

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

JUN 25 2024

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
NORTHERN DIVISION**

TAMMY H. DOWNS, CLERK
By: Jah Koomant **DEP CLERK**
PLAINTIFF

TRAVIS DAVIS

VS.

CASE NO. 3:24-cv-00110 Jm

**COUNTY OF POINSETT, STATE OF ARKANSAS,
KEVIN MOLDER, in his official capacity as
SHERIFF OF POINSETT COUNTY, ARKANSAS,
THE POINSETT COUNTY SHERIFF'S DEPT.,
JASON THOMAS, in his official capacity as
DEPUTY OF POINSETT COUNTY, ARKANSAS,
DILLON FIGUE, in his official capacity as
DEPUTY OF POINSETT COUNTY, ARKANSAS**

This case assigned to District Judge Moody
and to Magistrate Judge Harvey

DEFENDANTS

COMPLAINT

COMES NOW Plaintiff, Travis Davis, by and through his legal counsel, Joseph Hughes, and for his Complaint against the Defendants, Poinsett County, Arkansas, Kevin Molder, in his official capacity as Sheriff of Poinsett County, Arkansas, THE Poinsett County Sheriff's Department, Jason Thomas, in his official capacity as Deputy of Poinsett County, Arkansas, and Dillon Pigue, in his official capacity as Deputy of Poinsett County, Arkansas, states and alleges as follows:

JURISDICTION AND VENUE

1. This is an action brought pursuant to the U. S. Constitution, particularly the Fourth, Eighth and Fourteenth Amendments thereto, and under federal law, the Civil Rights Act of 1871 codified as 42 U.S.C. §§1983 and 1988, as well as 28 U.S.C. §§2201 and 2202.

2. The jurisdiction of the Court is invoked pursuant to 28 U.S.C. §§1331 and 1343 and 42 U.S.C. §§1983, to redress violations of the decedent's constitutional rights guaranteed by the 4th, 8th and 14th Amendments to the U.S. Constitution.

3. In addition thereto, federal statutory relief is predicated on Section 504 of the Rehabilitation Act of 1973 which authorizes actions to redress discrimination based on disabilities, and upon Title II of the American's with Disabilities Act of 1990, 42 U.S.C. §§12131, which authorizes the award of attorney's fees and costs to prevailing plaintiffs in actions brought pursuant thereto.

4. Furthermore, pursuant to this Court's supplemental jurisdictional authority under 28 U.S.C. §§1367, Plaintiff seeks redress under the Arkansas Civil Rights Act, Ark. Code Ann. §16-123-101, et seq., and for actions under Arkansas' tort jurisprudence.

5. The acts complained of by Plaintiff occurred entirely within the boundaries of Poinsett County, Arkansas and thus, venue is proper in this Court pursuant to 28 U.S.C. §1391.

PARTIES

6. At all times relevant to this action, Plaintiff, Travis Davis was a resident of the Poinsett County, State of Arkansas. He is a U. S. citizen entitled to all rights arising therefrom, both constitutional and statutory.

7. Defendant, Poinsett County is one of seventy-five counties created and authorized by the Constitution of State of Arkansas and was, at all times relevant to this action, the employer of the duly-elected Sheriff, Defendant Steve Molder, a white male. Deputies Jason Thomas and Dillon Pigue were employed and under the direction and control of the Defendants, Poinsett County and Kevin Molder, as Sheriff.

8. At all times relevant to this action, Defendant, Kevin Molder was the duly-elected and employed Sheriff of Poinsett County, Arkansas, and he performed and functioned in that official capacity with respect to all allegations that form the basis of the Plaintiff's claims. Molder was the final decision maker for the Defendant county agency, the Poinsett County Sheriff's Department, its employees and representatives. Defendant Molder was responsible for training and conduct of his personnel, including the two deputies, Defendant, Jason Thomas and Dillon Pigue. Defendant Molder had final policy making authority in terms of creating, adopting and/or implementing policies, procedures and practices with the department and jail whether formal or informal. As Sheriff, all of Kevin Molders' acts in that capacity are actions under color of state law and on behalf of Poinsett County, Arkansas, whether or not they are within the scope and during the course of his employ. Each and every allegation of conduct of the Defendants, Molder, Thomas and Pigue, were undertaken while acting during the course of and within the scope of their employment with the Defendant, Poinsett County, Arkansas..

9. Defendants, Jason Thomas and Dillon Pigue, were at all times relevant to this cause of action, employed as duly-authorized and empowered deputy sheriffs for Poinsett County and were acting within the scope and during the course of their employment as such.

10. At all times relevant to this action, Poinsett County, Arkansas was empowered, funded and directed to pay any and all civil judgments for compensatory, actual and punitive damages, along with attorney fees for which any county employee acting under color of state law is found liable. Accordingly,

Poinsett County is an indemnification party for those liable for the actions of those Defendants, all of whom are state actors, of which the Plaintiff complains.

11. Plaintiff seeks redress against Poinsett County, Arkansas for Defendants, Molder, Thomas and Pigue decisions, which carry the force and effect of law, resulting in the failure to adequately instruct, train, communicate and supervise deputies, employees and representatives of the Poinsett County Sheriff's Department, which resulted in the violation of Plaintiff's rights protected by the 4th, 8th and 14th Amendments to the U. S. Constitution and other federal laws.

12. Plaintiff alleges that the basis and motivation for the acts of all Defendants was his race. As a black man, he was singled out, intentionally treated disparately and with conscious disregard by the Defendants of his constitutional rights and Plaintiff was harmed significantly therefrom.

FACTS

13. Travis Davis, a black male, age 31 at all times relevant to this action, was a resident and citizen of Poinsett County, Arkansas, concerned about the safety of his sister-in-law when he called the Poinsett County Sheriff's Department. On January 14, 2023, at approximately 9:00 p.m., Travis was driving around Poinsett County with his wife, a white female, and the two of them had come upon the location of Travis' wife's sister, Ashley, also a white female. Ashley was located at the residence of Dustin Shannon, a white male and her estranged husband, with whom she was embroiled in a custody battle. The residence was located 4890 Old Military Lane, Harrisburg, Arkansas. At that time, Travis' wife telephoned the Poinsett County Sheriff's Department to let them know where Ashley was and to

request a welfare check. The Plaintiff and his wife had pulled into the driveway of the residence next door to where the sister was located, owned by Dustin Shannon's mother, to get off the road wait for the deputy. Shortly thereafter, a Poinsett County Deputy, Mr. Jason Thomas, a white male, arrived at the residence. The Plaintiff and his wife informed Deputy Thomas that Ashley's car was at the residence of Dustin Shannon, next door. Deputy Thomas went to Dustin Shannon's house next door and spoke with Ashley Shannon and returned to Plaintiff and his wife. Deputy Thomas informed Plaintiff and his wife that Ashley was unharmed and that she was leaving the residence at that time. After notifying the Plaintiff and his wife of the outcome of the welfare check on Ashley, Deputy Thomas got into his patrol vehicle and drove off.

Just as Deputy Thomas drove off, Plaintiff's driver-side door was opened by Dustin Shannon and Shannon began to physically assault the Plaintiff, eventually pulling him from the truck and out into the driveway. Plaintiff's wife called the telephoned the Poinsett County Sheriff's Department to ask them to have the deputy return to the scene. Shortly thereafter, Deputy Thomas returned.

When Deputy Thomas returned, to him it appeared that both Plaintiff and Dustin Shannon were in an altercation. After speaking with all parties, Deputy Thomas spoke with his supervisor, Dillon Pigue, also a white male. After speaking with Deputy Sheriff Dillon Pigue, Deputy Thomas returned and took Plaintiff into custody and charged with Criminal Trespassing, First Degree. Plaintiff's wife was not taken into custody and neither was Dustin Shannon. No one else was cited or

charged. Plaintiff was taken to the Poinsett County Jail, booked into jail and was required to post bail,

14. These unlawful actions, committed by Defendants, during the course and within the scope of their employment, and under color of law, did cause harm to the Plaintiff.

15. Defendants' actions have harmed the Plaintiff's reputation, standing in the community, ability to earn a living and affected the lives of this family in a harmful way.

16. As a direct and proximate result of the actions of the Defendant as described hereinabove, Plaintiff has endured severe emotional distress, humiliation, embarrassment and ridicule.

17. Plaintiff has lost jobs, job opportunities and endured hardship in his marriage and other family relationships.

18. Plaintiff asserts that he should have judgment against the Defendants for his damages incurred, as a direct and proximate result of the Defendants actions, in an amount not less than \$250,000.00.

FEDERAL CLAIMS

19. The actions of the Defendants violate 42 U.S.C. §1983, in that the Defendants, Sheriff, Kevin Molder, Deputy Jason Thomas and Deputy Dillon Pigue, and all other employees and representatives knew or should have known that the Plaintiff, Garrett, at the time a pre-trial detainee, faced a substantial risk of serious harm as a result of his medical condition which demonstrated obvious symptoms of a serious medical need. The Defendant consciously disregarded the risks of serious

injury and harm to the Plaintiff by failing to take reasonable measures to abate those risks that were present for the Plaintiff. The actions or omissions of the Defendants showed a deliberate indifference to the safety and welfare of the Plaintiff and were the direct and proximate cause of his untimely and unnecessary death.

20. These actions also violate the 8th and 14th Amendments to the U. S. Constitution and amount to illegal arrest, false imprisonment, cruel and unusual punishment and a blatant denial of the Plaintiff's equal protection under the law.

21. Furthermore, Plaintiff claims that the Defendants, acting under color of state law, and in violation of criminal statute 18 U.S.C. §242, did violate the Plaintiff's rights, cognizable under 42 U.S.C. §§1983, et seq., when they deprived the Plaintiff of his rights, privileges and immunities secured and protected by the U.S. Constitution and other laws of the United States, by the specific reasons of his color or race, and imposed both civil and criminal penalties upon him, including arrest and incarceration, while at the same time not treating those other persons in the same situation equally and in the same manner.

22. Furthermore, Plaintiff claims that the Defendants, acting under color of state law, and in violation of criminal statute 18 U.S.C. §241, did violate the Plaintiff's rights, cognizable under 42 U.S.C. §§1983, et seq., when they deprived the Plaintiff of his rights, privileges and immunities secured and protected by the U.S. Constitution and other laws of the United States. Defendants, Thomas and Pigue, specifically for reasons of his color or race, did conspire to injure, oppress, threaten, or intimidate the Plaintiff and imposed both civil and criminal penalties upon him,

including arrest and incarceration, while at the same time not treating those other persons in the same situation equally and in the same manner.

STATE CLAIMS

23. The Plaintiff adopts by reference and incorporates herein all factual and legal allegations contained hereinabove and elsewhere within this Complaint.

24. The aforesaid acts alleged by Plaintiff constitute violations of Ark. Const. Art. 2 §§2, 6 and 9, and the Arkansas Civil Rights Act, Ark. Code Ann. §16-123-101, et seq.

25. The foregoing actions by the Defendants alleged hereinabove also amount to the defamation, false imprisonment and civil assault.

26. Attorney fees are sought by the Plaintiffs under both the federal and state law claims alleged herein.

DAMAGES

27. As a natural and foreseeable result of the acts of the said Defendants, the decedent, Travis Davis, suffered, severe mental, physical and emotional distress from humiliation, defamation and loss of reputation within the community. For these acts, Plaintiff seeks damages on behalf of the Estate, as set forth hereinbelow.

28. For the acts, omissions, customs, policies and other illegal and tortious behavior of the Defendants which was the proximate cause of the harm suffered by Travis Davis, Plaintiff seek: a) compensatory and punitive damages for violation of his constitutional rights; b) compensatory and punitive damages for violations of the Arkansas Civil Rights Act; c) damages for pain and suffering; d) compensatory

damages for mental, physical and emotional distress; e) loss of earning capacity; and (f) reasonable attorney fees and costs.

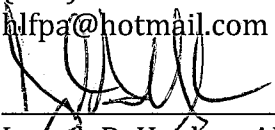
29. Plaintiff reserves the right to plead further and request to amend as subsequently discovered evidence necessitates.

WHEREFORE, Plaintiff, Travis Davis, prays for Judgment against the Defendants, jointly and severally, for violations of his rights which are protected by the U.S. and Arkansas Constitutions; 42 U.S.C. §1983; Ark. Const. Art. 2 §§2, 6 and 9; the Arkansas Civil Rights Act and those plead civil tort violations of the Defendants. Furthermore, the Plaintiff seeks Judgment for compensatory and punitive damages for the violations of said rights as described hereinabove, for a reasonable attorney fee, costs and all other just and proper relief in the premises.

Respectfully submitted,

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BY:



Joseph D. Hughes, ABN 97021

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

TRAVIS DAVIS

(b) County of Residence of First Listed Plaintiff PINSETT (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

HUGHES LAW FIRM, PA 33201 HUGHES PARKWAY, SUITE 1300, DALLAS, TX 75245

DEFENDANTS

COUNTY OF FOINSETT, et al.

County of Residence of First Listed Defendant PINSETT (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF, DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, INTELLECTUAL PROPERTY RIGHTS, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes checkboxes for various legal categories like Insurance, Personal Injury, Real Estate, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 42 USC 1983, et seq. Brief description of cause:

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 100K CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

JUNE 25, 2024

[Handwritten Signature]

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE