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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DIANA WILSON, individually and as
co-successor-in-interest to Decedent
TYRELL WILSON and MARVIN
WILSON, individually and as
co-successor-in-interest to Decedent
TYRELL WILSON,

Plaintiffs,

vs.

TOWN OF DANVILLE a municipal
corporation; ALLAN SHIELDS,
individually and in his capacity as Chief of
Police for the TOWN OF DANVILLE;
ANDREW HALL, individually and in his
official capacity as a police officer for the
TOWN OF DANVILLE, individually; and
DOES 1-50, inclusive,

Defendants.

Case No.

COMPLAINT FOR DAMAGES

JURY TRIAL DEMANDED

INTRODUCTION

On March 11, 2021, at about 11:45 a.m., Defendant TOWN OF DANVILLE police officer ANDREW HALL murdered 32 year-old Decedent TYRELL WILSON, with deliberation and premeditation. Mr. WILSON was not threatening anyone and was walking away from Defendant HALL. The shooting happened in a 4 way busy intersection where traffic was stopped a large distance from Defendant HALL and MR. WILSON. For at least 6.28 seconds, as depicted on video taken by one of the stopped drivers at the intersection, Defendant HALL held his gun pointed straight at Mr. WILSON's head, while Mr. WILSON, who was obviously mentally impaired, walked away from Defendant HALL. Mr. WILSON was not walking toward anyone else in any noticeable way and was not suspected of any significant crime. Defendant HALL paralleled Mr. WILSON, never backing up, never attempting to create space from MR. WILSON, and never appearing to be threatened by Mr. WILSON in any way whatsoever. Defendant HALL never lowered his gun, keeping it aimed directly at Mr. WILSON's head. Then, at 6.28 seconds into the video, Defendant HALL simply fired his gun one time into the right side of Mr. WILSON's face. Mr. WILSON crumpled to the ground, having never threatened Defendant HALL, and having done nothing more than hold a small knife at his side. Defendant HALL had ample time for deliberation and pre-meditation. Defendant HALL had obvious areas of safety and redeployment in the event Mr. WILSON actually did something threatening with the knife. Instead of protecting life, Defendant HALL murdered Mr. WILSON, with malice aforethought.¹,

¹ A single still from Defendant HALL's body-worn camera video released after the shooting by Defendant TOWN and SHIELDS in an apparent effort to mislead the public, published later on the day of the shooting, March 11, 2021, in local news outlets such as PleasantonWeekly.com, appears to depict Mr. Wilson, with his face redacted, holding a small black folding knife with a silver blade in his right hand down at his right side, and a paper grocery bag in the other hand down at his left side, directly facing the body-worn camera. That knife is not visible in the witness's video recording. Even if it was still in Mr. WILSON's possession at the time of the shooting, the video shows clearly that Mr. WILSON took no aggressive action whatsoever in that time frame, and was simply walking away from Defendant HALL when Defendant HALL shot him. Tellingly, Defendants TOWN and SHIELDS did not release the body-worn camera video footage of the shooting, only this single still which is evident from the witness's video recording being taken from earlier in the incident prior to the witnesses video recording.

Defendant HALL, a uniformed police officer, is also responsible for the only other TOWN OF DANVILLE Officer Involved Shooting in the past 20 years when he shot and killed Laudemer Arboleda on November 3, 2018 when Mr. Arboleda was unarmed in a vehicle. He shot Mr. WILSON after following Mr. WILSON and yelling at Mr. WILSON “come here, come here!”. Defendant HALL was reportedly responding to a report of a person throwing rocks from a freeway overpass onto I-680. Mr. WILSON possessed no visible rocks.

Inexplicably, after shooting Mr. WILSON, Defendant HALL held Mr. WILSON at gunpoint for at least the remainder of the 45 second witness video (the shooting happens approximately 6.28 seconds into the video). Mr. WILSON had made no efforts to get up off the ground after Defendant HALL’s homicidal shooting. No law enforcement officer tended to Mr. WILSON’s injuries. Eventually, after an unreasonably prolonged delay, paramedics arrived and transported Mr. WILSON to a hospital. Medical treatment was unable to save Mr. WILSON’s life, and he was pronounced dead 6 days later on March 17, 2021.

Defendant TOWN has since claimed that Mr. WILSON threatened Defendant HALL with the folding knife. That contention is certainly is not reflected in the video of the shooting. The only danger present at the scene, as evidenced by his exclusive ownership of Officer-Involved Shootings in the TOWN OF DANVILLE since 2001, was Defendant HALL, a murderer hiding behind a badge and a District Attorney’s office who has never in recent memory prosecuted a police officer in an Officer-Involved Shooting, and a police department and Sheriff’s Office that let this murderer back on patrol after being on clear notice of the threat he posed to future subjects he might interact with while on patrol as a police officer.

JURISDICTION

1. This action arises under Title 42 of the United States Code, Section 1983. Jurisdiction

is conferred upon this Court by Title 28 of the United States Code, Sections 1331 and 1343. The unlawful acts and practices alleged herein occurred in the County of Contra Costa, California, which is within this judicial district.

PARTIES

2. Plaintiff DIANE WILSON the mother of and co-successor-in-interest to Decedent TYRELL WILSON. Decedent TYRELL WILSON was never married, had no children, and died intestate. She brings this action on her own behalf and as co-successor-in-interest to Decedent TYRELL WILSON.

3. Plaintiff MARVIN WILSON is the father of and co-successor-in-interest to Decedent TYRELL WILSON. Decedent TYRELL WILSON was never married, had no children, and died intestate. He brings this action on his own behalf and as co-successor-in-interest to Decedent TYRELL WILSON.

4. Decedent TYRELL WILSON was 33 years old when Defendant HALL killed him, and was readily apparent as African-American. Each of the Plaintiffs identified in this action are citizens of the United States of America.

4. Defendant TOWN OF DANVILLE (“TOWN”) is a municipal corporation, duly organized and existing under the laws of the State of California. Under its authority, the TOWN operates the Danville Police Department.

5. At all times mentioned herein, Defendant ALLAN SHIELDS (“SHIELDS”) was employed by Defendant TOWN as Chief of Police for the TOWN. He is being sued in his individual capacity. Defendant SHIELDS became Chief of Defendant TOWN OF DANVILLE Police Department in July 2017, and personally approved and ratified as within policy the prior Unconstitutional Officer Involved Shooting of Laudemer Arboleda by Defendant Officer ANDREW HALL on November 3, 2018. Plaintiffs contend, in part because Defendant HALL was on duty, in full uniform, and carrying a firearm at the time of the subject-incident shooting and killing of

Decedent TYRELL WILSON on March 11, 2021, that Defendant SHIELDS ratified the prior Unconstitutional shooting of Mr. Arboleda, and failed to retrain or otherwise remediate Defendant HALL in the reasonable use of force, specifically in unreasonably using the lethal force of a firearm in circumstances where no threat to life or serious bodily injury existed, other than Defendant HALL's own use of his firearm against civilians. As direct, proximate, and foreseeable consequence of Defendant SHIELDS approval and ratification of the Unconstitutional shooting of Mr. Arboleda by Defendant HALL, and his failure to subsequently retrain or otherwise remediate Defendant HALL's Unconstitutional conduct with respect to Mr. Arboleda, Defendant HALL remained an unreasonable danger to the public and remained in a position to abuse his authority as a police officer to unreasonably use lethal force against Decedent TYRELL WILSON during the subject-incident March 11, 2021 resulting in the unreasonably, indifferent and malicious killing of Decedent WILSON.

6. Defendant ANDREW HALL ("HALL" herein), is and was at all times herein mentioned a police officer employed by Defendant TOWN OF DANVILLE. He is being sued in his individual capacity. Defendant HALL previously on November 3, 2018, Unconstitutionally shot and killed Laudemer Arboleda. Defendant HALL is responsible for 100% of the Officer Involved Shootings by TOWN OF DANVILLE police officers since the year 2001: Two Officer Involved Shootings within 2.5 years of each other, both by Defendant HALL.

7. Plaintiff is ignorant of the true names and capacities of Defendants DOES 1 through 50, inclusive, and therefore sues these defendants by such fictitious names. Plaintiff is informed and believes and thereon alleges that each Defendant so named is responsible in some manner for the injuries and damages sustained by Plaintiffs as set forth herein. Plaintiffs will amend their complaint to state the names and capacities of DOES 1-50, inclusive, when they have been ascertained.

8. In engaging in the conduct described herein, Defendant police officers acted under the

color of law and in the course and scope of their employment with the TOWN. In engaging in the conduct described herein, Defendant police officers exceeded the authority vested in them as police officers under the United States and California Constitutions and as police officers employed by Defendant TOWN.

STATEMENT OF FACTS

10. On March 11, 2021, at about 11:45 a.m., Defendant TOWN OF DANVILLE police officer ANDREW HALL shot and killed 32 year-old Decedent TYRELL WILSON when Mr. WILSON was not threatening anyone and was not suspected of any significant crime. Defendant HALL was on patrol and on duty carrying a live firearm despite the fact that only 2.5 years earlier he unreasonably shot and killed another civilian named Laudemer Arboleda. Plaintiffs contend Defendants CITY and SHIELDS ratified and condoned Defendant HALL's Unconstitutional conduct in the Arboleda incident, and subsequently failed to discipline, retrain or otherwise remediate Defendant HALL's Unconstitutional conduct in that matter, leaving him on duty, in uniform, carrying a gun, in a position to abuse his authority and Unconstitutionally shoot and kill other people on the date of the March 11, 2021 subject-incident killing of Mr. WILSON.

11. According to published accounts by Defendant TOWN, in the instant matter Defendant HALL responded to a call of a person throwing rocks from an I-680 overpass in Danville when he encountered Mr. WILSON. Mr. WILSON was known to people in the surrounding area, some of whom assisted in providing him meals and shelter support. Mr. WILSON had a history of mental illness and homelessness. Both of Mr. WILSON's parents, Plaintiffs DIANE WILSON and MARVIN WILSON had a close relationship with their son, Mr. WILSON, and contributed to his financial, emotional and mental support up until the day Defendant HALL killed him.

12. In response to the report of rock throwing from an I-680 overpass, Defendant HALL, in full uniform, approached Mr. WILSON on foot as Mr. WILSON walked away from him. Mr. WILSON possessed no visible rocks, and held only a brown paper grocery bag in his left hand, and a

small black folding knife with a silver blade in his right hand. There were no reports of accidents or injuries caused by rocks thrown from an overpass, and no indication that Mr. WILSON was the person engaged in rock throwing, if indeed any rock throwing had occurred.

13. As Defendant HALL followed Mr. WILSON, he yelled at Mr. WILSON “Come here! Come here!”. Mr. WILSON continued walking, into Sycamore Valley Road. Defendant HALL followed Mr. WILSON, paralleling him at close range with his gun held head level pointed at Mr. WILSON’s head. Then, as Mr. WILSON continued walking away from Defendant HALL, Defendant HALL squeezed the trigger of his gun one time and shot Mr. HALL in the right of the face. Traffic at the intersection had stopped. Defendant HALL was about 6 to 8 feet away from Mr. WILSON when he shot Mr. WILSON, and had a huge amount of space he could have moved to if Mr. WILSON took any threatening action. Defendant HALL could have used a taser, and had ample opportunity to use de-escalation tactics. Instead, Defendant HALL considered and deliberated, and with pre-meditation chose to kill Mr. WILSON.

14. After shooting Mr. WILSON in the face and Mr. WILSON falling to the ground, eyewitnesses heard Defendant HALL yell at Mr. WILSON: “Get up! Get up!”. Mr. WILSON was severely injured from the fatal shooting and could not respond to the command to get up. Even though Defendant HALL had shot Mr. WILSON in the face, neither Defendant HALL nor any other officer at the scene, including Defendant Officers DOES 1-50, provided immediate medical care for Mr. WILSON. Mr. WILSON suffered conscious pain and suffering from being shot in the face prior to losing consciousness.

15. Numerous vehicles remained stopped at the intersection where the shooting occurred. No police officer tended to Mr. WILSON’s injuries. Finally, according to witnesses, nearly 25 minutes after the shooting an ambulance arrived and provided medical care to him. The ambulance transported Mr. WILSON to the hospital where he ultimately succumbed to the gunshot to his face.

Mr. WILSON was pronounced dead six days later on March 17, 2021 from the gunshot injury cruelly, maliciously, and murderously inflicted against him by Defendant HALL.

16. At all times described herein Defendant HALL was armed with less lethal weapons including a Taser. At all times herein Defendant HALL had the ability to reposition himself or change his location to avoid any possible threat posed by Mr. WILSON. Defendant HALL made no effort to use reasonable less-lethal alternatives to lethal force, and instead paralleled Mr. WILSON, with his gun stuck out head level a few feet from Mr. WILSON's head, and then made no effort to create space from Mr. WILSON, instead shooting him in the face. Defendant HALL never made any effort to use reasonable de-escalation tactics, instead shooting Mr. WILSON in the face.

16. Hours after the shooting, Defendants TOWN and SHIELDS released to media a photograph of a man they alleged to be Mr. WILSON, holding a paper grocery bag in one hand and a short dark-colored folding knife in the other hand at his waist not raised aggressively, and redacted the face of the man, purporting that the man in the photograph was Mr. WILSON. Witnesses to the incident saw no weapon in Mr. WILSON's hand in the moments prior to the shooting. Analysis of the witness's video footage of the incident shows no knife visible in Mr. WILSON's hand. Plaintiffs allege Mr. WILSON was unarmed at the time of the shooting, and that even if he possessed the short folding knife, he was not approaching Defendant HALL at the time of the shooting and was not aggressive with the knife. Moreover, Mr. WILSON was known to people who frequent the area of this shooting to be mentally impaired, and obviously appeared to be mentally impaired. Defendant HALL was on notice of Mr. WILSON's mental impairment because it was obvious, and totally failed to take into consideration Mr. WILSON's mental impairment prior to shooting him in the face. This was a situation that could have easily been defused by exercising reasonable de-escalation tactics, as Mr. WILSON was not threatening anyone. Defendant HALL's conduct in shooting Mr. WILSON in the face one time reflected deliberation, targeted aiming, and a conscious decision to not resort to

reasonable less intrusive alternatives from de-escalation tactics to the use of reasonable less-lethal force.

17. The killing of decedent TYRELL WILSON described herein was brutal, malicious, and done without just provocation or cause, proximately causing Plaintiff's injuries and resulting damages.

DAMAGES

18. Plaintiffs were physically, mentally, emotionally and financially injured and damaged as a proximate result of Decedent TYRELL WILSON wrongful death, including, but not limited to, the loss of decedent's familial relationships, comfort, protection, companionship, love, affection, solace, and moral support. In addition to these damages, Plaintiffs are entitled to recover for the reasonable value of funeral and burial expenses, pursuant to C.C.P. Sections 377.60 and 377.61.

19. Plaintiffs are entitled to recover wrongful death damages pursuant to C.C.P. Sections 377.60 and 377.61 and Probate Code Section 6402(b).

20. Pursuant to C.C.P. Sections 377.30, 377.32, and 377.34, plaintiffs are further entitled to recover for damages incurred by decedent before he died as the result of being assaulted and battered, for deprivation without due process of decedent's right to life, and to any penalties or punitive damages to which decedent would have been entitled to recover, had he lived. Plaintiffs are further entitled to recover for Decedent's own pain and suffering and emotional distress incurred as a consequence of Defendants' violations, preceding Decedent's death for violation of Decedent's U.S. Constitutional rights under section 1983.

21. The conduct of the defendant officers was malicious, wanton, and oppressive. Plaintiffs are therefore entitled to an award of punitive damages against said individual defendants.

22. Plaintiffs found it necessary to engage the services of private counsel to vindicate their

rights, and the rights of decedent, under the law. Plaintiffs are therefore entitled to recover all attorneys' fees incurred in relation to this action pursuant to Title 42 United States Code section 1988.

FIRST CAUSE OF ACTION
(42 U.S.C. Section 1983)

Plaintiffs as successors-in-interest to Decedent TYRELL WILSON against Defendants HALL and Defendant Officer DOES 1-25)

23. Plaintiffs hereby re-allege and incorporate by reference herein paragraphs 1 through 22 of this Complaint.

24. Defendants HALL and DOES 1-25 acted under color of law by killing decedent without lawful justification and subjecting decedent to excessive force thereby depriving Plaintiffs and the decedent of certain constitutionally protected rights, including, but not limited to:

- a. The right to be free from unreasonable searches and seizures by Defendant HALL's use of excessive force in unreasonably shooting and killing Decedent in violation of the Fourth Amendment.
- b. The right to medical care for Decedent's serious medical needs while in custody. in

WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

SECOND CAUSE OF ACTION

(Violations of Plaintiffs' civil rights to familial relationship - 42 U.S.C. section 1983
Plaintiffs DIANE WILSON and MARVIN WILSON, individually herein against Defendant HALL and DOES 1-25)

25. Plaintiffs hereby re-allege and incorporate by reference herein paragraphs 1 through 24 of this Complaint.

26. Defendant HALL, acting under color of law, and without due process of law deprived Plaintiffs of their right to a familial relationship with Decedent by use of unreasonable, unjustified deadly force and violence, causing injuries which resulted in decedent's death, all without

provocation, in violation of the Fourteenth Amendment to the United States Constitution. Defendant WOOLEY acted maliciously with an intent to harm Decedent unrelated to legitimate law enforcement purposes in killing Decedent.

27. Defendants HALL and DOES 1-50, acting under color of law, and without due process of law deprived Plaintiffs of their right to a familial relationship with Decedent by their deliberate indifference to Decedent's serious medical needs after being shot by Defendant HALL, in violation of the Fourteenth Amendment to the United States Constitution. Mr. WILSON would have survived the shooting had he received reasonably prompt emergency medical care, but said defendants denied him the opportunity for reasonably emergency medical care.

WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

THIRD CAUSE OF ACTION
(*Monell* - 42 U.S.C. section 1983)

Plaintiffs individually and as successor in interest to Decedent, against Defendant TOWN, SHIELDS and DOES 26-50)

28. Plaintiff hereby re-alleges and incorporates by reference herein paragraphs 1 through 27 of this Complaint.

29. HIGH ranking TOWN OF DANVILLE officials, including high ranking police supervisors such as Defendant SHIELDS, DOES 26 through 50, and/or each of them, were well aware of repeated acts of misconduct by Defendant Officer HALL, and ratified his prior misconduct in shooting and killing Laudemer Arboleda that took place on November 3, 2018, when Defendant SHIELDS had been the Chief of Police for the City of Danville already for well over a year. Plaintiffs allege Defendant SHIELDS personally signed off on that shooting as being within CITY policy, and failed to discipline, retrain, or otherwise remediate Defendant HALL. As a direct foreseeable consequence of permitting that shooting without discipline, retraining, or other remediation,

Defendant HALL, 2 and a half short years later, unreasonably shot and killed another person in violation of the Fourth Amendment.

29. Despite having such notice, Plaintiffs are informed and believe and thereon allege that Defendants SHIELDS, DOES 26-50, and/or each of them, approved, ratified, condoned, encouraged, sought to cover up, and/or tacitly authorized the continuing pattern and practice of misconduct and/or civil rights violations by Defendant HALL.

30. Plaintiffs are further informed and believe and thereon allege that as a result of the deliberate indifference, reckless and/or conscious disregard of the misconduct by Defendant HALL Defendant SHIELDS, DOES 26-50, and/or each of them, encouraged their officers, Defendant HALL in particular, to continue their course of misconduct and caused their officers' lack of training, resulting in the violation of the Plaintiffs' rights as alleged herein.

31. Plaintiffs further allege Defendants SHIELDS, DOES 26-50, and/or each of them, were on notice of Constitutional defects in their training of TOWN OF DANVILLE police officers, including, but not limited to, using excessive force, covering up the use of excessive force, failing to use reasonable less-intrusive alternatives to lethal force such as the Taser Defendant HALL possessed, failing to use de-escalation tactics, and failing to reasonably change their location to defuse potential threat. The aforementioned acts and/or omissions and/or deliberate indifference by high ranking TOWN OF DANVILLE officials, including high ranking TOWN OF DANVILLE Police Department supervisors, Defendants SHIELDS, DOES 26-50, and each of them resulted in the deprivation of Plaintiffs' constitutional rights including, but not limited to, the following:

- a. The right to be free from unreasonable searches and seizures, as guaranteed by the Fourth Amendment to the United States Constitution;

b. The right to a familial relationship, as guaranteed by the Fourteenth Amendment to the United States Constitution.

c. The right to medical care when in-custody for serious medical needs.

32. Said rights are substantive guarantees under the Fourth and/or Fourteenth Amendments to the United States Constitution.

WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

JURY DEMAND

33. Plaintiffs hereby demand a jury trial in this action.

PRAYER

WHEREFORE, Plaintiffs pray for relief, as follows:

1. For general damages in a sum according to proof;
2. For special damages in a sum according to proof;
3. For punitive damages in a sum according to proof;
4. For reasonable attorney's fees pursuant to 42 U.S.C. Section 1988;;
5. For injunctive relief;
6. The termination of Defendant ANDREW HALL as a TOWN OF DANVILLE police officer or Contra Costa County Sheriff's deputy, and revocation of his P.O.S.T. certification as a California law enforcement officer;
7. For cost of suit herein incurred; and
8. For such other and further relief as the Court deems just and proper.

Dated: March 30, 2021

The Law Offices of John L. Burris

/s/ John L. Burris
John L. Burris
Attorney for Plaintiffs