

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

DAVID HARRISON, Individually §
and as Personal Representative of §
the Estate of JASON SHERARD §
HARRISON, §

Plaintiff, §

V. §

THE CITY OF DALLAS, TEXAS, §
JOHN ROGERS, and ANDREW §
HUTCHINS, §

Defendants. §

CIVIL ACTION NO.:

3:14-cv-3585

JURY TRIAL

PLAINTIFF'S ORIGINAL COMPLAINT

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TO THE HONORABLE UNITED STATES DISTRICT COURT:

COMES NOW David Harrison, and files Plaintiff's Original Complaint complaining of The City of Dallas, Texas, John Rogers, and Andrew Hutchins, and would respectfully show the Court as follows:

1. PARTIES

1.1. Plaintiff David Harrison is a permanent resident of the State of Texas within the Northern District of Texas.

1.2. Defendant, the City of Dallas, is a municipality located in Dallas County, Texas. The City of Dallas operates the Dallas Police Department (DPD). The City of Dallas may be served by serving the City Manager, A.C. Gonzalez, at Dallas City Hall, 1500 Marilla Street, Room 4EN, Dallas, Texas 75201.

1.3. John Rogers may be served at his place of work, Dallas Police Department, 1400 South Lamar, Dallas, Texas 75215, or wherever he may be found.

1.4. Andrew Hutchins may be served at his place of work, Dallas Police Department, 1400 South Lamar, Dallas, Texas 75215, or wherever he may be found.

2. JURISDICTION

2.1. This Court's jurisdiction is based upon Federal questions arising under the Constitution and laws of the United States. In particular, this case

involves violation of 42 U.S.C. §1983 and the due process clause of the Fourth Amendment of the United States Constitution.

3. VENUE

3.1. Venue is proper pursuant to 28 U.S.C. 1391(b)(2) because a substantial part of the events or omissions giving rise to Plaintiff's claims, as outlined in Sections 4 and 5 below occurred within the Northern District of Texas, and all the parties reside in this Northern District.

3.2. On or about June 14, 2014, the City of Dallas Police Department responded to a call at 208 Glencairn Drive, Dallas, Texas. Defendants Rogers and Hutchins are Dallas police officers. Defendants Rogers and Hutchins accepted the assignment at 208 Glencairn Drive, Dallas, Texas. Shortly after arriving at 208 Glencairn Drive, Dallas, Texas, both Defendant Rogers and Defendant Hutchins fired multiple gunshots repeatedly striking Jason Sherard Harrison and causing his death.

3.3. David Harrison, the surviving father of Jason Sherard Harrison, brings this case under 42 U.S.C. §1983 as a result of the Dallas police officers using excessive force in violation of the Fourth Amendment of the United States Constitution, which caused his son's death at 208 Glencairn Drive, Dallas, Texas.

3.4. David Harrison, the surviving father of Jason Sherard Harrison, brings this case under 42 U.S.C. §1983 because the City of Dallas, acting through

the Dallas Police Department, adopted policies by custom and practice that deprived Jason Sherard Harrison of his due process rights under the Fourth Amendment of the Constitution of the United States.

3.5. David Harrison, the surviving father of Jason Sherard Harrison, brings this case under 42 U.S.C. §1983 because the Dallas Police Department, an agency of the City of Dallas, failed to institute, apply, and conduct proper training of Dallas police officers, including Defendants Rogers and Hutchins. These failures deprived Jason Sherard Harrison of his rights under the due process clause of the Fourth Amendment.

4. STATEMENT OF FACTS

4.1. Dallas Police Officers Rogers and Hutchins shot and killed Jason Sherard Harrison on June 14, 2014.

4.2 Jason Sherard Harrison did nothing to justify Defendants Rogers and Hutchins' use of deadly force.

4.3. At 10:55:48, the Dallas Police Department Dispatch received a call believed to be from Shirley Marshall, who is Jason Sherard Harrison's mother. She conveyed that her son Jason was bipolar and schizophrenic, gave a physical description of her son, and conveyed her concern for her son's mental health and that he may need to go to Parkland. The dispatcher announced the call and at

11:12:07, Unit B725, occupied by Defendants Rogers and Hutchins, accepted the call.

4.4. At 11:23:51, Defendants Rogers and Hutchins arrived at 208 Glencairn Drive, Dallas, Texas, the home of Jason Sherard Harrison and his mother Shirley Marshall.

4.5. By 11:26:00, the dispatch record reports gun shot wound. By 11:27:42, the dispatch record reported this as an officer-involved shooting.

4.6. Jason Sherard Harrison was the only person shot on June 14, 2014, at 208 Glencairn Drive, Dallas, Texas. Dallas Police Department records establish that Officers Rogers and Hutchins shot Jason Sherard Harrison within two minutes of their arrival at his address.

4.7. Jason Sherard Harrison was the only person injured at 208 Glencairn Drive, Dallas, Texas on June 14, 2014. No Dallas Police Department personnel were injured. Neither Rogers nor Hutchins suffered any injuries.

4.8. Only Dallas Police Department personnel fired shots at 208 Glencairn Drive, Dallas, Texas on June 14, 2014.

4.9. Both Defendants Rogers and Hutchins fired shots at Jason Sherard Harrison that resulted in his death.

4.10. Jason Sherard Harrison did not have a gun. He did not have a knife. He did not have a heavy object or large tool. If he had anything in his hand, it was a small screwdriver of the type used on computer equipment.

4.11. There is no evidence that any member of the public in the area of 208 Glencairn Drive, Dallas, Texas possessed or displayed a weapon.

4.12. There is no evidence that Jason Sherard Harrison violated the law on June 14, 2014. Shirley Marshall, Jason Sherard Harrison's mother, called for help for her son. She did not call because her son was threatening or dangerous. She called for medical help.

4.13. No warrant was issued for Jason Sherard Harrison on June 14, 2014.

4.14. Defendants Rogers and Hutchins each fired multiple gunshots at Jason Sherard Harrison and struck him multiple times.

4.15. Jason Sherard Harrison's autopsy shows that he suffered six gunshot wounds including:

1. A gunshot wound entering the left side of the chest;
2. A gunshot wound entering the right side of the chest;
3. A gunshot wound of the lateral right side of the chest;
4. A gunshot wound to the right forearm;
5. A gunshot wound of the lateral right side of the back; and
6. A gunshot wound of the lower right side of the back.

4.16. The autopsy concludes that, “[b]ased on the case history and autopsy findings, it is my opinion that Jason Sherard Harrison, a 38-year-old black male, died as a result of gunshot wounds.”

4.17. The autopsy report is signed by the following personnel within the Office of Medical Examiner for Dallas County: Reade Quinton, M.D, Chief Deputy Medical Examiner; Stephanie Burton, M.D., Medical Examiner; Tracy Dyer, M.D., J.D., Medical Examiner; Chester Gwin, M.D., Medical Examiner; William McClain, M.D., Medical Examiner; Candace Schoppe, M.D., Medical Examiner; Janis Townsend-Parchman, M.D., Medical Examiner; Jill Urban, M.D., Medical Examiner; Elizabeth Ventura, M.D., Medical Examiner; and Jeffrey Barnard, M.D., Director and Chief Medical Examiner.

5. CAUSES OF ACTION

5.1. This case is brought pursuant to 42 U.S.C. §1983. Paragraphs 1.1 to 4.17 are incorporated as though restated verbatim.

5.2. The City of Dallas is a municipality subject to a suit for damages pursuant to 42 U.S.C. §1983. The Dallas Police Department is a department of the City of Dallas, and the City of Dallas is ultimately responsible for the acts and omissions of the Dallas Police Department. The Dallas Police Department functions through those individuals empowered by it with authority as police officers, including Defendant Rogers and Defendant Hutchins. Defendants

Rogers and Hutchins were acting within the course and scope of their employment as police officers employed by the City of Dallas.

5.3. Defendant Rogers and Defendant Hutchins are each sued in their official capacity as Dallas police officers empowered by the Dallas Police Department for the City of Dallas.

5.4. Each of the Defendants exercised power possessed by virtue of state law and made possible only because each Defendant is clothed with the authority of state law, which permits municipalities, such as the City of Dallas, to establish police departments, such as the Dallas Police Department, and allows police departments to clothe individuals such as Defendant Rogers and Defendant Hutchins with the authority of state law by designating them as police officers.

5.5. Each of the Defendants individually and in combination violated the due process rights of Jason Sherard Harrison, as guaranteed by the Fourth Amendment to the United States Constitution. Jason Sherard Harrison died as a result of the Defendants' violations of his constitutional rights.

Excessive Force

5.6. Defendants Rogers and Hutchins used excessive force against Jason Sherard Harrison that is actionable under 42 U.S.C. §1983. The Defendants caused Jason Sherard Harrison's death by shooting him multiple times until he

was dead. Jason Sherard Harrison's death resulted from the use of excessive force in that:

1. Both Defendant Rogers and Defendant Hutchins shot Jason Sherard Harrison multiple times when Jason Sherard Harrison, an unarmed man, did not pose a risk of injury to himself or others.
2. Jason Sherard Harrison was an unarmed man who did not pose a significant threat of death or serious physical injury to the Defendants or others.

5.7. The force employed by Defendants was excessive and unreasonable in that:

1. Jason Sherard Harrison posed no significant threat of death or serious physical injury to others;
2. Jason Sherard Harrison made no attempt to escape;
3. In response to a non-lethal situation, Defendants failed to use non-lethal means of response, including: backing away from Jason Sherard Harrison; calling for and/or awaiting the arrival of those with training in dealing with the mentally ill, and failing to utilize non-deadly force such as tasing.

5.8. Defendants' use of deadly force was excessive and violated the Fourth Amendment of the United States Constitution because Defendants had no reasonable basis to believe that Jason Sherard Harrison posed a threat of serious physical harm. Defendants Rogers and Hutchins were not objectively reasonable because they failed to follow reasonable procedures and used excessive force and deadly force with Jason Sherard Harrison in a non-life-threatening situation.

Causes of Action Against Defendant City of Dallas

5.9. Defendant the City of Dallas, acting through the Dallas Police Department, violated 42 U.S.C. §1983 when it violated Jason Sherard Harrison's due process rights under the Constitution of the United States of America.

5.10. The City of Dallas delegates policy decisions and policy making regarding law enforcement to the Dallas Police Department and its Chief of Police, David Brown.

5.11. The City of Dallas delegates law enforcement training to the Dallas Police Department and its Chief of Police, David Brown.

5.12. Dallas Police Chief David Brown is the final policy maker for policing within the City of Dallas, subject only to specific directives from the City Manager for the City of Dallas. With regard to the issues in this case, the final policy maker was Chief Brown.

5.13. The City of Dallas delegated policy making authority to the Dallas Police Department and the Chief of Police expressly in the City of Dallas Charter Chapter XII.

5.14. The City of Dallas, acting through the Dallas Police Department and officers of the Dallas Police Department, has engaged in the persistent and widespread practice of using excessive force, including deadly force, establishing a custom and practice of excessive force in violation of the Fourth Amendment of the Constitution of the United States.

5.15. The City of Dallas, acting through the Dallas Police Department, failed to properly train its officers, including Defendants Rogers and Hutchins, resulting in violation of Jason Sherard Harrison's due process rights under the Fourth Amendment of the Constitution of the United States.

5.16. In light of the historic use of excessive and deadly force by the Dallas Police Department, there was an obvious need for additional and/or different training in the use of force, and in dealing with mental illness.

5.17. Without different or better training on use of force and dealing with the mentally ill, the obvious and predictable result is the deprivation of Constitutional Rights – such as the violation of Jason Sherard Harrison's due process rights that occurred on June 14, 2014, resulting in his death by multiple gunshot wounds.

5.18. The actions of the Defendant City of Dallas, Defendant Rogers, and Defendant Hutchins singularly and in combination deprived Jason Sherard Harrison of his due process rights and resulted in his premature and wrongful death.

6. DAMAGES

6.1. David Harrison is the surviving father of Jason Sherard Harrison. As a surviving father, Mr. Harrison is entitled to bring this action for his son David Sherard Harrison's wrongful death under Texas Civil Practice and Remedies Code §71.001 - §71.012.

6.2. David Harrison enjoyed regular contact with his son in and out of David Harrison's home. He took his son to medical appointments, out to eat, and enjoyed regular conversations with his son, both in person and by telephone. As a result of his son's premature and wrongful death, Mr. Harrison has suffered extreme grief in the past that in reasonable likelihood will continue in the future. Mr. Harrison buried his son; it is supposed to be the other way around. He has suffered mental anguish that has occurred in the past and in reasonable likelihood will continue in the future, and he has suffered loss of the parent-child relationship and all that it entails, both in the past and in the future. As a result, Mr. Harrison individually is entitled to damages from the Defendants for his past and future mental anguish and his past and future loss of the parent-child relationship.

6.3. Pursuant to Texas Civil Practice and Remedies Code §71.021, the Estate of Jason Sherard Harrison is entitled to damages for the physical pain and mental anguish that Jason Sherard Harrison experienced prior to his death as a result of the multiple gunshot wounds he sustained on June 14, 2014.

6.4. Jason Sherard Harrison suffered six gunshot wounds, each of which inflicted significant injury to his body. In reasonable probability, Mr. Harrison died as a result of the combined effects of the multiple gunshot wounds rather than any one wound because no single wound is identified as the fatal wound by the medical examiners conducting his autopsy. In all reasonable medical probability, each wound that Mr. Harrison sustained prior to his death was painful. In addition, in reasonable probability Mr. Harrison experienced extreme fear and mental anguish between the time the initial shots were fired and his death, for which his estate is entitled to recovery of damages.

6.5. Jason Sherard Harrison was unmarried and had no children. His father David Harrison is an appropriate person to serve as representative of Jason Sherard Harrison's estate and to assert these claims on behalf of the estate.

7. PRESERVATION

7.1. The City of Dallas has sole control of evidence relating to Jason Sherard Harrison's death. Although David Harrison and his attorneys requested information, Defendant City has refused to provide the Plaintiff with any investigative material

other than the dispatch log and a brief incident summary. No photographs, statements, or videotape have been released to Mr. Harrison or his attorneys.

7.2. Shortly after Jason Sherard Harrison's death, his father, David Harrison, met with a Dallas police detective who confirmed the existence of at least one video of the shooting but refused to permit Mr. Harrison to view the video or have access to it.

7.3. Later, attorneys acting on Mr. Harrison's behalf requested all available information relating to the shooting death of Jason Sherard Harrison. In response, attorneys for the City of Dallas refused to provide access to the video or other materials gathered by the City of Dallas, even though more than ninety days have passed since the wrongful shooting.

7.4. The Defendants are hereby given notice that any document or other material, including electronically stored information, that may possibly be evidence or relevant to any issue in this case is to be preserved in its present form until this litigation is concluded.

8. CLAIM FOR PRE-JUDGMENT AND POST-JUDGMENT INTEREST

8.1. Plaintiff claims interest in accordance with applicable law.

9. JURY DEMAND

9.1. Plaintiff respectfully requests a jury trial.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendants be cited to appear and answer herein, and that upon final trial, Plaintiff recover all his damages as specified above from Defendants, jointly and severally, plus costs of Court, pre-judgment and post-judgment interest at the legal rate, and have such other and further relief, general and special, at law and in equity, to which Plaintiff may be justly entitled under the facts and circumstances.

Respectfully submitted,

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