

IN THE CIRCUIT COURT OF FORREST COUNTY, MISSISSIPPI

F. CHARLES PHILLIPS

PLAINTIFF

VS.

FILED

JUN 29 2005

CAUSE NO.: CI-04-0278

THE MISSISSIPPI DEPARTMENT OF  
PUBLIC SAFETY/MISSISSIPPI HIGHWAY  
SAFETY PATROL, JOSEPH W. SEALS,  
THOMAS E. LITTLE, AND JOHN DOES 1 AND 2

*John E. Adams*  
FORREST COUNTY CIRCUIT CLERK

DEFENDANTS

JOSEPH W. SEALS

COUNTER-PLAINTIFF

VS.

F. CHARLES PHILLIPS

COUNTER-DEFENDANT

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DESIGNATION OF EXPERTS

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Comes now the Mississippi Department of Public Safety/Mississippi Highway Safety Patrol, Joseph Seals and Thomas E. Little, defendant in the above styled and numbered cause, by and through their counsel of record, Bryant, Dukes & Blakeslee, PLLC, and designates as expert witnesses who it may call, the following:

1. Any and all physicians or health care providers who may have treated the plaintiff for any condition relevant to the issues in this case;
2. These defendants would adopt and incorporate and hereby identify all of the experts designated by all other parties for use at trial.

3. The defendants reserve the right to testify as to their opinions in connection with the belief that Charles Phillips initially was the correct target of the pursuit, in their belief as to how their conduct complied with Mississippi Highway Patrol policies and procedures, and as to how Phillips violated general law enforcement protocol in involving himself in a motor vehicle pursuit in an unmarked vehicle.

4. All physicians, surgeons, nurses and medical personnel employed and/or associated with treatment of plaintiffs:

Bruce Dixon, D.M.D.  
20 Parkway Blvd  
Hattiesburg, MS 39401

Family Practice  
6813 Hwy 98 West  
Hattiesburg, MS 39402

Family Practice/After Hours Clinic  
110 Millsaps Drive  
Hattiesburg, MS 39402

Forrest General Hospital  
Health Information Management  
P.O. Box 16389  
Hattiesburg, MS 39404

Forrest General Psychology Services  
1101-B South 28th Ave  
Hattiesburg, MS 39402

Dr. Charles Guice  
107 Millsaps Drive  
Hattiesburg, MS 39402

Hattiesburg Clinic  
415 South 28th Avenue  
Hattiesburg, MS 39401-7283

Hattiesburg Eye Clinic  
100 West Hospital Drive  
Hattiesburg, MS 39402

Hattiesburg Radiology Group  
5000 W. 4th Street  
Hattiesburg, MS 39402

Pine Grove Psychiatric  
2255 Broadway Drive  
Hattiesburg, MS 39402

Dr. Stephen Ponton  
710 South 28th Ave  
Hattiesburg, MS 39402

Region 8 Mental Health Center  
613 Marquette Road  
Brandon, MS 39042

Dr. John Rothrock  
3401 Medical Park Drive  
Building 3, Suite 205  
Mobile, AL 36601

Dr. Doug Rouse  
3688 Veterans Memorial Drive  
Hattiesburg, MS 39401

Slidell Memorial Hospital  
1001 Gause Boulevard  
Slidell, LA, 70458

Dr. Mark Stevens  
Immediate Care  
105 Thornhill Drive  
Hattiesburg, MS 39402

5. These defendants have retained as an expert Charles M. Sims, located at 14 Southgate Road, Hattiesburg, Mississippi, telephone number 601/543-0449. (His Curriculum Vitae is attached as Exhibit "A".) Mr. Sims has reviewed the following materials in connection with the rendering of his opinion in this matter:

Complaint; Amended Answer and Counter Claim of Joseph Seals; Use of Force Report; Hattiesburg Police Dept. Radio Transmission and Log; MS Highway Patrol Radio Transmission; Diagram of Incident Area; I.D. of Charles Phillips; Operating Procedures of Forrest County Sheriffs Department; Photographs of Phillips; Newspaper Articles; Transcript of Conversation with Dickie McKenzie-Attorney for Phillips; Statement of M/Sgt. James Honeysucker; Statement of Sgt. Donald Rayburn; Statement of Josh Gandy; Statement of TFC Thomas Little; Statement of TFC Joe Seals; Statement of F. Charles Phillips; Deposition of F. Charles Phillips; Mississippi Highway Patrol "Use of Force" Policy; Mississippi Highway Patrol "Hot Pursuit" Policy; Video Recording Dated October 15, 2003, Including Footage of Pursuit of Phillips by TFC Seals.

Based upon the above, it is anticipated that Mr. Sims will testify that the plaintiff interjected himself into a situation that was extremely volatile and conducive to confusion when he was operating a vehicle that was markedly similar to the vehicle that was being operated by a suspect in pursuit by the Mississippi Highway Patrol. The facts and circumstances suggest that the plaintiff apparently attempted to "assist" law enforcement efforts of the Mississippi Highway Patrol on the evening of the occurrence, by attempting to slow down or to block the various lanes of travel or escape of the intended suspect. Yet, the suspect was able to circumnavigate the

plaintiff, and other traffic, and the plaintiff was then positioned in the chase such that he was mistaken for the perpetrator by virtue of his assistance. The evidence suggests that the plaintiff, Phillips, did not have immediate or direct means to contact the pursuing Highway Patrolmen, and as such, had no effective method of distinguishing himself from the perpetrator at the time that he was ultimately visually identified by TFC Seals and Little.

Further, it is anticipated that Mr. Sims will state that Phillips acted quite carelessly in making suspicious and erratic motions at the time of the stop, and further reinforced in to the mind of TFC Seals that Phillips was the correct suspect. Phillips, by virtue of the visual recording of the chase, apparently moved over to stop, only after he was “channeled” by TFC Seals, and then attempted to proceed even then after coming to a stop. Phillips failed to clearly and adequately identify himself upon being stopped by Seals, and by his testimony admits that nothing was done on his part to establish himself as an auxiliary deputy even after his vehicle came to a complete stop. Presumably Phillips possessed a badge at the time of his stop and it should have been clearly recognized by him that when he was stopped it was for enforcement activity, not investigation, and he should have been immediately prepared to display his badge and explain his involvement in this pursuit. He did not do this and as such, the trooper had justifiable reason to believe that Phillips was the correct suspect.

Upon stopping the perceived suspect, Phillips, it is clear that given the nature of the pursuit, and the information that was available to Seals, that the trooper had reason to believe that the occupant of Phillips vehicle was inclined to violence. It was Seals understanding at the time

of the pursuit, that the suspect, intended or inadvertent, was wanted for a charge of “domestic violence.” As such, it was correct and appropriate for Seals to demand the exit of the occupant from the vehicle and to secure him as quickly as possible in the method that was accomplished. As the record reflects, Seals attempted an arm bar on Phillips, and during his attempt to secure him, Little assisted in securing the right arm or hand, and then Phillips was assisted to his feet. At that point, it was determined, either from Phillips, or from another patrolmen, that Phillips was not the intended suspect. By that time, he had been secured, but then unhandcuffed.

Mr. Phillips has complained that his physical injuries of lacerations of the eye brow and various scrapes and bruises, of the face and brow were due to excessive use of force by the troopers. As a long time member of the law enforcement community, the type of injuries sustained by Phillips were minimal in such situations, and typically, they have been worse when a suspect has led law enforcement officers on a high speed chase, that resulted from forced extrication.

In summary, TFC Seals and Little performed well within the expectations of trained law enforcement officers. Their belief in the nature of the suspect was reasonable, and TFC Seals use of his vehicle to force Phillips to the side of the road was within accepted police procedures. Further, the physical extrication of a suspect from a vehicle where the defendant, driver or occupant is believed to have been evading efforts to stop him and is wanted on a charge of violence, are indicia enough to immediately secure such a suspect.

6. These defendants have retained as an expert Dr. Minipuri Ramesh Singh, Jefferson Medical Center, 1203 Jefferson Street, Laurel, Mississippi. (His Curriculum Vitae has been requested and will be provided upon receipt.) Dr. Singh has reviewed the following material in connection with his anticipated testimony concerning this matter:

Deposition of Charles Phillips; Medical Chart of Phillips from Hattiesburg Clinic, After Hours Clinic, Forrest General Hospital, Dr. Bruce Dixon, Region 8 Mental Health Center, Hattiesburg Clinic "Immediate Care" Clinic, Forrest General Psychology Services and Photographs of injury of Plaintiff, Charles Phillips.

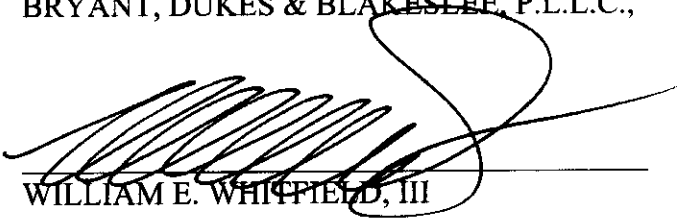
Based upon a review of these records, it is anticipated that Dr. Singh will testify that the plaintiff sustained a traumatic event on the evening of October 15, 2003, that resulted from an encounter with another individual in the course of law enforcement activities. By virtue of the photographs provided, it appears that Phillips sustained a personal injury to his brow that required medical treatment and follow up. The medical care provided to him suggest that he suffered from headaches and various psychological issues. Records provided most recently from October 2004, suggest that the patient then is believed to be suffering from Post Traumatic Stress Syndrome (PTSD) and adjustment disorder. Based upon the medical records provided, PTSD cannot be confirmed because the patient has not met the criteria for PTSD; however, may meet the criteria for adjustment disorder. Although the patient initially complained of headaches after the incident, and intermittently suffered from them thereafter, there are a number of potential causes in this patient that could account for his headaches such as hypertension and stress, among others. Even though the patient did sustain some type of trauma as a result of his contact with

the law enforcement officers, the sequella do not appear to have resulted in any long term objective health issues and this patient should have recovered some short time after this occurrence. Dr. Helveston last saw the patient and requested a second opinion, to which agreement is expressed. As such, Dr. Singh reserves the right to supplement this opinion upon reviewing additional medical documentation from initial caregivers and others prior to testifying in this matter.

Respectfully submitted,

THE MISSISSIPPI DEPARTMENT OF PUBLIC  
SAFETY/MISSISSIPPI HIGHWAY SAFETY PATROL,  
JOSEPH SEALS AND THOMAS E. LITTLE

BY: BRYANT, DUKES & BLAKESLEE, P.L.L.C.,

BY:   
WILLIAM E. WHIPFIELD, III  
Mississippi Bar No. 7161



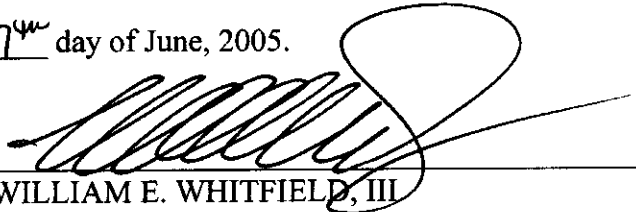
CERTIFICATE

I, WILLIAM E. WHITFIELD, III, of the law firm of Bryant, Dukes & Blakeslee, P.L.L.C., do hereby certify that I have this date mailed, postage prepaid, a true and correct copy of the within and foregoing Designation of Experts to the following at their record mailing address:

Richard W. McKenzie, Esq.  
Attorney At Law  
P.O. Box 1403  
Hattiesburg, MS 39401  
**Attorney for Plaintiff**

Michael R. Barnes, Esq.  
Barnes & Green, P.C.  
P.O. Box 17947  
Hattiesburg, MS 39404-7947  
**Attorney for Counter-Defendant, Phillips**

SO CERTIFIED, this the 27<sup>th</sup> day of June, 2005.

  
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WILLIAM E. WHITFIELD, III  
Mississippi Bar No. 7161

William E. Whitfield, III  
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## **Curriculum Vitae**

Charles M. Sims  
14 Southgate Road  
Hattiesburg, MS 39401  
(601) 543-0449-Home  
(601) 558-2173-Office  
(601) 558-2174-Fax  
[Charles.Sims@usm.edu](mailto:Charles.Sims@usm.edu)

### **Education**

The University of Southern Mississippi  
Hattiesburg, MS  
BS Degree (1980) – Criminal Justice

FBI National Academy, 165th Session (1991)

### **Law Enforcement Experience**

The University of Southern Mississippi  
Hattiesburg, MS  
Training Coordinator – The Mississippi Police Corps (2001-Present)

Hattiesburg Police Department  
Hattiesburg, MS  
Chief of Police (1998-2001)  
Assistant Chief of Police (1994-1998)  
Patrol Lieutenant (1991-1994)  
Director of Training (1988-1991)  
Patrol Sergeant (1986-1988)  
Patrol Officer (1981-1986)

### **Specialized Training**

Basic Law Enforcement Course  
Emergency Vehicle Operations Course  
Special Weapons and Tactics  
NRA Firearms Instructor Course  
Monadnock PR-24 Instructor Course  
Smith and Wesson Armorer's Course  
Field Sobriety Instructor Course  
NAPD Tactical Police Driving Instructor Course  
Instructor Development Course  
Providing Protective Services

Police Impact Weapon Instructor Course  
Defensive Tactics Instructor Course  
Glock Transitional Semi-Automatic Pistol Instructor Course  
Glock Pistol Armorer's Course  
Supervision = Effective Management  
Advanced Accident Investigation  
ASP Tactical Baton Instructor Course  
The Psychology of Street Gangs  
Organizational Communications  
Criminal and Civil Liability  
Supervision of Police Personnel  
Less than Lethal Force Options  
Racial Profiling and Traffic Stop Studies  
Overview Deadly Force: Impact Projectiles and De-escalation Philosophy

From 1981 to present, I have attended numerous workshops, symposiums, and conferences covering a wide range of police related topics, including civil and criminal liability, police administration, policing strategies, police training issues, and etc.

### **Professional Affiliations**

Mississippi Association of Chiefs of Police  
FBI National Academy Graduates  
Mississippi Law Enforcement Officers Association  
USM Criminal Justice Association  
Domestic Abuse Family Shelter Board Member (1996-2002)  
Practitioner on the Coordinating Council for the Office of Juvenile Justice Delinquency and Prevention (1998-2001)

### **CASES IN WHICH I HAVE RENDERED EXPERT OPINIONS BY WRITTEN REPORT AND/OR TESTIMONY IN COURT AND/OR DEPOSITION.**

2004 – *Mike Stuckey v. Doyle King, et al*; Attorney Bill Jones of Hattiesburg, Ms., for Plaintiff. In the Circuit Court of Simpson County, Cause No.: 2001-182, Excessive Force and Malicious Prosecution.

2004 – *Lizzie Dennis v. City of Wiggins*; Attorney Norman Pauli, Jr. of Hattiesburg, Ms., for Plaintiff. In United States District Court, Southern District of Mississippi, Hattiesburg Division, Civil Action NO. 2:02cv935PG, Wrongful Death.

2004 – *Rosie Williams, et al v. Barbara Patel, et al*; Attorney Donna Tankersley of Jackson, Ms., for Defense. In the Circuit Court of Forrest County, Ms., Civil Action C102-0402, Premises Security.

2004 – *Parsons, et al v. Mississippi Department of Transportation, et al*; Attorney John R. White of Iuka, Ms., for Defense. In the Circuit Court of Alcorn County, Ms., Civil Action CV03-012F-A, Wrongful Death, Police Pursuit.

2004 – *Broom, et al v. City of Columbia, et al*; Attorney Lawrence Hahn of Columbia, Ms., for Defense. In the Circuit Court of Marion County, Ms., Civil Action, Negligent Operation of Emergency Vehicle, Police Pursuit.