

<b>DISTRICT COURT, EL PASO COUNTY, COLORADO</b> 270 South Tejon Street Colorado Springs, CO 80903	FILED: October 14, 2022 1:21 PM ID: BBA865686ADFD NUMBER: 2022CV31772 ▲ COURT USE ONLY ▲
Plaintiff: AMARA KEENS-DUMAS, v. Defendants: SERGEANT GREGORY WILHELMI, in his individual capacity; OFFICER RYAN YOSHIMIYA, in his individual capacity; and OFFICER BRIANNA RAGSDALE, in her individual capacity.  <hr/> ___ Attorneys for Plaintiff:  Name: David A. Lane, # 16422 Catherine Ordoñez, # 52811 Address: Killmer, Lane, & Newman LLP 1543 Champa Street, Suite 400 Denver, CO 80202 Phone: 303-571-1000 Fax No.: 303-571-1001 E-mail: <a href="mailto:dlane@kln-law.com">dlane@kln-law.com</a> <a href="mailto:cordonez@kln-law.com">cordonez@kln-law.com</a>  Name: Shimon Kohn, # 31710 Julian Rosielle, # 38331 Address: The Kohn Law Firm 102 S. Tejon St, Suite 910 Colorado Springs, CO 80903 Phone: 719-328-9555 Fax No.: 719-203-3001 E-mail: <a href="mailto:skohn@kohndefense.com">skohn@kohndefense.com</a> <a href="mailto:julian@kohndefense.com">julian@kohndefense.com</a>	Case No.:  Ctrm.:
<b>COMPLAINT &amp; JURY DEMAND</b>	

Plaintiff Amara Keens-Dumas, by and through her attorneys David Lane and Catherine Ordoñez of KILLMER, LANE & NEWMAN, LLP, and Shimon Kohn and Julian Rosielle of THE KOHN LAW FIRM, respectfully alleges for her Complaint and Jury Demand as follows: **I.**

## **INTRODUCTION**

1. On October 17, 2020, Colorado Springs police officers contacted Plaintiff Amara Keens-Dumas, a 17-year-old high school student who was sitting on the street, crying, in a state of emotional distress. Defendant Officers Ryan Yoshimiya and Brianna Ragsdale began questioning Ms. Keens-Dumas and ordered her to calm down and sit down. Ms. Keens-Dumas refused to answer the officers' questions or sit down. She put her hands behind her back to be handcuffed. Defendant Ragsdale handcuffed Ms. Keens-Dumas and began escorting her to the police car. There, Defendants Ragsdale and Wilhelmi forcefully put Plaintiff on the asphalt and placed her in the back seat of the police car. Ms. Keens-Dumas, hysterical and panicked, repeatedly screamed that she was a minor and wanted to call her mom. Defendant Gregory Wilhelmi, acting in concert with Defendants Yoshimiya and Ragsdale, sprayed Ms. Keens Dumas with pepper spray—twice—while she was handcuffed in the back of the car. Defendants Wilhelmi and Yoshimiya then closed the car doors on Ms. Keens-Dumas, leaving her to sit in a fog of pepper spray in excruciating pain.

2. Ms. Keens-Dumas brings this action pursuant to Colo. Rev. Stat. § 13-21-131 against Defendants for violating the rights guaranteed to her by Article II, § 7, of the Colorado Constitution.

## **II. JURISDICTION AND VENUE**

3. This action arises under the Colorado Constitution and is brought pursuant to Colo. Rev. Stat. § 13-21-131. Jurisdiction is conferred on this Court pursuant to Colo. Rev. Stat. § 13-1-124(b).

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4. Venue is proper pursuant to Colo. R. Civ. P. 98(c)(5). All of the events alleged herein occurred within El Paso County in the State of Colorado. All of the parties to this case were residents of the State of Colorado at the time of the events giving rise to this Complaint. **III.**

## PARTIES

5. At the time of the events giving rise to this Complaint, Plaintiff Amara Keens Dumas was a citizen of the United States of America and a resident of the State of Colorado. Plaintiff is currently a resident of the State of Florida.

6. At all times relevant to this Complaint, Defendant Gregory Wilhelmi was a citizen of the United States and a resident of the State of Colorado and was acting under color of state law in his capacity as a law enforcement officer employed by the Colorado Springs Police Department (“CSPD”). Defendant Wilhelmi is sued in his individual capacity.

7. At all times relevant to this Complaint, Defendant Ryan Yoshimiya was a citizen of the United States and a resident of the State of Colorado and was acting under color of state law in his capacity as a law enforcement officer employed by CSPD. Defendant Yoshimiya is sued in his individual capacity.

8. At all times relevant to this complaint, Defendant Brianna Ragsdale was a citizen of the United States and a resident of the State of Colorado and was acting under color of state law in her capacity as a law enforcement officer employed by CSPD. Defendant Ragsdale is sued in her individual capacity.

## IV. FACTUAL ALLEGATIONS

*A. Defendants used grossly excessive force during the arrest of Ms. Keens-Dumas.* 9. At the time of the incident, Plaintiff Amara Keens-Dumas was a slightly built, 17- year-old high school student.

10. On the night of October 16, 2020, Ms. Keens-Dumas was spending time with her friend, boyfriend, and brother at the Parc Apartments in Colorado Springs, Colorado. 11. Ms. Keens-Dumas and her boyfriend got into a verbal, non-physical argument outside of the

apartment building. At approximately 2:59 a.m. on October 17, 2020, a bystander reported that argument to CSPD.

12. Defendant Officers Yoshimiya and Ragsdale were dispatched to the Parc Apartments. When they arrived, Ms. Keens-Dumas and her boyfriend were on the sidewalk talking to each other.

13. Ms. Keens-Dumas, who was emotionally distraught, was hesitant to engage with police officers. Ms. Keens-Dumas told Defendant Ragsdale that she did not want to talk to her or answer her questions.

14. Ms. Keens-Dumas's brother, Malachi Keens-Dumas, informed Defendants Ragsdale and Yoshimiya that Ms. Keens-Dumas had been drinking, had recently been raped in an unrelated incident, and was struggling emotionally with the trauma caused by that rape. He stated that he was trying to get Ms. Keens-Dumas back inside the apartment.

15. Defendants Ragsdale and Yoshimiya allowed Mr. Keens-Dumas to take his sister back inside and left the property.

16. At approximately 3:45 a.m., CSPD received a call reporting that a female was screaming and crying outside the same location.

17. Defendants Yoshimiya and Ragsdale responded to the call. When they arrived, they saw Ms. Keens-Dumas sitting on the street in a distraught state, crying and yelling. 18. A friend of Ms. Keens-Dumas, Emily Yates, told Defendant Yoshimiya that Ms. Keens-Dumas had gone back inside but became upset when her boyfriend left. 19. Defendant Ragsdale began questioning Ms. Keens-Dumas. Ms. Keens-Dumas was

dismissive of Defendant Ragsdale, not wanting to get involved with the police. Ms. Keens

Dumas told Defendant Ragsdale that she did not have to speak with her.

20. Defendant Ragsdale continued to question Ms. Keens-Dumas. Ms. Keens-Dumas, frustrated by this encounter, told Defendant Ragsdale to arrest her and put her hands behind her back. She continued to be verbally uncooperative with the officers.

21. Defendant Ragsdale, in exasperation, finally handcuffed Ms. Keens-Dumas, who was physically compliant at the time, for obstructing the officers.

22. Defendant Ragsdale asked Ms. Keens-Dumas whether she wanted to sit. Ms. Keens-Dumas said she did not want to sit.

23. Defendant Ragsdale began walking Ms. Keens-Dumas toward the police cruiser.

24. Defendant Yoshimiya, a male officer, then grabbed Ms. Keens-Dumas. He and Defendant Ragsdale forcefully pushed her into the side of the police car. Defendant Yoshimiya touched Ms. Keens-Dumas's thigh.

25. At this time, Defendants Ragsdale and Yoshimiya had been told that Ms. Keens Dumas was a recent victim of rape and was still traumatized by that experience. 26. Ms. Keens-Dumas repeatedly told Defendants Ragsdale and Yoshimiya not to touch her in the way that they were man-handling her and specifically not to touch her leg. 27. Defendants Ragsdale and Yoshimiya clearly observed that Defendant Yoshimiya pushing Ms. Keens-Dumas against the police car and touching her leg triggered a trauma response and extreme emotional distress from Ms. Keens-Dumas, yet they continued to man handle her.

28. Rather than de-escalate the situation created by their unnecessary groping of Ms. Keens-Dumas, Defendants Ragsdale and Yoshimiya forcefully put her onto the asphalt. Both

on her arms, knees, and legs.

29. The individual who had reported the domestic disturbance to CSPD was horrified by Defendants' treatment of Ms. Keens-Dumas and recorded the encounter. 30. He yelled that Defendants were subjecting Ms. Keens-Dumas to police brutality, that emergency medical services should have been called to handle the situation, and that the officers should be ashamed of their treatment of Plaintiff.

31. Defendants Yoshimiya and Ragsdale put Ms. Keens-Dumas in the back of the police car. At that time, Ms. Keens-Dumas's wrists were restrained by handcuffs. 32. Ms. Keens-Dumas repeatedly begged Defendants to allow her to call her mother. She screamed for help: "I'm a rape victim, 2015... Give me my phone. I'm a minor. Give me my mom."

33. Ms. Keens-Dumas then kicked the inside of the closed, rear door of the police car. 34. Defendant Sergeant Wilhelmi arrived on the scene and asked Defendant Yoshimiya, "Has she been sprayed?" (referring to Oleoresin Capsicum spray or pepper spray). 35. Defendant Yoshimiya responded, "No, not yet."

36. Even though Ms. Keens-Dumas was already restrained in the back of the police car, Defendant Wilhelmi forcefully commanded "Spray her."

37. Defendant Yoshimiya opened the rear car door. He stated "Amara, if you don't stop kicking, you're going to be OC'ed."

38. Ms. Keens-Dumas again pled for a phone call and her mom. She cried, "I've been body slammed, by one of you. . . . Please give me my mom."

39. Ms. Keens-Dumas was demonstrating clear signs of a panic attack, including

hyperventilation. Ms. Keens-Dumas could not breathe. She verbally informed Defendants that

she was having a panic attack.

40. Defendant Yoshimiya left the right rear door open with Defendant Wilhelmi holding a can of pepper spray in Ms. Keens-Dumas's face. Defendant Yoshimiya walked behind the police cruiser and opened the left rear door.

41. Ms. Keens-Dumas continued to scream that she was a minor, that she wanted her mom, and that she had the right to call her mom. She repeated: "I'm a minor. I get a phone call. I'm a minor. I get a phone call."

42. Defendant Wilhelmi responded by spraying pepper spray in Ms. Keens-Dumas's face—not once but twice. The first time he hit her forehead; the second time he deliberately aimed the pepper spray at her eyes and nose.

43. When Defendant Wilhelmi sprayed Ms. Keens-Dumas with pepper spray, Defendant Yoshimiya coughed—at the opposite end of the vehicle—and closed the left rear door. He thereby locked Ms. Keens-Dumas in the police car, sitting in a fog of pepper spray, with the doors and windows closed. She was essentially imprisoned in a gas chamber with no escape from the excruciatingly painful pepper spray.

44. Ms. Keens-Dumas continued to cry and scream for her mom and for help as she sat in horrific pain. The pepper spray burned her eyes, face, throat, lungs, hands, and feet. 45. Defendant Sergeant Wilhelmi gratuitously pepper sprayed Ms. Keens-Dumas, who was already restrained in the back of the police car with the doors closed, twice. 46. Defendants Yoshimiya and Ragsdale knew that using pepper spray against Ms. Keens-Dumas under the circumstances was unreasonable, yet they failed to intervene despite ample opportunity to do so. They thereby enabled Defendant Wilhelmi to use excessive force



against Ms. Keens-Dumas.

47. Defendant Yoshimiya further amplified the pain Ms. Keens-Dumas was experiencing by closing the left rear door of the police car, thereby locking Ms. Keens-Dumas in a cloud of pepper spray.

48. Defendants allowed Ms. Keens-Dumas to sit in the back of the police car for approximately 10 minutes, with pepper spray burning her eyes, face, throat, lungs, hands, and feet, without any medical assistance.

49. At one point, Defendant Ragsdale opened the left rear door of the vehicle and began talking to Amara. This provided Amara some fresh air but did not relieve her eyes or skin from the extreme pain.

50. Ms. Keens-Dumas repeatedly begged for help, yelling “please,” “it hurts,” “I need water,” “I need my mom.” She continued to scream in agony and beg “please help me, I can’t, I can’t, I can’t. Someone help. My eyes, they’re burning. Someone help, someone help, someone help, someone help. Please help me.”

51. Defendants did not provide Ms. Keens-Dumas with any water, saline solution, or other treatment for the burning sensation in her eyes while she waited for EMS to arrive. 52. Ms. Keens-Dumas first got to flush some pepper spray out of her eyes when EMS arrived.

53. Despite their forceful takedown and use of pepper spray, Defendants did not transport Ms. Keens-Dumas to a hospital to treat her injuries. Instead, they transported her to the police station and eventually released her to her mother’s custody.

54. Defendants’ uses of force against Ms. Keens-Dumas, including the use of pepper spray while she was restrained in the back of the police car, were grossly excessive in violation

of Article II, § 7, of the Colorado Constitution.

## **V. STATEMENT OF CLAIMS FOR RELIEF**

### **CLAIM FOR RELIEF**

#### **Colo. Rev. Stat. § 13-21-131 – Violation of Colo. Const. Art. II, Section 7 – *Excessive Force* (Against All Defendants)**

55. Plaintiff hereby incorporates all other paragraphs of this Complaint as if fully set forth herein.

56. At all times relevant to the subject matter of this Complaint, Defendants acted under color of state law and within the course and scope of their employment as law enforcement officers.

57. At all times relevant to the subject matter of this Complaint, Defendants were “peace officers” under Colo. Rev. Stat. § 24-31-901(3) and were employed by a local government.

58. Plaintiff had a protected interest under Colorado Constitution, Article II, § 7, in being free from unreasonable seizure by law enforcement personnel through the use of excessive force.

59. Defendants did not have a legally valid basis to seize Plaintiff in the manner and with the level of force used under the circumstances presented.

60. Defendants seized Plaintiff by means of unreasonable and excessive physical force by spraying her with pepper spray twice.

61. Defendants’ uses of force against Plaintiff, as described herein, were objectively unreasonable in light of the circumstances confronting them.

62. Defendants had no reasonable basis to believe Plaintiff posed a threat of harm to Defendants, any other officers, or anyone else—especially as Plaintiff was an obviously unarmed

minor, who was much smaller than the officers, and who was already handcuffed in the back of the police car.

63. Defendants used unreasonable force against Plaintiff once she was already restrained and under Defendants' control.

64. Defendants engaged in a collective plan or effort to use unreasonable and excessive force against Plaintiff, or alternatively, each Defendant failed to take reasonable steps to intervene in the other Defendants' unlawful use of force against Plaintiff, despite being in a position and having the opportunity to do so. Each is therefore liable for the damages resulting from the objectively unreasonable and excessive use of force against Plaintiff.

65. Defendant Wilhelmi used excessive force against Ms. Keens-Dumas by spraying her with pepper spray, twice, when she was already handcuffed in the back of the police car with the doors closed.

66. Defendant Yoshimiya locked Ms. Keens-Dumas in a fog of pepper spray by closing the left rear door of the police car, with the window up, after Defendant Wilhelmi deployed the pepper spray twice. This further exacerbated the pain and injury Ms. Keens-Dumas experienced.

67. Defendants Yoshimiya and Ragsdale knew that using pepper spray against Ms. Keens-Dumas under the circumstances was unreasonable, yet they failed to intervene despite ample opportunity to do so. They thereby enabled Defendant Wilhelmi to use excessive force against Ms. Keens-Dumas.

68. Any reasonable officer would know that the aforementioned uses of force were greater than reasonably necessary to effect the seizure of Plaintiff.

69. Defendants did not act upon a good faith and reasonable belief that their actions in using unreasonable and excessive force against Plaintiff were lawful.

70. Defendants violated Plaintiff's state constitutional rights by using objectively unreasonable and excessive force against her.

71. Defendants subjected or caused Plaintiff to be subjected to the deprivation of individual rights secured by the bill of rights of the Colorado Constitution. 72. The acts or omissions of Defendants were the moving force behind, and the proximate cause of, injuries sustained by Plaintiff.

73. Defendants' acts or omissions caused excruciating pain to Plaintiff's eyes, which stung for several days thereafter, as well as pain to her face, throat, lungs, hands, and feet. Defendants' acts or omissions caused Plaintiff to suffer other physical and mental injury, including pain and suffering, humiliation, and other injuries, damages, and losses.

74. Defendants' actions and omissions described herein were undertaken intentionally, maliciously, willfully, wantonly, and/or in reckless disregard of Plaintiff's constitutionally protected rights, which entitles Plaintiff to punitive damages. **VI.**

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in her favor and against Defendants, and award her all relief as allowed by law and equity, including, but not limited to:

- a. Declaratory and equitable relief and injunctive relief, as appropriate;
- b. Actual economic damages as established at trial;

c. Compensatory damages, including, but not limited to those for past and future pecuniary and non-pecuniary losses, physical and mental pain, humiliation, fear, anxiety, loss of enjoyment of life, loss of liberty, privacy, and sense of security

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and individual dignity, and other non-pecuniary losses;

d. Punitive damages for all claims as allowed by law in an amount to be determined at trial;

e. Issuance of an Order mandating appropriate equitable relief, including but not limited to:

i. Issuance of a formal written apology from each Defendant to Plaintiff;

ii. The imposition of policy changes designed to avoid future similar misconduct by Defendants;

iii. Mandatory training designed to avoid future similar misconduct by Defendants;

iv. Imposition of disciplinary action against appropriate employees of Colorado Springs;

f. Pre-judgment and post-judgment interest at the highest lawful rate;

g. Attorney's fees and costs; and

h. Such further relief as justice requires.

**PLAINTIFF DEMANDS A JURY TRIAL ON ALL ISSUES SO**

**TRIABLE. DATED this 14<sup>th</sup> day of October 2022.**

KILLMER, LANE & NEWMAN, LLP

s/ David A. Lane

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