

City of Copperas Cove Information Item

April 1, 2015

Federal Lawsuit Dismissal

Contact – Kevin A. Keller, Public Information Officer, 254-547-4221

kkeller@copperascovetx.gov

SUBJECT: Federal Lawsuit Dismissal

1. PROJECT DESCRIPTION

The Federal lawsuit filed by Dawn Gagliardi-Prewitt against the City of Copperas Cove and Officer Billy Joe Ray of the Copperas Cove Police Department has been dismissed. This information was scheduled to be reviewed with the City Council during the April 7, 2015 regular meeting in executive session, however it is now being released as the information has already made its way to the media.

2. BACKGROUND/HISTORY

A Federal lawsuit was filed by Dawn Gagliardi-Prewitt in the Waco District Court on January 30, 2015 against the City of Copperas Cove and Officer Billy Joe Ray of the Copperas Cove Police Department. The lawsuit was a result of her son, Kristopher Charles Gagliardi's, involvement a police shooting that occurred on February 20, 2013 in the 500 block of Westview Lane, Copperas Cove.

3. FINDINGS/CURRENT ACTIVITY

An attorney representing the plaintiff has filed a motion to dismiss the lawsuit with U.S. District Court Judge S. Walter Smith against both parties on March 29, 2015. According to the motion, the decision to drop the lawsuit came after the City of Copperas Cove provided additional evidence. The City had no objection to the dismissal of the lawsuit, however Judge Smith has not yet ruled on the motion.

4. FINANCIAL IMPACT

None.

Family of Cove man killed by police asks judge to drop lawsuit

Chris McGuinness | Herald staff writer | Posted: Wednesday, April 1, 2015 4:30 am

The mother of a man shot to death by a Copperas Cove police officer in 2013 is asking a federal judge to drop the lawsuit she filed earlier this year.

Court records show an attorney representing Dawn Gagliardi-Prewitt filed a motion Sunday asking U.S. District Court Judge S. Walter Smith to dismiss the lawsuit against the city of Copperas Cove and Cove police officer Billy Joe Ray.

The lawsuit, filed Jan. 30 in Waco district court, alleged that Ray, who is black, unlawfully shot and killed Kristopher Charles Gagliardi, a white 24-year-old, after Gagliardi taunted the officer with a racial slur.

Gagliardi was shot Feb. 20, 2013, outside a home in the 500 block of Westview Lane. Ray opened fire after Gagliardi approached him in a threatening manner with a knife, according to court records. Ray was later cleared by a grand jury in Gagliardi's death.

Gagliardi-Prewitt was asking for \$750,000 in damages for her son's death, according to court documents.

According to the motion, the decision to drop the suit came after the city provided additional and "critical" evidence to Gagliardi-Prewitt and her Temple-based attorney, Jack Holmes.

"After reviewing the evidence, the plaintiff does not desire to pursue this matter," Holmes wrote.

The documents do not state what the new evidence provided by the city was, and both Holmes and Waco attorney Charles Olsen, who represents the city in the suit, declined to return requests for comment Tuesday.

In response to an open records request by the Herald earlier this month, the city revealed that there were 14 DVD's or CD's containing audio and video recordings of the shooting. The city is asking Texas Attorney General Ken Paxton to allow it to withhold those recordings.

A response to the request filed by Olsen on Monday stated the city had "no objection" to the suit being dismissed.

As of Tuesday afternoon, Smith had not ruled on the motion.