



RAMON BETHENCOURT JR
CHIEF OF POLICE



Mobil Life

No longer works w/ Mobil life

Adam Frelich - EMT

Razvan Dumitru - EMT
↓ middleton

Thomas. ZOWASKI TRIAL *


Dec 17

White Plains

1/4/10

CITY OF MIDDLETOWN POLICE DEPARTMENT

Memo

To: Lt. Greg Metakes
From: Lt. Mark L. Schuh 
Date: January 8, 2010
Re: Supervisor investigation, E286-10

Based upon the investigative report of Sgt. Kassel along with supporting documentation, it appears that on Jan 4, 2010, Thomas Zowaski was arrested by PO Artola for DWI and resisting arrest. Zowaski claimed that, as a result of his apprehension, he aggravated a pre-existing back injury. He was taken to 470 as a precaution for evaluation and treatment.

At 470, Zawoski continued to be combative resulting in him being placed in four point restraints and sedated. He was arraigned at 470 by Judge Brockett and remanded to OCJ on significant bail.

Based on all evidence available, it appears that the reasonable force was used and that no policies were violated. The incident does not appear to have been avoidable by MPD personnel. Of course, the defendant could have avoided the incident by being compliant, not resisting arrest, and warning officers of his pre-existing injury prior to requiring the application of force. No no issues requiring modification to policy or training are implicated by this incident.

CITY OF MIDDLETOWN POLICE DEPARTMENT

Memo

To: Lt. Mark Schuh

From: Sgt. Neil Kassel

Date: January 4th, 2010

Re: Event Number 286-10 – Thomas Zowaski Injury

On January 4th, 2010 I was working as the Field Supervisor during the 4:00 PM to 12:00 AM shift. At approximately 7:20 PM Officer Artola was conducting a vehicle stop in front of 38 Albert St. During his traffic stop Officer Artola radioed police headquarters that he wanted a second police unit to respond to his location. In the background I heard what sounded like a male subject talking very loudly. I began to respond to Officer Artola's location from the area of Cottage St. at Wisner Ave. I activated my emergency lights and siren during my response. Shortly after I began my response Officer Artola radioed that he had a subject under arrest and that responding units could "back-down" their response. I then turned off my emergency lights and siren.

I arrived at the front of 38 Albert St. and found Officer Artola standing next to a white male. The white male was sitting on the front lawn of 38 Albert St. and had his hands cuffed behind his back. I later learned that the white male sitting on the ground was Thomas Zowaski, with a date of birth of

Zowaski was yelling at Officer Artola and myself that his back was hurting. He stated that he had been a corrections officer and that he was now disabled because of an injury he sustained at work. Zowaski continuously demanded to be taken out of the handcuffs and to be handcuffed in front of his body. Officer Artola and I assisted Zowaski in standing up and led him to Officer Artola's patrol unit (#8). Zowaski was placed in the rear passenger side of Unit 8 and we left the door open. Zowaski continued to complain of being disabled and that his back was in severe pain. I contacted police headquarters and requested Mobile Life to the scene. When speaking with Zowaski, I noticed an odor of alcoholic beverage coming from Zowaski's breath.

In an attempt to reduce Zowaski's discomfort, Officer Artola and I linked two sets of handcuffs together and placed them on Zowaski's wrists. These handcuffs were double locked and checked for fit by Officer Artola. The original set of handcuffs were then removed. While waiting for Mobile Life to respond, I asked Zowaski if he would be more comfortable sitting or standing. Zowaski stated that he could not sit and that he needed to stand straight up. Officer Artola, Officer Valentin and I stood with Zowaski at the rear of Unit 8 and tried to help support him. Zowaski continued to yell and scream that he needed to be cuffed in the front.

Mobile Life arrived on the scene with EMT Adam Freilich and Paramedic Razvan Dumitru. I briefed Mobile Life personnel on the nature of Zowaski's complaints and asked if it would be possible to remove Zowaski's handcuffs from behind his back and have them handcuffed to the sides of the stretcher. Mobile Life personnel advised me that this would not be a problem. Zowaski was then placed on a stretcher and the linked handcuffs were separated and cuffed to both sides of the stretcher. Officer Valentin then responded to the Horton Campus of Orange Regional Medical Center in the rear of the Mobile Life unit.

At this time I spoke with Officer Artola regarding the incident. Officer Artola advised me that he had pulled Zowaski over for a traffic offense and suspected that Zowaski may have been intoxicated. He asked Zowaski to exit the vehicle and attempted to administer standardized field sobriety tests. Zowaski refused to perform the field sobriety tests. Officer Artola then advised Zowaski that he was under arrest. Zowaski put his hands in his pockets and stated that he wouldn't be arrested. Officer Artola states that he pulled out his OC Spray and warned Zowaski that he would be pepper sprayed if he did not comply with the arrest. Zowaski continued to ignore Officer Artola and turned and walked away. At this point Officer Artola grabbed Zowaski by the arm and brought him to the ground where he was then handcuffed. Officer Artola advised me that Zowaski never told him that he had a pre-existing back injury that could make rear handcuffing unreasonable.

I attempted to locate witnesses to the incident by checking the houses near the scene. There was no answer at 38 and 39.5 Albert St. I did speak to the following subjects:
36 Albert St. - Frank Martinez - Did not see or hear anything.
39 Albert St. - W/F (Did not want to provide pedigree information) - Saw the police lights but did not see or hear the arrest process.
40 Albert St. Apt 1 - Henry Eurich - Did not see or hear anything.
40 Albert St. Apt 2 - Brittany Barber - Did not see or hear anything.

At the Horton Hospital Emergency Room Zowaski continued to act in an aggressive manner. I responded to the emergency room and assisted Officers Artola, Valentin, and G. Neilson in systematically removing and reapplying Zowaski's handcuffs so he could be transferred to a hospital bed, undressed and observed by hospital staff. I looked at Zowaski's back/shoulder area after his shirt had been removed and while he was laying on his side but I did not see any marks or bruises. Zowaski remained combative during the process and ignored the verbal commands given by officers and hospital staff. Zowaski was eventually secured to the bed with four-point restraints. Hospital staff injected Zowaski with a pain killer/sedative during the process of securing him to the bed.

I spoke to Zowaski several minutes after securing him to the bed. He was still conscious and alert at the time. I advised him that I would be conducting an investigation into the incident and that I wanted to get a statement from him. Zowaski stated "Your cop handcuffed me and pulled me to the ground for nothing. I didn't do anything. That's it."

At approximately 9:00 PM I returned to 38 Albert St. and took photographs of the house and the front lawn. I also took photos of Zowaski's head/facial area. I could not photograph Zowaski's back due to the four-point restraints. The digital photo card and Photograph Log were placed into the Department's Evidence System. I obtained a written statement from Officer Artola and Supplemental Reports from Officers Valentin, G. Neilson, and Rosen.

The Honorable Judge Brockett responded to the emergency room and arraigned Zowaski. Horton Hospital staff then took x-rays of Zowaski's back area with negative results. He was then discharged from the hospital and transported to police headquarters and turned over to the Orange County Sheriff's Office.

Based on the information available to me I feel that Officer Artola acted appropriately and used only the amount of force necessary to gain control of Zowaski. Zowaski did not make any complaints that Officer Artola used excessive force during the arrest process. There was no evidence that would lead officers to believe that Zowaski suffered from a pre-existing back injury (ie visible back brace, cane, etc.) nor did he mention his injury prior to the arrest. If Zowaski had mentioned his pre existing injury prior to the arrest process, then it is possible that he could have been handcuffed in a manner that would have prevented any discomfort.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Neil Kassel', written in a cursive style.

Sgt. Neil Kassel

