

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

NOV 05 2012

NIKITA HAWKINS, as Personal Representative)
of the Estate of LANDRIS HAWKINS, deceased,)
)
Plaintiff,)

JAMES W. McCORMACK, CLERK
By: J. Brown
DEP CLERK

v.)

Case No. 4:12-cv-094 BSM

JAMES CHRIST and JASON ROBERTS, in their)
individual and official capacities, STUART THOMAS,)
in his individual and official capacities and the)
CITY OF LITTLE ROCK, a municipality,)

JURY TRIAL DEMANDED

This case assigned to District Judge Miller
and to Magistrate Judge VOIPE

Defendants.)
)

COMPLAINT

COMES NOW, Plaintiff, NIKITA HAWKINS, Personal Representative of the Estate of LANDRIS HAWKINS, deceased, by and through her attorneys, Michael J. Laux and Laux Law Group, and for her cause of action, states as follows:

JURISDICTION and VENUE

1. This action arises under the United States Constitution, particularly under the Fourth and Fourteenth Amendments, and under law, particularly the Civil Rights Act of 1871 and 42 U.S.C. § 1983. This Honorable Court has jurisdiction by virtue of 28 U.S.C. §§ 1331 and 1367.

2. Venue is founded in this Court upon 28 U.S.C. § 1391 as the acts of which Plaintiff complains arose in this District.

PARTIES

3. At all relevant times, LANDRIS HAWKINS ("LANDRIS") was a citizen of the United States of America and was, therefore, entitled to all legal and constitutional rights

afforded citizens of the United States of America. On November 3, 2009, and at all relevant times, LANDRIS resided at the 5915 Carlyle Avenue, Little Rock, Arkansas.

4. The heirs-at-law of LANDRIS, namely NIKITA HAWKINS ("PLAINTIFF" and LANDRIS' mother), Robert Murry (father), Deshuna Hawkins (sister) and Levonne Steele (sister), are all citizens of the United States of America and, therefore, they are entitled to all legal and constitutional rights afforded citizens of the United States of America. PLAINTIFF is the court-appointed administrator of the Estate of LANDRIS HAWKINS. See November 5, 2012 Order attached as *Exhibit A*. PLAINTIFF brings this action on behalf of the estate and on behalf of LANDRIS' heirs-at-law above.

5. On November 3, 2009, and at all relevant times, JAMES CHRIST ("CHRIST"), was employed by the CITY OF LITTLE ROCK as a police officer and was acting under the color of state law, within the scope of his employment. Prior to November 3, 2009, CHRIST was fully trained in police work, including, but not limited to, the Fourth Amendment of the United States Constitution, and was fully apprised of LRPD General Orders ("G.O.'s"), including G.O. 303 (use of deadly force) and G.O. 309 (handling mentally ill persons).

6. On November 3, 2009, and at all relevant times, JASON ROBERTS ("ROBERTS"), was employed by the CITY OF LITTLE ROCK as a police officer and was acting under the color of state law. Prior to November 3, 2009, ROBERTS was fully trained in police work, including, but not limited to, the Fourth Amendment of the United States Constitution, and was fully apprised of LRPD G.O.'s, including G.O. 303 and G.O. 309.

7. On November 3, 2009, and at all relevant times, STUART THOMAS, ("THOMAS"), was employed by the CITY OF LITTLE ROCK as police chief of the Little Rock Police Department ("LRPD") and acted under the color of state law. At all relevant times,

THOMAS had the ultimate responsibility within the LRPD for the protection of life, preservation of law and order, investigation of all crimes and the enforcement of state laws and city ordinances.

8. On November 3, 2009, and at all relevant times, THOMAS had final policy-making authority in terms of creating, adopting and/or implementing police policies within the LRPD whether formal or informal. At all relevant times, THOMAS was responsible for assuring the enforcement of LRPD G.O.'s, including G.O. 303 and G.O. 309, among LRPD officers.

9. On November 3, 2009, and at all relevant times, all LRPD patrol officers were required to be apprised of the Fourth Amendment of the United States Constitution, and were required to follow all LRPD G.O.'s, including G.O. 303 and G.O. 309 at all times.

10. On November 3, 2009, and at all relevant times, the CITY OF LITTLE ROCK, ("CITY") was a municipality organized and existing under the laws of the State of Arkansas. At all relevant times, the CITY was located in the County of Pulaski, State of Arkansas, and was the employer of the individually-named Defendants. At all relevant times, the CITY is and was empowered, funded and directed to pay any § 1983 civil rights judgment for compensatory damages, actual damages and attorney fees for which any CITY employee acting within the scope of his or her employment is found liable. Accordingly, the CITY is an indemnification party regarding the acts and/or omissions of which PLAINTIFF complains.

11. On November 3, 2009, and at all relevant times, the CITY participated in the Municipal Legal Defense Program. The acts and/or omissions of which PLAINTIFF complains constitute a civil rights lawsuit against the CITY and the individually-named Defendants. Accordingly, the Municipal Legal Defense Program is a primary or secondary indemnification

party regarding the acts and/or omissions of CITY and the individually-named Defendants of which PLAINTIFF complains.

FACTUAL ALLEGATIONS

12. On November 3, 2009, at approximately 2:20 p.m., Neomia Hawkins ("Ms. Hawkins"), LANDRIS' grandmother who also resided at 5915 Carlyle Avenue, called 911 and explained to the 911 dispatch operator, a CITY employee, that LANDRIS was acting unusually, brandishing a knife and threatening to cut his throat.

13. By 2:22 p.m., the operator understood from Ms. Hawkins' call that LANDRIS was threatening to kill himself and had cut himself on the neck.

14. Ms. Hawkins asked the operator to send someone to help her because LANDRIS was too large in stature for her physically to take the knife from him.

15. A few moments later, Ms. Hawkins informed the operator that LANDRIS was now, in fact, repeatedly stabbing himself in the neck.

16. Throughout the call, Ms. Hawkins continued trying to take the knife away from LANDRIS, without success, and the operator was aware of her efforts.

17. Ms. Hawkins told the operator that she was cut on her hand.

18. Upon information and belief, Ms. Hawkins informed the operator that she cut her hand attempting to grab the knife from LANDRIS.

19. The operator broadcasted the call over the LRPD radio, stating "[f]emale states that her grandson had a knife and was threatening to kill his self (sic). He has now cut his self (sic) on the throat and she has- and her hand is cut as well."

20. The Little Rock Fire Department ("LRFD") arrived in the vicinity of 5915 Carlyle Avenue in response to an "attempted suicide." Shortly thereafter, CHRIST and ROBERTS

arrived at the residence. CHRIST and ROBERTS ordered the LRFD to stay back while they approached the residence.

21. When CHRIST and ROBERTS approached the front porch of the residence they each had their guns drawn.

22. CHRIST and ROBERTS, and each of them, ran to the front door with their guns drawn.

23. When CHRIST and ROBERTS reached the front porch of the residence, they stopped at the front porch. The front door was a glass storm door.

24. At that time, CHRIST and/or ROBERTS had a discussion with Ms. Hawkins who was at the doorway.

25. At that time, CHRIST and/or ROBERTS asked Ms. Hawkins if she was hurt and she responded at least twice that she was "not hurt."

26. Even after CHRIST and ROBERTS arrived, Ms. Hawkins continued to try to take the knife from LANDRIS.

27. When CHRIST and ROBERTS saw LANDRIS inside the residence, he was holding a knife to his neck and had blood all over his shirt.

28. CHRIST and/or ROBERTS opened the glass storm door to the residence toward them and looked deeper inside. ROBERTS propped the glass door open with his leg. Both CHRIST and ROBERTS remained on the front porch and did not go inside.

29. From the front porch, CHRIST and ROBERTS observed LANDRIS walk back and forth down an inside hallway while still holding a knife to his neck.

30. LANDRIS was pacing.

31. LANDRIS was in an agitated state.

32. Around this time, ROBERTS noticed that LANDRIS' demeanor and actions began to change.

33. Around this time, LANDRIS quickened his pace.

34. According to ROBERTS, LANDRIS was in a rage.

35. LANDRIS never removed the knife from the area of his neck.

36. CHRIST and ROBERTS guns' were still drawn.

37. From the front porch, outside the residence, CHRIST and ROBERTS shot at LANDRIS, who was inside the residence.

38. CHRIST shot LANDRIS through the glass door, shattering it with his bullets.

39. The closest LANDRIS ever got in physical proximity to CHRIST and/or ROBERTS before they shot him was approximately four (4) feet.

40. LANDRIS never went outside the residence prior to CHRIST and ROBERTS shooting him. Neither CHRIST nor ROBERTS went inside the residence prior to shooting LANDRIS.

41. CHRIST understood LANDRIS to be in a suicidal state prior to shooting him.

42. LANDRIS was pronounced dead at 3:40 p.m. on November 3, 2009. His toxicology report showed the absence of any illegal drugs or alcohol at the time of his death.

COUNT I
CHRIST and ROBERTS for EXCESSIVE FORCE
in VIOLATION of the FOURTH AMENDMENT

43. PLAINTIFF hereby incorporates and re-alleges Paragraphs one (1) through forty (42) as and for Paragraph forty-three (43) of Count I.

44. CHRIST and ROBERTS, and each of them, used excessive force against LANDRIS' person, causing great injury, pain and death.

45. CHRIST and ROBERTS, and each of them, violated LRPD G.O.'s, including G.O. 303 and G.O. 309 when they shot and killed LANDRIS.

46. The force used by each was unnecessary and unreasonable, and LANDRIS' great injury, pain and death resulted directly from the use of said force which was excessive.

47. By reason of the conduct of CHRIST and ROBERTS, and each of them, LANDRIS and his heirs-at-law were deprived of rights, privileges and immunities secured to them by the Fourth and Fourteenth Amendments to the United States Constitution, including due process, and laws enacted thereunder.

48. The violence committed by CHRIST and ROBERTS, and each of them, and inflicted upon LANDRIS was unnecessary, objectively unreasonable and excessive and was, therefore, in violation of his Fourth Amendment Rights. Therefore, CHRIST and ROBERTS are liable to PLAINTIFF in damages pursuant to 42 U.S.C. § 1983, including loss of life, loss of liberty interest, conscious pain and suffering and punitive damages.

COUNT II

**THOMAS and/or the CITY for PERMITTING and MAINTAINING
a WIDESPREAD CUSTOM OF EXCESSIVE FORCE and
DISREGARD for LRPD GENERAL ORDERS (Monell)**

49. PLAINTIFF hereby incorporates and re-alleges Paragraphs one (1) through forty-eight (48) above as and for Paragraph forty-nine (49) of Count II.

50. At all relevant times, including November 3, 2009 and for years prior thereto, THOMAS and/or the CITY knowingly, and/or with reckless or callous indifference to the constitutional rights of the citizens of Little Rock, permitted and/or maintained a widespread "custom" of tolerating violations of LRPD General Orders by LRPD officers and allowing acts of excessive force by LRPD officers. THOMAS and/or the CITY allowed this custom by:

- a) disregarding, ignoring and/or covering up allegations or facts of excessive force committed by LRPD officers in the field;
- b) tolerating LRPD officers' disregard of facts and behavior indicating mental illness in persons during police encounters;
- c) tolerating use of deadly force against persons exhibiting mental illness attributes and/or behavior;
- d) failing to discipline violations of G.O.'s by LRPD officers;
- e) failing to adequately discipline violations of G.O.'s by LRPD officers;
- f) failing to discipline LRPD officers who violate LRPD G.O. 303;
- g) failing to adequately discipline LRPD officers who violate LRPD G.O. 303;
- h) failing to discipline LRPD officers who violate LRPD G.O. 309; and
- i) failing to adequately discipline LRPD officers who violate LRPD G.O. 309.

51. This pattern of police misconduct and violations of police general orders was so pervasive as to constitute a "custom or usage" with the force of law.

52. The customs described above were the moving force behind the violations of LANDRIS' constitutional rights committed by CHRIST and ROBERTS, and each of them, and proximately caused LANDRIS' personal injuries, great pain and death. The custom described above also proximately caused a deprivation of the rights, privileges and immunities secured to LANDRIS and his heirs-at-law by the Fourth and Fourteenth Amendments to the United States Constitution, including due process, and laws enacted thereunder.

53. As a result of the customs described above, LANDRIS was subjected to excessive force and caused to die. Therefore, THOMAS and/or the CITY is liable to PLAINTIFF in damages under 42 U.S.C. § 1983, including loss of life, loss of liberty interest, conscious pain and suffering and punitive damages.

COUNT III
CHRIST and ROBERTS for WRONGFUL DEATH/NEGLIGENCE
Pursuant to Arkansas Code § 16-62-102(a) and (b)

54. PLAINTIFF hereby incorporates and re-alleges Paragraphs one (1) through fifty-three (53) above as and for Paragraph fifty-four (54) of Count III.

55. On November 3, 2009, CHRIST and ROBERTS, and each of them, owed LANDRIS a duty to maintain public order and to enforce at all times all such laws, ordinances and regulations for the preservation of good order and the public welfare, including the duty to follow all such laws, ordinances and regulations.

56. Disregarding those duties, CHRIST and ROBERTS, and each of them, were guilty of one more of the following acts which proximately caused LANDRIS' death:

- a) shot and killed LANDRIS without legal justification.

57. By reason of the wrongful death of LANDRIS, LANDRIS and his heirs-at-law have incurred pecuniary damages and severe mental anguish.

58. PLAINTIFF brings Count III pursuant to Ark. Code. Ann. § 16-62-102(a) and (b) which provides for damages whenever the death of a person shall be caused by a wrongful act notwithstanding the death of the person.

WHEREFORE, PLAINTIFF prays for judgment against CHRIST and ROBERTS, and each of them, in an amount which will fully and fairly compensate PLAINTIFF for damages suffered.

COUNT IV
CHRIST and ROBERTS for SURVIVAL
Pursuant to Arkansas Code § 16-62-101(a)(1)

59. PLAINTIFF hereby incorporates and re-alleges Paragraphs one (1) through fifty-eight (58) above as and for Paragraph fifty-nine (59) of Count IV.

60. On November 3, 2009, prior to his death, LANDRIS suffered personal injuries and great pain proximately caused by the wrongful acts and/or omissions of CHRIST and ROBERTS, and each of them, which included shooting LANDRIS multiples times.

61. By reason of the wrongful acts and/or omissions of CHRIST and ROBERTS, and each of them, LANDRIS incurred personal injuries and great pain as well as damages in the form of loss of life.

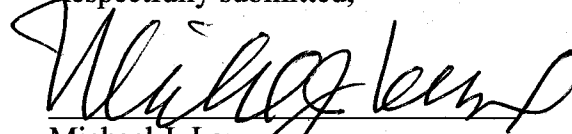
62. PLAINTIFF brings Count IV pursuant to Ark. Code. Ann. § 16-62-101(a)(1) which provides for damages for wrongs done to a person and further provides that such an action may be brought after the death of the person by his executor.

WHEREFORE, PLAINTIFF prays for judgment against CHRIST and ROBERTS, and each of them, in an amount which will fully and fairly compensate PLAINTIFF for damages suffered by LANDRIS.

WHEREFORE, Plaintiff, NIKITA HAWKINS, by and through her attorneys, Michael J. Laux and Laux Law Group, and requests judgment against the Defendants and each of them:

1. That Defendants be required to pay PLAINTIFF's compensatory damages;
2. That Defendants be required to pay actual damages;
3. That Defendants be required to pay attorney fees per 42 U.S.C. § 1988; and
4. That PLAINTIFF have any other such relief as this Honorable Court deems just and proper.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael J. Laux", written over a horizontal line.

Michael J. Laux
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IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
PROBATE DIVISION

IN THE MATTER OF THE ESTATE OF
LANDRIS HAWKINS, DECEASED,

)
PROBATE NO
60PR2012 2048
)

ORDER APPOINTING ESTATE ADMINISTRATOR

THIS MATTER being heard on the petition of Petitioner, NIKITA HAWKINS, to be appointed the administrator of the Estate of LANDRIS HAWKINS, due notice being formally waived and this Honorable Court being fully apprised in the premises,

IT IS HEREBY ORDERED:

1. NIKITA HAWKINS' petition to be appointed administrator of the Estate of LANDRIS HAWKINS is GRANTED.
2. Administrator, NIKITA HAWKINS, will faithfully discharge all duties associated with the administration of the Estate of LANDRIS HAWKINS, will proceed in compliance with all aspects of the Arkansas Probate Code and will follow all orders entered by this Honorable Court.

Entered this date: Nov 5, 2012
Martin P. [Signature]
JUDGE

Nikita Hawkins
27 S. Meadowcliff Drive
Little Rock, AR 72209

EXHIBIT A