

STATE OF NORTH CAROLINA
NEW HANOVER COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO.: 14CRS4493-4494

STATE OF NORTH CAROLINA)
)
vs.)
)
JAMES COLEMAN JOHNSON,)
Defendant.)

MOTION FOR PERSONNEL
RECORDS

NOW COMES the State of North Carolina, by and through the undersigned Assistant District Attorney, E. Barrett Temple, and respectfully requests that this Court order that the Wilmington Police Department provide and release to the State Bureau of Investigations and/or the District Attorney's Office the complete personnel file of James Coleman Johnson. In support of this motion, the State shows to the court the following, along with the attached affidavit of SBI Agent R. Reeves:

1. That on April 4, 2014 James Coleman Johnson was a police officer with the Wilmington Police Department.
2. That on or about April 4, 2014, Johnson placed Tyrell Rivers under arrest for various charges, including trespassing, resisting an officer and possession of heroin.
3. That after the defendant was handcuffed and placed in Johnson's patrol car, Johnson placed his hands around Rivers neck, choking him.
4. That Rivers is then taken out of the patrol car and hobble straps are placed on his legs.
5. That after Rivers is placed back in Johnson's patrol car, Johnson places his hands again on Rivers neck and states "Do you want to die in this patrol car tonight".
6. That this incident is captured on the patrol car's in car video.
7. That at some point thereafter, Johnson filed a use of force report with the Wilmington Police Department, and Internal Affairs investigated the matter.
8. That when interviewed by the SBI, Johnson stated that he grabbed Rivers near his chin with one hand to execute a pressure point maneuver that he believed was called the mandibular angle.
9. That Johnson further stated that after hobble straps were placed on Rivers, that Johnson puts his hand on Rivers' trapezius muscles or what Johnson referred to as the "brachial region".
10. That Johnson stated that the techniques used on Rivers had been taught to him through past in-service and other trainings.
11. That Johnson admitted that the use of force report that he files a few days later did not include mention of the use of these tactics, only that he had deployed his Taser.
12. That the SBI interviewed several Wilmington Police training officers who stated, after reviewing the video of the incident, that the techniques used by Johnson were not approved defensive tactics that are taught to officers.
13. That the SBI and the State need access to Johnson's entire personnel file, including but not limited to internal affairs reports, training and certification history, disciplinary

proceedings, and any other material that may have bearing on this incident, including whether Johnson has received training on the defensive tactic that he used, and whether Johnson has used such tactics in the past.

14. That the release of these records is authorized under N.C.G.S. 160A-168(c)(4). See also In the matter of Brooks, 143 N.C. App. 601 (2001).
15. That this information is necessary for a proper administration of justice and to adequately investigate and prosecute this offense.

This is the _____ day of _____, 2014.

E. Barrett Temple
Assistant District Attorney
PO Box 352
Wilmington, NC 28402

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion for Personnel Records has been served on counsel for the defendant, Michael McGuiness and on counsel for the Wilmington Police Department, Meredith Everhart, by depositing a copy of the Notice in the U.S. Mail addressed to both parties.

This is the _____ day of _____, 2014.

E. Barrett Temple
Assistant District Attorney
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