

Federal Civil Rights Law - Fall 2008
Group 6 Writing Problem

Each person in Group 6 please write a 3-5 page double spaced paper on the following problem. I do not want you to do any outside research, but merely base your thinking and answer on the reading assigned for the class and our class discussion. Your papers are due on Sunday, November 23rd at 2:00 pm - by e-mailing them to kfranke@law.columbia.edu.

On the evening of February 3, 2003, police officer Waylon Smithers was assigned to work in plain clothes in the narcotics unit of the Springfield Police Department. That evening he had arranged to buy heroin from Barney Gumble, a well-known drug dealer whom the police department had been trying to shut down for some time. Officer Smithers agreed to meet Gumble at 2:30 am in an abandoned warehouse and exchange the heroin for \$10,000. Back up officers, in uniform, were then to arrive and arrest Gumble for trafficking heroin.

At first the plan went smoothly. Smithers met Gumble and two of his “business associates” in the warehouse and the drugs and money were exchanged. Immediately thereafter the plan went awry. As the uniformed officers ran up the stairs, the lead officer threw a “flashbang” grenade into the room where Smithers and Gumble were standing. The grenade exploded with a blast of light, emitting smoke into the entire room. All the uniformed officers then rushed into the room in full SWAT garb and with guns drawn. Officer Smithers then drew his gun and pointed it at Gumble, ordering him to lie on the ground. Clancy Wiggum, one of the uniformed officers who had just arrived on the scene, looked over at Smithers and yelled to the other officers: “He’s got a gun,” on the mistaken belief that Smithers was one of the drug dealers.

Smithers yelled back: “Clanc, it’s me, Waylon. Don’t shoot.” Neither Wiggum nor any other officer ordered Smithers to drop the gun. Instead, 10 seconds or so after Smithers had identified himself, Wiggum and another officer, Monty Burns, began shooting, firing a total of nine shots at Smithers, killing him instantly.

Smithers’ estate has filed a § 1983 lawsuit in connection with Waylon Smithers’ death. Can the plaintiff allege a cause of action or actions against the City of Springfield? If so, describe what they would be and how the court should rule on them.