

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
EL DORADO DIVISION**

TINA HIGHT

PLAINTIFF

Vs.

CASE NO. _____

**DEPUTY BRIAN WILLIAMS;
COLUMBIA COUNTY SHERIFF'S DEPARTMENT
MIKE LOE, SHERIFF OF COLUMBIA COUNTY**

DEFENDANTS

COMPLAINT

Comes NOW the plaintiff, Tina Hight, by and through her counsel Lloyd W. "Tré" Kitchens of The Brad Hendricks Law Firm, and for her complaint states as follows:

I. INTRODUCTION

1. This action arises out of a Columbia County Sheriff's deputy negligently shooting the plaintiff, while she stood unarmed on her front porch. The event in question happened on August 30, 2022. Defendant Deputy Brian Williams had been dispatched to the Plaintiff's home on this date. Once, there Defendant Deputy Williams shot at the Plaintiff's dog, striking the Plaintiff. The Plaintiff now seeks to be made whole and recover compensatory, actual, consequential, special, and all other damages permitted by law. Plaintiff also brings a federal claim under 42 U.S.C. § 1983 and the Fourteenth Amendment of the Constitution of the United States of America, related to Defendants' unconstitutional actions during the service call.

II. PARTIES & JURISDICTION

2. At all times relevant to this Complaint, Plaintiff is an individual resident and citizen of Columbia County, Arkansas.

3. Upon information and belief, Defendant SHERIFF MIKE LOE (hereinafter "Loe") is an Arkansas resident. The Columbia County Sheriff's Department, at all times relevant herein,

was conducting and doing police activity in Columbia County, Arkansas. The Columbia County Sheriff's Department was the employer of Deputy Williams and controlled Williams as a Deputy of the Columbia County Sheriff's Department. Accordingly, the Columbia County Sheriff's Department is responsible and vicariously liable for the negligent acts and omissions of its employees, including Williams, as hereafter described, under the doctrine of *respondeat superior*.

4. This Court has Jurisdiction pursuant to 42 U.S.C. § 1983, which states that peace officers who subject any U.S. resident to "the deprivation of any rights, privileges, or immunities secured by the Constitution and laws" may be held liable for those injuries.

5. Venue is proper in the Western District of Arkansas, El Dorado Division, because all or a substantial portion of the events and/or omissions giving rise to this suit occurred in the Western District of Arkansas.

III. STATEMENT OF FACTS

6. On August 30, 2022, Defendant Deputy Brian Williams had been dispatched to the plaintiff's home.

7. Once there, Deputy Williams heard dogs barking. In response to the animals, Deputy Williams fired his service weapon into the air.

8. After the first shot, one of the Plaintiff's dogs, a small Pomeranian mix, ran at Deputy Williams.

9. In response, Deputy Williams fired at the dog, striking the Plaintiff in the leg.

10. Deputy Williams was in no danger whatsoever from the animal, and had no basis to discharge his weapon.

11. Another deputy was standing literally inches away from the Plaintiff when Deputy Williams fired at the small dog.

12. It is only through sheer luck that Deputy Williams did not kill the Plaintiff, or the other Deputy.

13. Defendant Williams was acting in the course and scope of his employment with the Columbia County Sheriff's Department at the time he responded to the Plaintiff's home.

IV. CAUSES OF ACTION

Count I - Direct and Vicarious Liability for Defendant Mike Loe as Sheriff of the Columbia County Sheriff's Department

14. Plaintiff re-alleges and incorporates by reference the preceding paragraphs in this Complaint as though stated herein word-for-word.

15. Deputy Williams' supervisor Sherrif Loe, and employer The Columbia County Sheriff's Department, had a direct, affirmative non-delegable duty to ensure Defendant Williams used his firearm in a reasonably prudent manner and with the highest degree of care.

16. At all relevant times, Williams was acting as an agent/employee/servant in the scope and course of his employment with the Columbia County Sheriff's Department, subject to its direction and control while furthering their business interests.

17. Deputy Williams' supervisor, Loe, and employer, The Columbia County Sheriff's Department, are affirmatively negligent and directly and vicariously liable, under the doctrine of *respondeat superior* and imputed conduct, for the conduct of its agent and employee in the course and scope of his employment.

18. Deputy Williams, an agent and employee of the Columbia County Sheriff's Department, was tasked by Defendant's supervisor at the time, Loe, respond to calls from citizens of Columbia County to further the Columbia County Sheriff's Department's police interests.

19. The acts and omissions of Deputy Williams are directly imputed to his employer and principle, the Columbia County Sheriff's Department. Williams' negligent and careless acts

and omissions occurred while he was in the scope and course of his employment and in furtherance of the business interests of the Columbia County Sheriff's Office in Columbia County.

20. Upon information and belief, Loe and the Columbia County Sheriff's Department failed to train, supervise, monitor, and/or control its employees, including Williams, regarding the rules, regulations, procedures, and policies applicable to the use of a firearm.

21. Loe, and the Columbia County Sheriff's Department failed to have policies and/or procedures in place to prevent their employees, including Williams, from using a Columbia County Sheriff's Department firearm in a negligent and/or reckless manner.

22. Loe and the Columbia County Sheriff's Department, through their actions and inactions, adopted a policy in which it allowed and encouraged, rather than discouraged, Williams to use his Columbia County issued firearm in a negligent and reckless manner.

23. Williams and the Columbia County Sheriff's Department was willful and wanton in their conduct and had notice or could have foreseen that Defendant Williams would act willfully, wantonly, or with conscience indifference to the safety of individuals in Columbia County, including the Plaintiff.

24. As a direct and proximate result of the acts and omissions of the Defendants, as described above, Plaintiff suffered bodily injury and Plaintiff seeks compensation in excess of the amount required for federal diversity jurisdiction.

Count II - Direct and Affirmative Negligence of Defendant Williams

25. Plaintiff re-alleges and incorporates by reference the preceding paragraphs in this Complaint as though stated herein word-for-word.

26. Williams, in the scope and course of his employment and in furtherance of the police interests of the Columbia County Sheriff's Department, was directly and affirmatively careless and negligent, including, but not limited to, the following particulars:

A. Discharging his County issued firearm into the air in a "warning shot";

B. Discharging his County issued firearm at a dog that weighed less than 15 pounds, when both the Plaintiff, and a fellow deputy were in the direct line of fire;

C. Failing to exercise the degree of care that an ordinary prudent person would exercise under the facts and circumstances as they existed at the time of the shooting; and

D. Failing to use a County issued firearm in such a way as to avoid injuring or killing someone, in violation of the common law of Arkansas.

27. It was foreseeable that the failure of Williams, while in the scope and course of his employment and in furtherance of the police interests of the Columbia County Sheriff's Department, used his County issued firearm in a reasonably imprudent and unsafe manner, would present and cause an appreciable risk of serious harm or injury to the citizens of Columbia County, including the Plaintiff.

28. As a direct and proximate result of the acts and omissions of Williams, Loe, and the Columbia County Sheriff's Department, as described above, Plaintiff suffered bodily injury and Plaintiff seeks compensation in excess of the amount required for federal diversity jurisdiction.

Count III - Excessive Force by Separate Defendant Williams

29. Plaintiff re-alleges and incorporates by reference the preceding paragraphs in this Complaint as though stated herein word-for-word.

30. At all times alleged herein, Plaintiff had the right to protection of her mind and body.

31. Williams' conduct constituted a negligent and gross negligent attempt to do injury to Plaintiff by force or violence.

32. Williams' conduct created a reasonable apprehension of imminent physical injury and immediate harmful or offensive contact upon Plaintiff.

33. Williams' intended to cause Plaintiff to have apprehension of imminent physical injury and immediate harmful or offensive contact.

34. The injuries suffered by Plaintiff were inflicted while Plaintiff was presenting no immediate threat to anyone.

35. Williams' negligent or gross negligent acts were a proximate cause and result of injuries sustained by Plaintiff.

36. As a direct and proximate result of the willful, wanton, malicious, and intentional actions of Williams, Plaintiff suffered bodily injuries, mental anguish, pain and suffering, humiliation, and embarrassment, cost for attorney fees and medical bills. Plaintiff seeks compensation in excess of the amount required for federal diversity jurisdiction.

Count IV - Violation of 42 USC § 1983 Related to the Excessive Force of Defendant Williams

37. Plaintiff re-alleges and incorporates by reference the preceding paragraphs in this Complaint as though stated herein word-for-word.

38. Plaintiff makes a claim under 42 USC § 1983 for violation of the Fourteenth Amendment of the U.S. Constitution.

39. The Fourteenth Amendment does not permit Defendants to use excessive force. See Small v. McCystal, 708 F.3d 997, 1005 (8th Cir. 2013) ("The right to be free from excessive force in the context of an arrest is clearly established under the Fourteenth Amendment. ").

40. Williams' use of force against the Plaintiff was not reasonable under the circumstances and was excessive.

41. Williams knew or reasonably should have known of the danger he placed Plaintiff in on 08/30/2022.

42. Williams negligently discharged his duty weapon, which was so dangerous that Williams knew or reasonably should have known that such an action could result in injuries to Plaintiff.

43. The actions of Williams constituted clear excessive force.

44. Williams' actions deprived Plaintiff of her right to be free from excessive force and they were motivated by an unconstitutional enforced policy, pattern of practice, and/or custom by the Columbia County Sheriff's Department. Upon information and belief, the Columbia County Sheriff's Department did not enforce its excessive force policies

45. All Defendants were state actors acting under the color of state law.

Count V - Violation of 42 U.S.C. § 1983 by Columbia County Sheriff's Department

46. Plaintiff re-alleges and incorporates by reference the preceding paragraphs in this Complaint as though stated herein word-for-word.

47. Governmental bodies are liable for constitutional violations under 42 U.S.C. § 1983 when execution of its official policy or custom deprives an individual of its rights protected under the Constitution. See Monell v. Department of Social Services of City of New York, 436 U.S. 658, 694-95 (1978).

48. Such governmental liability exists where a governmental entity fails to properly train, supervise, and discipline its employees amounting in a deliberate indifference to one's constitutional rights. See City of Canton, Ohio v. Harris, 489 U.S. 378 (1989); see also Patzner v.

Burkett, 779 F.2d 1363, 1367 (8th Cir. 1985).

49. At all times relevant, the Columbia County Sheriff's Department had a duty to properly train, supervise, and discipline their employees and agents.

50. The Columbia County Sheriff's Department breached that duty, by, including but not limited to:

A. Improperly training, authorizing, encouraging, and/or directing officers on proper use of force;

B. Failing to investigate allegations of excessive force; and/or

C. Failing to discipline officers for violations of policy related to excessive force.

51. The policy, pattern of practice, or custom of condoned misconduct is tacitly or overtly sanctioned, as evidenced by the conduct of Loe and the Columbia County Sheriff's Department failure to properly train, supervise, investigate, and discipline Williams, which shows a deliberate indifference to Plaintiff's constitutional rights.

52. This unconstitutional behavior of the Columbia County Sheriff's Department Deputy is carried out pursuant to a policy, pattern of practice, or custom, whether formal or informal, which violates the constitutional rights of persons situated such as Plaintiff.

53. Loe, failed to take sufficient remedial actions to end this policy, pattern of practice, and/or custom within the Columbia County Sheriff's Department.

54. The condoning of misconduct, and the failure to end this policy, pattern of practice, and/or custom by Loe, was a proximate cause to the injuries suffered by Plaintiff.

55. Wherefore, as a direct and proximate cause of the actions of Loe and the Columbia County Sheriff's Department, Plaintiff has suffered bodily injury resulting and Plaintiff seeks compensation in excess of the amount required for federal diversity jurisdiction.

V. DAMAGES

56. Plaintiff re-alleges and incorporates by reference the preceding paragraphs in this Complaint as though stated herein word-for-word.

57. Plaintiff is entitled to the following measures of damages:

A. The nature, extent, duration, and permanency of her suffering;

B. The expense of the medical care, treatment, and services received, including transportation, board, and lodging expenses that have been received; and

C. Pain, suffering, embarrassment, humiliation, and mental anguish experienced in the past, present, and reasonably expected to be experienced in the future;

58. The injuries and damages described herein have been suffered in the past and/or are reasonably expected to be suffered in the future.

59. Additionally, Williams' behavior and conduct entitles Plaintiff to recover costs and attorney fees under Arkansas law in addition to any other remedies in law or equity pursuant to Arkansas Code Annotated § 16-118-107.

VI. PUNITIVE DAMAGES

60. Plaintiff re-alleges and incorporates by reference the preceding paragraphs in this Complaint as though stated herein word-for-word.

61. Plaintiff seeks punitive damages for Williams' reckless and malicious acts and/or omissions. Williams acted in such a reckless, malicious, and/or manner from which malice may be inferred and Williams knew or should have been known that his conduct would naturally and probably result in damage to Plaintiff.

62. Williams continued such conduct under circumstances in conscious and/or deliberate disregard to the consequences to Plaintiff, from which malice may be inferred.

63. Punitive damages are needed to punish Williams and deter Williams, and other similarly situated individuals, from similar conduct in the future.

VII. DEMAND AND PRAYER FOR RELIEF

64. Plaintiff respectfully requests a jury trial on issues herein.

65. Plaintiff specifically reserves the right to amend Plaintiff's Complaint & Jury Demand to conform to proof.

66. Plaintiff specifically reserves the right to file additional and supplemental pleadings after further investigation and discovery and additional facts are ascertained.

WHEREFORE, premises considered, Plaintiff hereby prays and respectfully requests for the following: (1) an award of damages, including, but not limited to, actual, compensatory, special, consequential, and punitive damages exceeding \$10,000,000.00, and a joint and several judgment be entered against Defendants for all damages caused by Defendants, and sufficient to fully compensate Plaintiff for her injuries and losses suffered because of Defendants' conduct; (2) for pre-judgment interest and post-judgment interest at the maximum rate allowed by law; (3) for reasonable expenses, attorney fees, and costs; and (4) for all other proper relief which the Court may determine Plaintiff may be legally, equitably, or otherwise so entitled.

Respectfully Submitted:

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VERIFICATION

I have read the above and foregoing *Complaint* and it is true and correct to the best of my
knowledge and belief. Wherein I set my hand and seal this Jun 19, 2023 day of June, 2023.

DocuSigned by:
Tina Hight
93A3667BF4D246B
Tina Hight

STATE OF ARKANSAS)
)ss
COUNTY OF Pulaski)

Sworn to and subscribed before me, a Notary Public, on this 19th day of June, 2023.

Audra L. Murray
NOTARY PUBLIC

My Commission Expires

