

NO. _____

JEFFERSON CIRCUIT COURT
DIVISION _____
JUDGE _____

ELECTRONICALLY FILED

TAMIKA PALMER,
as Administratrix of the ESTATE OF
BREONNA TAYLOR

PLAINTIFF

v.

COMPLAINT

BRETT HANKISON
2203 Wendell Ave.
Louisville, KY 40205

-and-

MYLES COSGROVE
2844 Brookdale Avenue
Louisville, KY 40220

-and-

JONATHAN MATTINGLY
8913 Meadow Street Way
Louisville, KY 40228

DEFENDANTS

*** **

I. PRELIMINARY STATEMENT

1. At 12:30 am on March 13, 2020 both Breonna Taylor and Kenneth Walker were asleep in their bedroom. Breonna was scheduled to work later in the day. Breonna was a licensed EMT and worked for two local hospitals. Kenneth, her boyfriend, was set to begin his new position with the postal service. Neither of the two had any criminal history for drugs or violence. Neighbors described Breonna and Kenneth as quiet and peaceful. Friends and family describe the two as loving and caring. While Breonna and Kenneth were sleeping peacefully, the three Defendants arrived in their neighborhood in plain clothes in unmarked vehicles. These Defendants

were working within the criminal interdiction unit of the Louisville Metro Police Department. The Defendants had a knock and announce search warrant for Breonna's apartment, where the officers were searching for an individual who lived in a different part of Louisville. The Defendant officers had an ambulance staged around the corner from Breonna's residence, yet did not defer to the LMPD SWAT unit for execution of the warrant. Furthermore, the individual that the officers were seeking had already been apprehended by LMPD earlier that morning at his own home. As the Defendant officers approached Breonna's home, they did so in a manner which kept them from being detected by neighbors. The officers then entered Breonna's home without knocking and without announcing themselves as police officers. The Defendants then proceeded to spray gunfire into the residence with a total disregard for the value of human life. Shots were blindly fired by the officers all throughout Breonna's home and also into the adjacent home, where a five-year-old child and a pregnant mother had been sleeping. Breonna Taylor was shot at least eight times by the officers' gunfire and died as a result. Breonna had posed no threat to the officers and did nothing to deserve to die at their hands. The Plaintiff brings this personal injury and wrongful death action in order to obtain damages resultant from the Defendants' unlawful conduct, which directly and proximately caused the death a young, beautiful human being who was also an essential front-line medical professional in this community.

II. JURISDICTION AND VENUE

2. Jurisdiction and venue are proper due to the location of the incident, the claimed damages and the matters in controversy.

III. THE PARTIES

3. Plaintiff is the mother of the deceased, Breonna Taylor, and is the duly appointed

administratrix of Breonna's estate.¹

4. Defendants Brett Hankison, Myles Cosgrove, and Jonathan Mattingly were, at all times relevant to this action, employees of Louisville Metro Government who worked as police officers in the Louisville Metro Police Department. They are each sued in their individual capacities.

IV. FACTS

5. Breonna Taylor was 26 years old on March 13, 2020.

6. She was a critical, front-line employee during the beginning phases of the coronavirus pandemic, working for both Jewish and Norton hospitals.

7. Breonna was also a certified EMT.

8. Breonna lived at 3003 Springfield Drive with her younger sister and Kenneth, each of whom are African American.

9. Other than a couple of speeding tickets, Breonna had no criminal history. She was not violent and posed no threat to the community.

10. Breonna had no drugs in her home.

11. Kenneth, who had a license to carry, kept firearms in the home for protection.

12. Kenneth also had no history of violence and no history of drug offenses.

13. At 12:30 am on March 13, 2020 both Breonna and Kenneth were asleep in their bedroom.

14. Breonna's sister was out of town.

15. The Defendants were each working at the time.

16. Defendant Mattingly was an LMPD sergeant at the time Breonna was shot.

¹ *Exhibit A*: Jefferson District Court Order.

17. Defendant Cosgrove was an LMPD officer at the time Breonna was shot.
18. Cosgrove has a prior history of shooting a Louisville resident seven times.
19. Defendant Hankison was an LMPD officer at the time Breonna was shot.
20. Defendant Hankison has a prior history of unnecessary force and corruption within his employment.

21. Hankison's documented use of force history within LMPD is pages long, documenting dozens of situations where he has sent citizens to the hospital for injuries from being tased, pepper sprayed and struck repeatedly in the nose and eyes. Hankison has taken out his anger both while on the job and during his off-duty security detail at bars on Shelbyville Road. He has a history of fighting with citizens, breaking out car windshields with flashlights, and punching citizens with such force that Hankison himself has needed stitches in his hand.

22. The Defendant officers, on the early morning of March 13, 2020 had a warrant that they were going to execute at Breonna's home.

23. Also that morning, colleagues of the Defendants were executing one or more warrants at one or more additional Louisville locations in an effort to locate Jamarcus Glover.

24. LMPD requires that a Risk Assessment Matrix (LMPD #05-0016) be completed prior to the service of all search warrants.²

25. This is a ministerial duty of all LMPD officers.

26. There is a ministerial duty imposed upon LMPD commanding officers to complete an Arrest/Search Warrant Information Sheet (LMPD #05-0023) and notify the Special Weapons and Tactics (SWAT) Team Commander to coordinate a response if:

- a. The Risk Assessment Matrix score necessitates the use of the SWAT unit; or

² Louisville Metro Police Department Standard Operating Procedures (SOP) 8.1.13.

- b. The situation requires a mandatory SWAT unit call-out, as listed on the Risk Assessment Matrix, regardless of the score.³

27. The Defendants, none of whom were assigned to the SWAT unit at the time of the subject incident, each had a ministerial duty to refrain from executing the warrant on Breonna's home if either of the factors in paragraphs 26(a) or 26(b) above were present.

28. The Defendants did not adhere to this duty.

29. Defendant Mattingly, as the commanding officer in charge of executing the warrant on Breonna's home, had a ministerial duty to complete a Search Warrant Operations Plan form (LMPD #05-0025).⁴

30. Prior to warrant service, Defendant Mattingly, as the acting Incident Commander (IC) for service of the search warrant, was required to implement and follow the Incident Command System (ICS). Mattingly was required to conduct a briefing with all search team personnel that included:

- a. A review of operations and procedures that the search personnel will follow.
- b. An analysis of conditions at the premises utilizing maps, charts, and diagrams, when appropriate.
- c. Tactics and equipment that are to be used in the event of forced entry.
- d. A pre-planned hospital route.

31. The Defendants did not adhere to this duty, as evidenced by the fact that a hospital route had to be planned after the Defendants fired more than 20 shots into Breonna's home.

32. The Defendants were required, prior to executing the warrant, to notify Metrosafe

³ *Id.*

⁴ SOP 8.1.17

that the search warrant was being executed.⁵

33. The Defendants were required to wear body armor as part of the entry procedures into Breonna's home.⁶

34. Before entry to Breonna's home was made by the Defendants, the Defendant officers each had a ministerial duty to identify themselves as law enforcement officers and state their intent to execute a search.⁷

35. The Defendants did not adhere to this duty.

36. The Defendants each had a ministerial duty to comply with the terms of the warrant which, upon information and belief, included knocking and announcing themselves prior to entering Breonna's home and confirming prior to execution that probable cause still existed for the warrant's execution.

37. The Defendants did not adhere to this duty.

38. The Defendants, even with a valid search warrant, had a ministerial duty to call off the warrant's execution if the probable cause listed on the affidavit no longer existed.⁸

39. The Defendants did not adhere to this duty.

40. If the matrix identifies that the warrant's execution is high risk, then the SWAT unit is required to execute the warrant.

41. SWAT did not execute the warrant at Breonna Taylor's home.

42. SWAT did not execute the warrant at Jamarcus Glover's home.

43. LMPD was successful in locating Jamarcus Glover at his home, detaining him, executing a search, identifying drugs and firearms, and arresting Glover.

⁵ Id.

⁶ SOP 8.1.18

⁷ SOP 8.1.19

⁸ SOP 8.1.17

44. Glover was located and identified by LMPD prior to the warrant being executed at Breonna's home.

45. Despite this, the Defendants elected to proceed with executing the warrant at Breonna's home.

46. There were no drugs in Breonna's home.

47. The Defendant officers, despite determining that the warrant was of a low risk nature (and thus one which SWAT did not need to execute), had an ambulance staged around the corner from Breonna's home.

48. As confirmed by multiple neighbors, the Defendant officers did not knock or identify themselves prior to entering Breonna's home.

49. Knocking and announcing is critical for a warrant of this nature to be executed safely. Reasons include but are not limited to the following:

- a. The officers were in plain clothes;
- b. It was 12:40 in the morning;
- c. The home was part of a large unit of connected homes containing children;
- d. There was nothing to indicate that Breonna Taylor and Kenneth would flee or pose an unreasonable danger if the officers knocked and identified themselves as police; and
- e. Individuals, under several circumstances, have a lawful right to use deadly force in order to defend against those who enter their home.

50. The Defendant officers breached the front door and entered the home without knocking and without announcing themselves.

51. Breonna and Kenneth were awakened by the Defendants' unannounced entry into

their home.

52. They believed that their home had been broken into by criminals and that they were in significant, imminent danger.

53. Kenneth proceeded to call 911.

54. The Defendant officers fired their weapons into Breonna's home repeatedly.

55. The Defendants fired several shots into the home from outside on the patio.

56. The living room was obscured by curtains; the officers could not see anything inside the home (past the curtains) within their line of fire when shooting into the home through the glass.

57. The Defendants fired several shots into the home from outside of the second bedroom window.

58. The second bedroom window was obscured by a screen and blinds; there was no way that the officers could have had a reasonable line of sight when firing into the home from outside this window.

59. The Defendants did not have discretion to shoot blindly into Breonna's home in this manner.

60. The Defendants' gunshots struck objects in the home's living room, dining room, kitchen, bathroom, hallway and both bedrooms.

61. Several of the Defendants' gunshots traveled into the adjacent home, where a five-year-old child and pregnant mother were located.

62. Breonna was shot several times by the Defendants.

63. Breonna was unarmed when she was shot repeatedly.

64. Breonna posed no threat to the officers when she was shot repeatedly.

65. The Defendant officers acted intentionally, knowingly, unreasonably, maliciously,

negligently, recklessly, and in bad faith with deliberate indifference to the safety and rights of Breonna Taylor when they attempted to execute a warrant without the SWAT unit, proceeded with executing the warrant without probable cause, entered the home unannounced, entered the home without permission, entered the home without complying with the terms of the warrant, engaged in erratic gunfire and fired at Breonna, who was unarmed and posed no threat, in an intentional, erratic and deadly manner. These actions were objectively unreasonable.

66. The officers failed to use any sound reasonable judgment whatsoever when firing more than 25 blind shots into multiple homes and causing the wrongful death of Breonna.

67. The Defendants had absolute, certain and imperative duties to knock, announce their presence, give Breonna and Kenneth notice that they were peace officers there to serve a warrant, offer to show Breonna and Kenneth the warrant and afford the opportunity to be let into the home.

68. Breonna had committed no crime, posed no immediate threat to the safety of the Defendants, and did not actively resist or attempt to evade arrest prior to being repeatedly shot and killed by the Defendants.

69. The actions of the Defendant officers were made in bad faith, were performed with a corrupt motive, were outside the scope of the Defendants' authority, were executed willfully and with the intent to harm, and were in violation of Breonna's constitutional and statutory rights.

70. The Defendants knew or reasonably should have known that the actions taken would violate Breonna's rights.

71. The Defendants' actions were made with the malicious intention to cause a deprivation of Breonna's constitutional rights.

72. The Defendants unlawfully and forcibly entered Breonna's home, causing Breonna

and Kenneth to have a reasonable fear of imminent peril of death or great bodily harm.

73. Any defensive force used against the Defendants was due to their forcible and unlawful entry into Breonna's home.

74. Breonna and Kenneth knew, or had reason to believe, that an unlawful and forcible entry was occurring or had occurred at the time of any defensive force. The Defendants, under the facts which were present at the time of their entry into Breonna's home, had no lawful right to be in the home.

75. The Defendants did not identify themselves prior to or upon entry into the home, and neither Breonna nor Kenneth knew or reasonably should have known, prior to any use of defensive force, that the individuals in their home were peace officers.

76. The use of force on Breonna Taylor by the Defendants was unreasonable, excessive, and in violation of clearly established law prohibiting assault, battery, gross negligence.

77. As a direct and proximate result of the conduct of Defendants, Breonna Taylor suffered physical injury and emotional trauma when she was shot multiple times and then left to die.

78. As a further direct and proximate result of Breonna's wrongful death, her survivors, next of kin, and/or heirs have suffered permanent damages, including, but not limited to, Breonna's destruction of power to labor and earn income, funeral and burial costs, and other expenses, and will incur additional expenses in the future.

79. The Defendants' conduct was grossly negligent, reckless, malicious, willful, wanton, and conducted with a flagrant indifference for the value of human life with a subjective awareness that those within the residence would be seriously injured or killed. As such, punitive damages are necessary against the officers.

COUNT I***Battery***

80. Plaintiff incorporates the preceding paragraphs by reference.

81. On March 13, 2006 the Defendants, in intentionally shooting Breonna repeatedly without the privilege or authority to do so, committed battery upon her several times.

82. As a result of this conduct, Breonna Taylor suffered harm.

83. Plaintiff's damages secondary to the Defendants' conduct include Breonna's physical and emotional pain and suffering, destruction of power to labor and earn income, funeral and burial costs, as well any other damages secondary to the actions of the Defendants.

84. The Plaintiff is entitled to punitive damages due to the Defendants' conduct.

COUNT II***Wrongful Death***

85. Plaintiff incorporates the preceding paragraphs by reference.

86. The Defendants' actions caused the wrongful death of Breonna Taylor, resulting in damages recoverable under K.R.S. § 411.130 and K.R.S. § 411.133.

87. Plaintiff's damages secondary to the Defendants' conduct include Breonna's physical and emotional pain and suffering, destruction of power to labor and earn income, funeral and burial costs, as well any other damages secondary to the actions of the Defendants.

88. The Plaintiff is entitled to punitive damages due to the Defendants' conduct.

COUNT III***Excessive Force in Violation of KRS 431.025***

89. Plaintiff incorporates the preceding paragraphs by reference.

90. The Defendants each had a statutory duty, pursuant to KRS 431.025(3), to refrain

from using unnecessary force upon Breonna.

91. The Defendants used unnecessary force and violence upon Breonna Taylor in violation of KRS 431.025.

92. This statute was enacted to prevent the type of conduct associated with the Defendants.

93. The Defendants were negligent per se.

94. The Defendants' violations of this statute were direct and proximate causes of Breonna Taylor's death and the claimed damages herein.

95. Plaintiff's damages secondary to the Defendants' conduct include Breonna's physical and emotional pain and suffering, destruction of power to labor and earn income, funeral and burial costs, as well any other damages secondary to the actions of the Defendants.

96. The Plaintiff is entitled to punitive damages due to the Defendants' conduct.

COUNT IV

Negligence and Gross Negligence

97. Plaintiff incorporates the preceding paragraphs by reference.

98. Each of the Defendants breached their respective ministerial duties of reasonable care owed to Breonna Taylor, with said breaches serving as direct and proximate causes of her injuries and damages.

99. These ministerial duties included, but were not limited to:

- a. Mandatory activation of the SWAT team for the planning and execution of the search warrant.
- b. Calling off the warrant once the primary target was apprehended elsewhere.
- c. Calling off the warrant once probable cause no longer existed.

- d. Knocking and announcing prior to making entry into Breonna's home.
- e. Accurately, completely, and specifically completing the affidavit in support of the search warrant so that an informed decision could be made as to the probable cause for the warrant and its terms of execution.
- f. Refraining from blind gunfire into a home which the Defendants knew or should have known was occupied by an unarmed 26-year-old female.

100. The Defendants' failures to adhere to their ministerial duties owed to Breonna Taylor were a substantial factor in her death and the claimed damages herein.

101. Plaintiff's damages secondary to the Defendants' conduct include Breonna's physical and emotional pain and suffering, destruction of power to labor and earn income, funeral and burial costs, as well any other damages secondary to the actions of the Defendants.

102. The Plaintiff is entitled to punitive damages due to the Defendants' conduct.

VII. JURY DEMAND

103. Plaintiff hereby demands a trial by jury of all issues so triable.

VIII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands that this Court award the following:

- a. Compensatory damages in an amount to be shown at trial.
- b. Punitive damages in an amount to be shown at trial;
- c. Costs incurred in this action and reasonable attorney fees;
- d. Prejudgment and post-judgment interest; and
- e. Such other and further relief as the Court may deem just and proper.

Respectfully Submitted,

SAM AGUIAR INJURY LAWYERS, PLLC

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