member was available to attend the settlement conference. There had been three prior settlement conferences on the case that had not resulted in any meaningful negotiations. At the termination of prior settlement conferences, the Plaintiff had demanded \$250,000.00 and the City had offered \$250.00. Subject to City Council approval, the case was settled in the amount of \$5,000.00. We believe that the proposed settlement is in the best interests of the City and officers and recommend approval by this Committee. We believe that issues related to the non-prosecution of the underlying criminal case, identification of the CRI, age of case, denial of summary judgment, as well as, the willingness of the court exercise all means at its disposal in order to effectuate a resolution of the matter make the proposed settlement reasonable.

We believe that, considering all the facts and circumstances of the case, the proposed settlement would be in the best interests of the City and jointly recommend approval by this Committee.