

LOUIS CHARLES SHAPIRO, P.A.

By: Louis Charles Shapiro, Esquire (New Jersey Bar I.D. No. 028201997)

1063 E. Landis Avenue

Vineland, New Jersey 08360

(856) 691-6800; Fax No. (856) 794-3326

Email: shap1@prodigy.net

Attorney for Plaintiff, Tanika Joyce

TANIKA JOYCE,

Plaintiff,

vs.

JOSEPH DIXON; THE CITY OF
MILLVILLE; CHIEF OF POLICE JODY
FARABELLA; LT. MICHAEL COLON;
SGT. LAWRENCE MULFORD; SGT.
ROSS HOFFMAN; SGT. HAROLD
DUFFIELD, JR.; LT. EDWARD
ZADROGA; LT. KEVIN McLAUGHLIN;
SGT. CINDI ZADROGA; SGT. JOHN
REDDEN, III; LT. CARL HEGER; SGT.
DAN AYARS; JOHN/JANE DOE(S) I;
JOHN/JANE DOE(S) II; JOHN/JANE
DOE(S) III; and JOHN/JANE DOE(S) IV,

Defendants.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE

CIVIL ACTION

Civil Action No.: 1:20-cv-01118-RMB-AMD

**AMENDED COMPLAINT
AND JURY DEMAND**

Plaintiff, Tanika Joyce, by way of Amended Complaint against Defendants, Joseph Dixon; the City of Millville; Chief of Police Jody Farabella; Lt. Michael Colon; Sgt. Lawrence Mulford; Sgt. Ross Hoffman; Sgt. Harold Duffield, Jr.; Lt. Edward Zadroga; Lt. Kevin McLaughlin; Sgt. Cindi Zadroga; Sgt. John Redden, III; Lt. Carl Heger; Sgt. Dan Ayars; and John/Jane Doe(s) I, II, III, and IV, alleges as follows:

FIRST COUNT
Violation of 42 U.S.C. section 1983 and the Fourth and
Fourteenth Amendments to the United States Constitution

Cause of Action, Jurisdiction and Venue

1. This action is brought pursuant to 42 U.S.C. section 1983, based upon violations of the Fourth and Fourteenth Amendments to the United States Constitution.

2. Jurisdiction is conferred pursuant to 28 U.S.C. sections 1331 and 1343(a)(3). The Court has supplemental jurisdiction over Plaintiff's state law claim pursuant to 28 U.S.C. section 1367.

3. Venue is proper in this District, pursuant to 28 U.S.C. section 1391(b)(2), as the events and/or omissions giving rise to this action occurred in the District of New Jersey.

The Parties

4. Plaintiff, Tanika Joyce ("Plaintiff" or "Joyce") was at all relevant times a citizen of the United States and of the State of New Jersey.

5. Defendant, Joseph Dixon ("Dixon"), during the time periods set forth in this Complaint, was a duly appointed and employed police officer with the Millville Police Department, and as such was a person acting under color of law, statute, ordinance, regulation, custom, or usage of the City of Millville and of the State of New Jersey.

6. As described elsewhere herein, Dixon is no longer employed by the Millville Police Department.

7. Defendant, the City of Millville, is a municipal corporation located in Cumberland County, New Jersey. Among other things, the City of Millville maintains and operates a police department which, at all relevant times, employed the named and unknown Defendants herein.

8. Defendant, Chief of Police Jody Farabella ("Chief Farabella"), at all relevant times, was a duly appointed and employed police officer and Chief of Police of the Millville Police Department (sometimes herein, the "MPD"), was an officer in charge, a policymaker, and/or a supervisor, and as such was a person acting under color of law, statute, ordinance, regulation, custom, or usage of the City of Millville and of the State of New Jersey.

9. Defendant, Lt. Michael Colon #52 ("Lt. Colon"), was at all relevant times a duly appointed and employed police officer of the Millville Police Department, was an officer in charge and/or a supervisor, and as such was a person acting under color of law, statute, ordinance, regulation, custom, or usage of the City of Millville and of the State of New Jersey.

10. Defendant, Sgt. Lawrence Mulford #74 ("Sgt. Mulford"), was at all relevant times a duly appointed and employed police officer of the Millville Police Department, was an officer in charge and/or a supervisor, and as such was a person acting under color of law, statute, ordinance, regulation, custom, or usage of the City of Millville and of the State of New Jersey.

11. Defendant, Sgt. Ross Hoffman #118 ("Sgt. Hoffman"), was at all relevant times a duly appointed and employed police officer of the Millville Police Department, was an officer in charge and/or a supervisor, and as such was a person acting under color of law, statute, ordinance, regulation, custom, or usage of the City of Millville and of the State of New Jersey.

12. Defendant, Sgt. Harold Duffield, Jr. #95 ("Sgt. Duffield"), was at all relevant times a duly appointed and employed police officer of the Millville Police Department, was an officer in charge and/or a supervisor, and as such was a person acting under color of law, statute, ordinance, regulation, custom, or usage of the City of Millville and of the State of New Jersey.

13. Defendant, Lt. Edward Zadroga #91 ("Lt. Zadroga"), was at all relevant times a duly appointed and employed police officer of the Millville Police Department, was an officer in

charge and/or a supervisor, and as such was a person acting under color of law, statute, ordinance, regulation, custom, or usage of the City of Millville and of the State of New Jersey.

14. Defendant, Lt. Kevin McLaughlin #84 ("Lt. McLaughlin"), was at all relevant times a duly appointed and employed police officer of the Millville Police Department, was an officer in charge and/or a supervisor, and as such was a person acting under color of law, statute, ordinance, regulation, custom, or usage of the City of Millville and of the State of New Jersey.

15. Defendant, Sgt. Cindi Zadroga #153 ("Sgt. Zadroga"), was at all relevant times a duly appointed and employed police officer of the Millville Police Department, was an officer in charge and/or a supervisor, and as such was a person acting under color of law, statute, ordinance, regulation, custom, or usage of the City of Millville and of the State of New Jersey.

16. Defendant, Sgt. John Redden, III #102 ("Sgt. Redden"), was at all relevant times a duly appointed and employed police officer of the Millville Police Department, was an officer in charge and/or a supervisor, and as such was a person acting under color of law, statute, ordinance, regulation, custom, or usage of the City of Millville and of the State of New Jersey.

17. Defendant, Lt. Carl Heger #110 ("Lt. Heger"), was at all relevant times a duly appointed and employed police officer of the Millville Police Department, was an officer in charge and/or a supervisor, and as such was a person acting under color of law, statute, ordinance, regulation, custom, or usage of the City of Millville and of the State of New Jersey.

18. Defendant, Sgt. Dan Ayars #163 ("Sgt. Ayars"), was at all relevant times a duly appointed and employed police officer of the Millville Police Department, was an officer in charge and/or a supervisor, and as such was a person acting under color of law, statute, ordinance, regulation, custom, or usage of the City of Millville and of the State of New Jersey.

19. Upon information and belief, there are additional persons, duly appointed employees of the Millville Police Department, the City of Millville, other law enforcement agencies and/or others, whose true names are unknown to Plaintiff, who are responsible and liable as law enforcement officers who participated and/or acquiesced in the unconstitutional and/or tortious actions and/or omissions complained of herein which proximately caused Plaintiff's injuries and damages. These unnamed and unknown persons, at all relevant times, were acting under color of law, statute, ordinance, regulation, custom or usage of the City of Millville, the Millville Police Department, of the State of New Jersey, and/or other law enforcement agencies, and are referred to as John/Jane Doe(s) I.

20. Upon information and belief, there are additional persons, duly appointed employees of the Millville Police Department, the City of Millville, other law enforcement agencies and/or others, whose true names are unknown to Plaintiff, who are responsible and liable as officers in charge, policymakers, and/or supervisors, and who participated and/or acquiesced in the unconstitutional and/or tortious actions and/or omissions complained of herein which proximately caused Plaintiff's injuries and damages. These unnamed and unknown persons, at all relevant times, were acting under color of law, statute, ordinance, regulation, custom or usage of the City of Millville, the Millville Police Department, of the State of New Jersey, and/or other law enforcement agencies, and are referred to as John/Jane Doe(s) II.

21. Upon information and belief, there are other individuals, whose true names are unknown to Plaintiff, who are responsible and liable and who participated and/or acquiesced in the unconstitutional and/or tortious actions and/or omissions complained of herein which caused Plaintiff's injuries and damages. These unnamed and unknown persons, at all relevant times, were acting under color of law, statute, ordinance, regulation, custom or usage of the City of

Millville, the Millville Police Department, of the State of New Jersey, and/or other law enforcement agencies, and are referred to as John/Jane Doe(s) III.

22. Upon information and belief, there are other entities, the identities of which are unknown to Plaintiff, which are responsible and liable for, and which participated and/or acquiesced in, the unconstitutional and/or tortious actions and/or omissions complained of herein which caused Plaintiff's injuries and damages. Such entities are referred to herein as John/Jane Doe(s) IV.

23. John/Jane Doe(s) I, II, III, and IV are referred to in this Amended Complaint regardless as to actual gender.

24. Each individual Defendant named herein is sued in his and/or her individual capacity.

25. To the extent the full and/or true name of any Defendant is discovered, Plaintiff reserves the right to seek amendment to the caption and body of this Amended Complaint.

26. Plaintiff reserves the right to further amend this Amended Complaint to add details surrounding the assault described herein, as well as to name additional parties and to add claims, as may be revealed in discovery and investigation.

27. Plaintiff further reserves the right to name as additional supervisory officer Defendants those individuals who oversaw and participated in Millville Police Department's Internal Affairs investigations, upon receipt of actual files produced by Defendant, City of Millville, in the discovery process.

Factual Allegations

A. The 2017 Barry Cottman Incident and Video.

28. In 2017, before Defendant Joseph Dixon's incidents with Audra Capps and Plaintiff Tanika Joyce on February 25, 2018 and March 24, 2018, respectively, as described elsewhere herein, a passerby filmed a Millville Police Officer -- ultimately identified as Dixon -- repeatedly punching a man in the head.

29. In that encounter, Dixon and another MPD Officer stopped Barry Cottman allegedly for jaywalking.

30. Upon information and belief, and as reported by NJ.com, Dixon wrote that Cottman had walked diagonally across the street, "failing to use 90-degree turns as required by state law."

31. When Cottman refused to give his name, Dixon tried to place him under arrest and said that Cottman repeatedly pushed away.

32. "I then delivered two closed fist strikes to the face of Cottman in order to gain compliance," Dixon allegedly wrote in his report, as reported by NJ.com. Cottman's arm later hit Dixon's leg, according to Dixon's report, so Dixon struck twice more as Cottman kept his hands tucked under his body.

33. According to NJ.com's reporting, photos taken the next morning in an emergency room showed Cottman's right eye still swollen, and a line of stitches along his upper lip.

34. The video of the Cottman incident involving Dixon was made public on or about June 28, 2017, well before the Capps and Joyce incidents in early 2018. A link to that video may be viewed from the NBC10 Philadelphia website as follows:

<https://www.nbcphiladelphia.com/news/local/millville-police-punch-video-new-jersey-jaywalking/21024/>.

35. Upon information and belief, public officials within the City of Millville, and the named supervisory officers identified in this Amended Complaint, viewed and/or had knowledge of the existence of the public video footage and of the Cottman incident, and allowed Dixon to remain employed by the Millville Police Department and remain in a position to cause harm to persons such as Capps, Joyce and others. This incident and very public video footage should have placed the Supervisory Defendants named herein on notice of Dixon's use of excessive force – and all over an alleged jaywalking incident.

36. The Cottman encounter resulted in a separate federal civil rights lawsuit, which is pending in the Camden vicinage of the District of New Jersey and captioned as Barry Cottman v. Jody Farabella, Millville Chief of Police, P.O. Joseph Dixon 172, P.O. Robert Runkle 160, and the City of Millville, New Jersey, Civil Action No. 1:19-cv-14122 (D.N.J.).

37. Furthermore, Defendant City of Millville has faced other lawsuits in recent years, including but not limited to: (1) a case in which the City of Millville agreed to pay \$40,000 in 2015 to settle claims that a Millville officer pointed his gun at a 13-year-old boy after telling him not to ride a dirt bike in the woods; and (2) a case in which the City of Millville in 2010 agreed to pay \$100,000 to a woman who claimed she was beaten after being stopped while riding her bicycle on a sidewalk.

B. The 2018 Audra Capps Incident.

38. On February 25, 2018, at approximately 8:22 p.m., Millville Police Officer Bryan Orndorf pulled over Audra Capps, who was driving westbound on state highway 49 in the City of Millville, on suspicion of driving while intoxicated.

39. Upon his arrival at the scene, Defendant Officer Dixon conducted a motor vehicle stop in front of Clark's Liquor Store, which has, upon information and belief, a parking lot paved with asphalt, or a similar hard surface.

40. During a sometimes heated exchange, Capps told Dixon, among other things, that she wanted to call her husband.

41. In the parking lot attached to or in the vicinity of Clark's Liquor, Dixon began to administer various field sobriety tests.

42. Audio and video footage of these field sobriety tests were captured on a Millville Police Department patrol car's mobile video recorder ("MVR"), relevant portions of which can be viewed publicly on a link to an NJ.com article as part of its series known as The Force Report: <https://www.nj.com/news/2018/12/this-nj-cop-used-more-force-than-anyone-else-is-he-violent-or-just-good-at-his-job.html>.

43. Capps, at the time of the motor vehicle stop, was 50 years old, 5'4" tall and of a slight build, weighing approximately 100 pounds or less.

44. After several minutes of Capps performing the field sobriety tests, Dixon determined that she failed them.

45. The MVR captured what happened next, and a portion of the following public video clip demonstrates what happened to Capps, in slow motion: <https://www.youtube.com/watch?v=v4vluoEIfOU>.

46. Dixon sought to arrest Capps by attempting to handcuff her behind her back.

47. After Dixon initially took control of Capps's hands, Capps took a step away.

48. Capps looked up at Dixon, who stood approximately a full head taller.

49. As Capps began to back up so as to not be handcuffed, Dixon grabbed hold of her.

50. The MVR revealed Dixon placing his left arm around Capps's head and/or neck in a headlock position.

51. While holding Capps in a headlock, Officer Dixon lifted Capps off the ground, whirled her around in the headlock, swung her over his hip while she was still in a headlock, and violently slammed this much smaller female suspect to the hard pavement below.

52. Dixon fell down on top of Capps with all of his weight.

53. The MVR footage further showed Millville Police Officer Bryan Orndorf headed towards Dixon's location, and thereafter on top of Capps, putting his knee and/or his weight on Capps's back, and assisting Dixon in securing Capps in handcuffs.

54. Capps, along with her husband, have a separate lawsuit pending in this Court captioned as Audra Capps and Douglas Robert Gibson, Jr. v. Joseph Dixon, Bryan Orndorf, Jody Farabella, City of Millville, et al., Civil Action No. 1:19-cv-12002-RMB-AMD (D.N.J.).

55. As described in more detail in the Capps Complaint, Audra Capps sustained severe physical and emotional injuries as a result of her February 25, 2018 encounter with Dixon and Orndorf.

C. The March 24, 2018 Joyce Incident.

56. On March 24, 2018, Defendant Dixon responded to a Shop Rite store, located at 2130 North Second Street in Millville, Cumberland County, New Jersey, in response to an alleged shoplifting complaint.

57. Upon information and belief, upon Dixon's arrival at the Shop Rite in Millville, there was a juvenile in custody for allegedly opening food items inside the store and eating the items without paying.

58. Upon information and belief, the juvenile's mother, Plaintiff Joyce, allegedly refused to provide identification to another Millville officer.

59. The second Millville officer, upon further information and belief, did not wish to charge the juvenile, but claimed that he needed Joyce's identification in order to release the juvenile to her.

60. While at the Millville Shop Rite, Dixon asked Joyce for identification. She told him that she did not have it, and Dixon then threatened her with being placed under arrest for not providing identification.

61. Dixon then told Joyce she was under arrest and grabbed her arm. She pulled away and asked why she was being arrested since she paid for her groceries, and no store items were removed from her person.

62. At that time, Dixon slammed Joyce to the ground, causing her to land on her hip and hit her head on the floor. She was sprayed with OC spray.

63. Joyce's daughter, who was present at the Shop Rite, tried to record the incident, but an officer prevented her from doing so.

64. Plaintiff Joyce complained that she could not breathe, and that her hip was injured.

65. Dixon and Millville Police Officer Albert Chard got on her back and handcuffed her. The officers placed Joyce in the rear of a patrol car, and she asked for medical attention.

66. Officers transported Joyce to the police station, and she was met outside by EMS personnel who transported her to the hospital.

67. After this incident, Plaintiff Joyce received treatment at Inspira Hospital in Vineland, New Jersey.

68. Officer Chard later told New Jersey's Office of Public Integrity and Accountability ("OPIA"), as part of its criminal investigation into Dixon's conduct, that the maneuver Dixon used to take Plaintiff Joyce to the ground was a "hip toss." Chard said that he learned this maneuver through jiu jitsu.

69. According to OPIA's investigation, Defendant Sgt. Redden told Dixon to retrieve the Shop Rite store surveillance video in connection with the Joyce incident, so that Dixon would be justified in using force.

D. The Criminal Proceeding Against Dixon.

70. The MPD was aware at least as of April 3, 2019 that the OPIA was reviewing all use of force incidents involving Dixon, following the publication of NJ.com's series entitled The Force Report in or about November or December of 2018.

71. The Capps Complaint was filed on May 1, 2019, and served upon Defendants at the City Clerk's Office on May 8, 2019.

72. Shortly thereafter, on May 10, 2019, Defendant Chief Farabella wrote to Dixon in a memorandum that "effective immediately" he was assigned to administrative/desk duties until further notice. Under this directive, Dixon would have no contact with the public other than answering phone calls.

73. By letter dated September 5, 2019, the OPIA notified Dixon that he was the target of a State Grand Jury investigation into allegations of official misconduct, assault and falsifying or tampering with public records relating to his conduct occurring during the course of his employment as a Millville police officer.

74. OPIA's investigation revealed, in fact, that Dixon prepared eighty (80) Use of Force ("UOF") reports during his time as a Millville police officer.

75. On November 20, 2019, Dixon entered guilty pleas on a pre-indictment Accusation in Superior Court, Cumberland County, to two counts of third-degree aggravated assault based on the conduct committed against Joyce on March 24, 2018 and against Audra Capps one month earlier on February 25, 2018.

76. At his plea hearing on November 20, 2019, Dixon admitted under oath, among other things, that he used excessive force against Joyce and Capps, and that his actions were reckless.

77. As part of his guilty pleas, Dixon was required to agree to a lifetime ban on public employment, and he will never be able to serve as a police officer in the State of New Jersey ever again.

78. Dixon's pleas of guilty for his assaultive conduct as to Joyce and Capps came with a recommended and negotiated sentence of probation, conditioned upon serving 364 days in the Cumberland County Jail.

79. At sentencing on January 17, 2020, the Superior Court enforced the negotiated plea agreement entered by Dixon and the OPIA, placed Dixon on two years of probation, but suspended Dixon's county jail sentence.

E. Use of Force Policy Violations By Dixon.

80. In this action, Plaintiff Joyce does not challenge whether there was probable cause for her arrest.

81. However, and in addition to his violations of federal and state constitutional protections against unreasonable searches and seizures described herein, Defendant Dixon violated state and local guidelines governing the use of force by police officers.

82. The New Jersey Attorney General's Use of Force Policy (revised June 2000) (the "AG UFP") provides that, among other things: