

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JAMES R. BAGLEY and : CIVIL ACTION
CHARLENE BAGLEY :
 :
v. :
 :
NETHER PROVIDENCE TOWNSHIP, et al. : NO. 98-2238

MEMORANDUM AND ORDER

Fullam, Sr. J. September , 1999

Defendants have filed various motions for summary judgment in this civil rights action. Plaintiff James R. Bagley alleges that he suffered a stroke and other serious impairments as a result of an encounter with Nether Providence Township police officers, assisted by a Brookhaven Borough police officer (use of a choke-hold and pepper spray in achieving an allegedly unlawful arrest), and when he was denied medical treatment while temporarily detained in a Media Borough lock-up. The various municipalities and their chiefs of police are accused of failing to provide proper training to their police officers. While it is apparent that plaintiffs' evidence is much stronger as to some defendants than as to others, the summary judgment record suffices to establish genuine issues of material fact as to all of the defendants. The motions for summary judgment will be denied.

Some of the defendants have also moved to preclude the

testimony of plaintiffs' expert on police procedures, Professor R. Paul McCauley, because his report was not timely furnished to defense counsel, and because the report does not adequately explain the basis for the expert's opinions. This motion, too, will be denied. Although the report was supplied late, defense counsel have had it since mid-August, and it contains nothing surprising. The witness' opinions are adequately explained.

An Order follows.

