

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

CAROLYN GIUMMO and)
ANTHONY S. HILL, SR.,)
Individually, and as Surviving)
Parents and as Personal)
Representative of the Estate of)
ANTHONY S. HILL,)

Plaintiffs,

)
) CIVIL ACTION NO. _____
)

v.)

)
)
ROBERT OLSEN, individually and)
in his official capacity as a law)
enforcement officer for the)
DEKALB COUNTY Police)
Department; LEE MAY, individually)
and in his official capacity as CEO of)
the County of DeKalb; THE)
BOARD OF COMMISSIONERS of)
the County of DeKalb, a corporate)
and body politic, and the COUNTY)
OF DEKALB, a municipal)
corporation governmental entity,

) JURY TRIAL DEMANDED
)
)

Defendants.

COMPLAINT

COME NOW, Plaintiffs CAROLYN GIUMMO and ANTHONY S. HILL,
SR., as Surviving Parents and as Personal Representative of the Estate of
ANTHONY S. HILL (Deceased), by and through the undersigned counsel, and

hereby file this Complaint against Defendants, ROBERT OLSEN, individually and in his official capacity as an officer of the DEKALB COUNTY Police Department (hereinafter, “OLSEN”); LEE MAY, individually and in his official capacity as the Chief Executive Officer of DEKALB COUNTY (hereinafter, “MAY”), the BOARD OF COMMISSIONERS OF THE COUNTY OF DEKALB, a corporate and body politic, and the COUNTY OF DEKALB (hereinafter “DEKALB COUNTY”), a municipality and governmental entity (referred to as, “DEFENDANTS”), alleging and stating as follows:

INTRODUCTION

1.

This is an action for damages arising from the wrongful shooting death of ANTHONY S. HILL, an unarmed civilian and veteran of the United States Armed Services, by Officer ROBERT OLSEN, a police officer and an employee of the DEKALB COUNTY Police Department (hereinafter “DKPD”) in DEKALB COUNTY, Georgia, on March 9, 2015. The Plaintiffs, CAROLYN GIUMMO and ANTHONY S. HILL, SR., as surviving parents of ANTHONY S. HILL, and as the duly appointed Personal Representative of the Estate of ANTHONY S. HILL, Deceased, bring this lawsuit as a result of multiple violations of ANTHONY S.

HILL's rights as guaranteed by the United States Constitution and the Constitution of the State of Georgia.

2.

On March 9, 2015, officers of the DEKALB COUNTY Police Department, including OLSEN, used illegal and excessive force upon the person of ANTHONY S. HILL during a 911 call for emergency medical assistance for HILL, who at that place and time was experiencing a non-violent mental episode emanating from a mental disorder developed while serving in the U.S. military in Afghanistan.

3.

Absent lawful justification, Officer OLSEN of the DEKALB COUNTY Police Department suddenly opened fire and shot and killed ANTHONY S. HILL with two hollow point bullets. ANTHONY S. HILL was unarmed, unclothed, and displaying no signs of aggression at the time of the shooting, and he presented no threat to Officer OLSEN or anyone else.

4.

ANTHONY S. HILL's violent death was the direct result of a policy and practice on the part of DEKALB COUNTY and its officials. Specifically, DEKALB COUNTY failed to implement adequate policies and procedures for responding to calls for service involving citizens exhibiting traits of a mental or

psychological disorder; the Defendants failed to assign officers with specialized training in responding to mental illness calls for service, and failed to equip all of its officers, including OLSEN, with training on identifying and de-escalating calls for service involving individuals with mental illness. Further, DEKALB COUNTY failed to train its officers, including OLSEN, for interacting with mentally ill citizens in its County. ANTHONY S. HILL died because of this policy and practice. As such, DEKALB COUNTY and all named Defendants are responsible for his death.

Jurisdiction and Venue

5.

This action is brought pursuant to 42 U.S.C. § 1983 to redress the deprivation under color of law of Plaintiffs' rights as secured by the United States Constitution, and the Judicial Code §§ 1331 and 1343(a).

6.

The Court has jurisdiction over Plaintiff's federal claims under 28 U.S.C. §§ 1331 and 1343, in addition to 42 U.S.C. § 1983. Moreover, this Court has pendent jurisdiction over the state law claims as they are part of the same "case" or "controversy" for the purposes of Article III of the United States Constitution.

7.

Venue properly lies in the United States District Court for the Northern District of Georgia, Atlanta Division, pursuant to 28 U.S.C. § 1391(b) as the unlawful practices alleged below were committed in DEKALB COUNTY, within this judicial district and because the Defendants are domiciled in this judicial district.

PARTIES

8.

At all times relevant to this action, ANTHONY S. HILL (Deceased) was a citizen and resident of DEKALB COUNTY, Georgia.

9.

At all times relevant to this action, CAROLYN GUIMMO, Personal Representative of the Estate of ANTHONY S. HILL, was the natural and legal mother of ANTHONY S. HILL (hereinafter, “Mr. HILL”), and an individual citizen residing in Moncks Corners, Berkley County, South Carolina. CAROLYN GUIMMO was unmarried at the time of her son’s death.

10.

At all times relevant to this action, ANTHONY S. HILL, SR., the surviving natural and legal father of Mr. HILL, was an individual residing in Evergreen Park, Cook County, Illinois

11.

At all times relevant to this action, Defendants ROBERT OLSEN was a police officer employed by Defendant DEKALB COUNTY, working as a law enforcement officer for DKPD, and acting within the course and scope of his employment, under the color of law, statutes, regulations, customs, practices and usage of Defendant DEKALB COUNTY and the State of Georgia. Defendant OLSEN without legal cause or excuse used illegal and excessive force against ANTHONY S. HILL, killing him, in violation of his rights under the Fourth, Eighth, and Fourteenth Amendments to the United States Constitution. He is sued both in his individual and official capacities for compensatory and punitive damages.

12.

At all times relevant to this action, Defendant LEE MAY was employed as the Chief Executive Officer for Defendant DEKALB COUNTY, and was acting as an agent of DEKALB COUNTY within the scope of his duties as an elected officer

of DEKALB COUNTY and under the color of laws, statutes, regulations, customs, practices and usage of DEKALB COUNTY and the State of Georgia. As such, Defendant MAY was and is responsible for the policies, practices, procedures and administration of the DKPD. He is sued individually, and in his official capacity as Chief Executive Officer of DEKALB COUNTY.

13.

DEKALB COUNTY is now, and was at all times relevant to this action, a body corporate as defined by O.C.G.A. § 36-1-3 and is a governmental subdivision of the State of Georgia. DEKALB COUNTY is a governmental unit responsible under State Law for properly maintaining, operating, and funding the DKPD. At all times relevant to this action, Defendant DEKALB COUNTY acted through the DKPD and various other employees and officials of the DKPD and DEKALB COUNTY. The acts, edicts and practices of said persons represent the official policies of Defendant DEKALB COUNTY.

14.

THE DEKALB COUNTY BOARD OF COMMISSIONERS (hereinafter, the "BOARD") is now and was at all times relevant to this action, a body politic as of DEKALB COUNTY. The BOARD is a governmental unit responsible under State Law for properly maintaining, operating, and funding the DKPD. At all times

relevant to this action, The BOARD acted through the DKPD and various other employees and officials of DEKALB COUNTY. The acts, edicts and practices of the BOARD represent the official policies of Defendant DEKALB COUNTY.

15.

At all times relevant to this action, the violations set forth in this Complaint were committed as a result of the deliberate indifference and careless disregard of Defendants OLSEN, MAY and the BOARD, in their official capacity as Police Officer, DEKALB COUNTY CEO, and DEKALB COUNTY Commissioners, respectively, of DEKALB COUNTY, and pursuant to the laws, policies, customs and/or usage of Defendant DEKALB COUNTY.

FACTUAL BACKGROUND

16.

It is commonly known among law enforcement administrators and officers in major metropolitan areas, to include DEKALB COUNTY, that more than ten percent of U.S. citizens experience some degree or designation of mental illness or psychological disorder.

17.

DEKALB COUNTY's land territory covers various suburbs of the City of Atlanta as well as certain areas of Atlanta proper. Atlanta is the sixth largest city in America and is considered a major metropolitan area.

18.

The Atlanta Veterans Administration Medical Center is located on Clairmont Road in Decatur, Georgia which is also in DEKALB COUNTY.

19.

It is well known, and was or should have been known to Defendants on March 9, 2015, that Veterans of present and past wars face a greater propensity for clinical diagnosis of mental or psychological disorder upon returning home from war. Up to thirty-one percent of American Veterans of the Iraq and Afghanistan War suffered from Post Traumatic Stress Disorder within one year of returning from deployment.

20.

It is commonly known, and was or should have been known to Defendants on March 9, 2015 at the time of Mr. HILL's shooting death, that American Veterans of past, present, and pending wars reside in the greater metropolitan Atlanta area, including DEKALB COUNTY.

21.

It is commonly known, and was or should have been known to Defendants on March 9, 2015, at the time of Mr. HILL's shooting death, that American Veterans of past, present, and pending wars residing in the greater metropolitan Atlanta area frequent DEKALB COUNTY to visit and/or treat with the Veterans Administration Medical Center in Decatur, Georgia.

22.

It is commonly known among law enforcement officials and administrators, and was or should have been known to Defendants on March 9, 2015, at the time of Mr. HILL's shooting death, that, since the deinstitutionalization of mental health in the 1960s and the federal funding cuts to mental health funding, police officers now are often the most initial common responders engaging citizens experiencing a mental health episode.

23.

Law enforcement administrators and officials know, and Defendants in particular knew or should have known at the time of the shooting death of Mr. HILL on March 9, 2015, that it is the decision of their officers in the field that determines whether an encounter with an unarmed mentally ill citizen is hostile or peaceful, whether such encounter will result in arrest or medical facility admission,

and whether the encounter ends in death or continued life for the mentally ill patient.

24.

Use of force by law enforcement officers interacting with mentally ill citizens exceeds that of law enforcement officer interactions with citizens who do not suffer from a mental illness.¹

25.

Anticipating these types of encounters with law enforcement and mentally ill citizens, many police departments and law enforcement administrators and officials develop, implement, and re-enforce services and trainings such as The Crisis Intervention Team (CIT) model to enhance officers' interactions with individuals with mental illnesses, train their officers as to de-escalation when dealing with those experiencing Post Traumatic Stress Disorder and various mental health conditions, aid departments in installing policies within Police Departments for safely handling encounters with the mentally ill and to improve the safety of all parties involved in the mental health crises.

¹ R.S. Engel and E. Silver, "Policing Mentally Disordered Suspects: A Reexamination of the Criminalization Hypothesis," *Criminology* 39 (2001): 225-253.

26.

Defendants knew or in the exercise of due diligence should have known on the day and time that Police Officers under their command need more specialized training to be fully equipped to deal with the mentally ill while in the course of their duties.

27.

At all times relevant to this action, ANTHONY S. HILL was an adult citizen of the United States of America residing in DEKALB COUNTY, Georgia. As such, Mr. HILL was entitled to exercise all of the rights and privileges provided by the Constitutions of the State of Georgia and the United States of America, including the Fourth Amendment.

PRIOR INCIDENTS OF AGGRESSIVE MISCONDUCT BY OFFICER OLSEN

28.

Officer OLSEN has a long and extensive history of aggressive conduct as a Police Officer for the DKPD. The DKPD and DEKALB COUNTY officials knew of OLSEN's track record and propensity toward anger when dealing with members of the public.

29.

On December 2, 2009 the DKPD fielded a Complaint from a civilian bearing the initials “M.L.” M.L. reported that OLSEN was rude and used fowl, profane and offensive language toward her during a traffic stop.

30.

Less than two months later, on January 20, 2010 Officer OLSEN was issued a written counseling warning by the Dekalb Police Department for his violation of the DEKALB COUNTY Police Department Employee Manual, Section 2-2.12 “Professional Image.” The DKPD fielded a Complaint for Officer OLSEN’s use of profane language during a routine traffic stop. OLSEN initially stated he did not recollect using the “F” Word during the stop but changed his statement upon hearing an audio recording of his exchange with the detained civilian.

31.

Interestingly, other DEKALB COUNTY Police Officers who were on the scene supported OLSEN’s initial statement, claiming they did not hear OLSEN use profanity or witness OLSEN acting in an unprofessional manner during the traffic stop.

32.

Again on July 5, 2010, the DKPD logged a Complaint against OLSEN by a civilian bearing the initials, "J. S." J.S. reported that Officer OLSEN who was rude and refused to explain why he had pulled J.S. over on a traffic stop.

33.

On June 13, 2011, another incident was reported against Defendant OLSEN by civilian "K.M." K.M. reported that Defendant OLSEN was being rude, speaking in an angry manner, and also wrote in her statement the following: "I would seriously suggest enrolling him [OLSEN] in some kind of people skills course or anger management course."

34.

Following K.M.'s Complaint, Investigator "Sgt. B" of the DKPD recommends that Defendant OLSEN take a sensitivity training class or a class dealing with the public.

35.

On July 13, 2011, Lieutenant V.C. Dankewich of the DKPD North Precinct transmits an email to Lieutenant Kevin Brown, Assistant Training Section Commander, which stated the following concerning OLSEN: "I have a guy that I need to get into a verbal judo or something similar for some people skills. He has

had a couple of complaints on dealing with the public and I need to get him into any kind of class that's out there. Any ideas?"

36.

On or about April 27, 2012, Defendant OLSEN was administered a verbal warning for issuing two improper and erroneous traffic citations to a civilian motorist. OLSEN gave civilian motorist "A.C." a completely erroneous traffic citation for brake light violation and driving without a license. Both violations were found to have been issued in error. Verbal counseling was recommended.

37.

The aforementioned complaints taken as a whole bespeak of Defendant OLSEN's inability to control his anger, and an unreasonably aggressive demeanor of hostility, impulsive angry outbursts, threatening use of profanity, and a pattern of excessive display of authority.

INADEQUATE TRAINING OF OFFICER OLSEN

38.

Officer OLSEN began employment with the DKPD in January 1998 as a Police Officer.

39.

Of the approximate 1,948 hours of training OLSEN has received during his seven year tenure with the DKPD he has had only seven hours of training in the Use of Deadly Force.

40.

At all times relevant to this action, Defendants MAY, The BOARD and DEKALB COUNTY, acting through the DKPD, had issued Officer OLSEN a firearm for use in his law enforcement duties for the DKPD. As such, Defendants had actual knowledge of OLSEN's possession and use of said lethal firearm.

41.

At all times relevant to this action, Defendants MAY, the BOARD and DEKALB COUNTY, acting through the DKPD, issued Officer OLSEN non-lethal and less lethal weapons for use in his law enforcement duties and activities for the DKPD, including but not limited to an expandable baton, a canister of pepper spray, and a Taser device and/or stun gun. Defendant OLSEN's possession and use of the less lethal weapons were with the actual knowledge and consent of Defendants.

42.

Prior to March 9, 2015, Officer OLSEN had received reprimands due to his rough and aggressive interactions with the public. Despite the knowledge of his superiors at DKPD of these repeat offenses of aggression and hostility on the part of Officer OLSEN, and further despite that OLSEN's superiors recommended him for more training in sensitivity and possibly anger management, the DKPD, and Defendants allowed Officer OLSEN to patrol the streets of DEKALB COUNTY alone and armed with a lethal weapon.

40.

In his Civil Grand Jury Hearing, OLSEN testified under oath and cast the blame for the shooting on the DKPD, alleging the Department's failure to sufficiently train him and other officers in the Department on non-violent encounters with unarmed persons experiencing a psychological episode.

41.

In his Civil Grand Jury Hearing, OLSEN blamed the DKPD for failing to train him and the other officers in the Department in identifying and deciphering non-violent or non-aggressive psychological episodes versus the threat of a potentially violent encounter with a citizen high on PCP.

42.

ANTHONY S. HILL did not have any traces of PCP or “Bath Salts” in his system at the time of his fatal encounter with Defendant OLSEN.

43.

Defendant OLSEN admitted in his Civil Grand Jury Hearing that he racially profiled Mr. HILL when he engaged him.

ANTHONY S. HILL

44.

Mr. HILL had no prior criminal history.

45.

Mr. HILL served this country as a member of the United States Air Force, attending his final duty in Afghanistan until he was medically discharged.

46.

Mr. HILL was 26 years of age, actively pursuing a career in music, and had a loving relationship with his girlfriend and family.

47.

Mr. HILL was very active on social media, using his voice to raise awareness for those in the community living with mental illness.

ALLEGATIONS OF FACT

48.

On March 9, 2015, Mr. HILL was lawfully residing at The Heights at Chamblee Apartment Complex, located at 3255 Chamblee Dunwoody Road, Chamblee, Georgia 30341.

49.

Upon information and belief, on March 9, 2015, Mr. Hill experienced a mental illness episode stemming from his bipolar disorder, causing him to remove his clothing, jump from his balcony, and stumble around the parking lot of his apartment complex.

50.

Upon seeing Mr. HILL in the parking lot naked, looking stunned and confused, Griselle Torres, an employee in the leasing office of the apartment complex where Mr. HILL resided, placed a 9-1-1 call to request emergency medical assistance for Mr. HILL.

51.

Upon information and belief, Ms. Torres repeatedly called 9-1-1, never having an ambulance arrive. She finally asked the dispatcher for any help DEKALB

COUNTY could offer, reiterating that Mr. HILL was not aggressive, but needed medical assistance as she was concerned.

52.

Although the DKPD has a crisis response team specifically to deal with the mentally ill, its hours and staff are so limited that they were not on duty at the time of Mr. HILL's episode on March 9, 2015.

53.

Upon information and belief, Defendant OLSEN responded to the 9-1-1 call at approximately 1:00 p.m., discovering Mr. HILL on his hands and knees approximately 180 feet away from OLSEN in his squad car.

54.

Mr. HILL was not committing a crime nor did he appear to be involved in any criminal act which would threaten the safety of any person or persons in and/or around the apartment complex.

55.

At the time Mr. HILL was observed by Defendant OLSEN, Mr. HILL was not engaging in any conduct sufficient for a reasonable person to develop an objectively reasonable belief that he posed a threat of physical harm to the general public or Defendant OLSEN.

56.

Defendant OLSEN had no reasonable basis to believe that ANTHONY S. HILL posed a threat of physical harm to OLSEN or that OLSEN should reasonably fear for his life.

57.

Mr. HILL slowly approached OLSEN with his arms stretched wide open out to his side, showing that he was unarmed. As Mr. HILL was nude and completely exposed, OLSEN had no reasonable basis to form the suspicion that Mr. HILL was armed or dangerous.

58.

As Mr. HILL slowly walked toward Officer OLSEN in search of medical attention, OLSEN twice told Mr. HILL to stop.

59.

Without first attempting to deploy any of the non-lethal or less lethal means available to him, or choosing to stay in his vehicle and wait until back-up arrived to intervene, Defendant OLSEN pulled out his gun, pointed it at Mr. HILL, and opened fire leveling two hollow point bullets into ANTHONY S. HILL'S neck and chest.

60.

Mr. HILL fell to his knees due to the two lethal shots inflicted by Officer OLSEN.

61.

Officer OLSEN laid Mr. HILL on the ground on his stomach then rolled him over onto his back, making no effort to cover his naked body, to offer him medical assistance, or to secure the scene until back-up and emergency vehicles arrived.

62.

ANTHONY S. HILL died from the lethal gunshot wounds inflicted by Officer OLSEN.

63.

The DKPD has adopted written use of force regulations for use by its officers which limit the amount of force that can be used by an officer against a citizen.

64.

The DKPD guidelines restrict the use of force to situations where the officer has an objectively reasonable belief that the individual to be subdued is engaged in “Aggravated, Active Aggression.”

65.

The DKPD policy defines “Aggravated Active Aggression” as actions by an individual “that are likely to result in death or serious bodily injury to an officer.” These actions may include discharge of a firearm, use of a blunt or bladed weapon, and extreme physical force that threatens the health and safety of the officers or members of the general public.

66.

Mr. HILL never engaged in any conduct which could reasonably or objectively be interpreted as “Aggravated, Active Aggression” during his encounter with Officer OLSEN on March 9, 2015.

67.

At all times relevant to this action, The DKPD did not have policies in place ensuring that their officers were adequately trained on how to deal with members of the community who suffer from mental illness.

68.

As a direct and proximate result of the aforementioned acts of Defendants OLSEN, MAY, the BOARD, and DEKALB COUNTY, the decedent, ANTHONY S. HILL suffered fatal injuries.

69.

The actions of Defendants OLSEN, MAY, the BOARD, and DEKALB COUNTY violated clearly established and well settled federal constitutional rights of the decedent, ANTHONY S. HILL including:

- a. Freedom from cruel and unusual punishment; and
- b. Freedom from the use of excessive, unreasonable, and unjustified force against his person.

70.

All conditions precedent to the bringing of this action have been performed, waived, or otherwise excused.

COUNT I
42. U.S.C. § 1983 CLAIM AGAINST DEFENDANT Officer OLSON

71.

Plaintiffs reallege paragraphs 1 through 70 as if specifically set forth herein and further alleges:

72.

At all times material hereto, Defendant, Officer OLSEN, acted under color of law and pursuant to official policy, customs and/or usage as a member of the DEKALB COUNTY Police Department, and he subjected the decedent, ANTHONY S. HILL, to the deprivation of rights and privileges secured to him by

the Constitution of the United States, including the constitutional right to (1) not be deprived of his liberty, (2) due process of law, (3) be free from the use of excess and illegal force against his person, and (4) not be subjected to cruel and unusual punishment under the Fourth, Eighth, and Fourteenth Amendments to the United States Constitution.

73.

At all times material hereto, Defendant Officer OLSEN acted under color of law and with malice deliberate indifference and/or reckless, callous and gross disregard to the aforementioned rights of the decedent, ANTHONY S. HILL.

74.

Plaintiffs, CAROLYN GIUMMO and ANTHONY S. HILL, SR. Individually and as Surviving Parents and Personal Representative of the Estate of ANTHONY S. HILL, deceased, claim damages for the wrongful death of ANTHONY S. HILL as allowed under the Georgia law and other damages. Such damages include the full value of life of ANTHONY S. HILL as well as funeral and burial expenses under 42 U.S.C. §§1983 and 1988 and the Wrongful Death statutes under Georgia law.

WHEREFORE, Plaintiffs demand compensatory and punitive damages against Defendant Officer OLSEN, in his individual and official capacity,

attorneys fees, costs, and further demands trial by jury of all issues triable as of right by a jury.

COUNT II

**42. U.S.C. § 1983 CLAIM AGAINST DEFENDANT LEE MAY
AS DEKALB COUNTY CEO and DEFENDANT The BOARD OF
COMMISSIONERS OF DEKALB COUNTY**

75.

The Plaintiffs reallege paragraphs 1 through 74 as if specifically set forth herein, and further alleges:

76.

At all times material hereto, Defendants MAY and the BOARD were responsible for the day to day operation of DEKALB COUNTY, including the DEKALB COUNTY Police Department, and for adopting and implementing rules and regulations for employees of Defendant DEKALB COUNTY, including police officers DKPD.

77.

At all times material hereto, Defendants MAY and the BOARD were responsible for implementing the rules, regulations, policies, and procedures in regard to hiring, screening, training, supervising, controlling, disciplining,

assigning, and terminating police officers relating to their duties in the DKPD and the performance of their responsibilities as the CEO of Dekalb County and the governmental body of said County.

78.

At all times material hereto, Defendants MAY and the BOARD knew, or had they diligently exercised their official duties and used reasonable care, should have known, that the policies, procedures customs and/or usage of the DKPD, and the hiring, screening, training, supervising, controlling, disciplining, assigning and terminating of its police officers were severely deficient because of numerous complaints to DEKALB COUNTY and DKPD of, inter alia, cruel and unusual punishment and the use of illegal and excessive force which constituted violations of Federal Constitutional rights on the part of its police officers.

79.

At all times material hereto, Defendants MAY and the BOARD knew, or had they diligently exercised their official duties and used reasonable care, should have known, that the problem of cruel and unusual punishment, and the

use of illegal and excessive force which constituted violations of Federal Constitutional rights on the part of DEKALB COUNTY police officers was a prevalent problem existing in DEKALB COUNTY.

80.

At all times material hereto, Defendants MAY and the BOARD were deliberately indifferent in that they either expressly or impliedly acknowledged and assented to the failure to train and/or supervise and/or control and/or discipline and/or otherwise screen employees of DKPD including, but not limited to, Defendant OLSEN, for dangerous propensities, lack of training and/or skill or other characteristics making said officer unfit to perform his duties.

81.

At all times material hereto, Defendants MAY and the BOARD were deliberately indifferent to the rights of the public, including the decedent, ANTHONY S. HILL, in that they failed to determine whether members of the DKPD, including Defendant OLSEN, posed a threat to the public as a result

of his propensity to commit unlawful acts and to engage in violent activity including the use of illegal and excessive force.

82.

At all times material hereto, Defendants MAY and the BOARD through their deliberate indifference, failed to ensure that police officers of the DKPD did not violate the constitutional and statutory rights of citizens of the State of Georgia, including the decedent, ANTHONY S. HILL, while said police officers were acting under color of state law for DEKALB COUNTY.

83.

At all times material hereto, Defendants MAY and the BOARD acted with deliberate indifference and reckless and/or callous disregard for the rights of persons, including decedent, ANTHONY S. HILL, who might be assaulted, injured, battered or killed by police officers of the DKPD who had been inadequately trained and/or supervised and/or disciplined.

84.

Despite the notice and knowledge of Defendants MAY and the BOARD as to the dangerous propensities of DKPD officers, specifically, Officer OLSEN,

Defendants MAY and the BOARD failed to implement any policies, procedures or programs to properly train and/or discipline said officer or otherwise intentionally failed to protect the public, including decedent, ANTHONY S. HILL, from such danger.

85.

At all times material hereto, Defendants MAY and the BOARD were deliberately indifferent in the selection and/or training and/or supervision and/or control and/or disciplining and/or retention of DKPD officers, including Defendant OLSEN as an officer of the DKPD in that, inter alia:

a. They appointed Defendant OLSEN as a police officer when they knew, or had they diligently exercised their official duties and used reasonable care, should have known, of the disposition of said police officer to engage in such unlawful conduct pursuant to official policies, customs and/or usage; and

b. Despite the fact that they knew, or had they diligently exercised their official duties and used reasonable care, should have known, that this pattern of conduct pursuant to official policies, customs and/or usage was being carried out by DEKALB COUNTY police officers, including Defendant Olsen, with

deliberate indifference, malice and reckless disregard to the rights of the decedent, ANTHONY S. HILL, failed and refused to:

1. Remove police officers, including Defendant OLSEN from his position as police officer;
2. Take any meaningful disciplinary action against police officers, including Defendant OLSEN;
3. Take steps to properly train police officers, including Defendant OLSEN; and
4. Implement proper policies and procedures to provide redress for citizens such as the decedent, ANTHONY S. HILL who was fatally injured thereby.

86.

At all times material hereto, the deliberate indifference of Defendants MAY and the BOARD, as aforementioned, violated the constitutional rights of all persons, including decedent ANTHONY S. HILL, for which 42 U.S.C. §1983 provides a remedy.

87.

The fatal injuries of ANTHONY S. HILL were caused by the previously described acts, omissions, policies or customs of Defendant MAY and the BOARD.

88.

As a direct and proximate result of the acts and omissions described above, in violation of the United States Constitution Plaintiffs, CAROLYN GIUMMO and ANTHONY S. HILL, SR., as Surviving Parents and Personal Representative of the Estate of ANTHONY S. HILL, deceased, claim damages for the wrongful death of ANTHONY S. HILL as allowed under the Georgia law and other damages. Such damages include the full value of life of ANTHONY S. HILL as well as funeral and burial expenses under 42 U.S.C. §§1983 and 1988 and the Wrongful Death statutes under Georgia law.

WHEREFORE, Plaintiffs demand compensatory and punitive damages against Defendant MAY and the BOARD, in his individual and official capacity, attorneys fees, costs, and further demands trial by jury of all issues triable as of right by a jury.

COUNT III
42 U.S.C. § 1983 CLAIM AGAINST
DEFENDANT DEKALB COUNTY

89.

The Plaintiffs reallege paragraphs 1 through 88 as if specifically set forth herein and further allege:

90.

At all times material hereto, Defendant DEKALB COUNTY, by and through its agents and/or employees, Defendants MAY and the BOARD, acting within the course and scope of their agency and/or employment, permitted and tolerated, and caused a pattern and practice of unjustified, unreasonable use of force against members of the public, including the decedent, ANTHONY S. HILL by police officers, specifically Defendant OLSEN a police officer of Defendant DEKALB COUNTY. Although such acts were improper, the police officer involved was not prosecuted and/or disciplined and/or subjected to retraining, and some of said incidents were in fact covered up with official claims that Officer OLSEN's claims were justified and proper. As a result, DKPD police officers including Defendant OLSEN were caused and encouraged to believe that members of the public, including decedent, ANTHONY S. HILL, could be subjected to

illegal use of force and excessive force would in fact, be permitted and for tolerated by Defendant DEKALB COUNTY.

91.

At all times material hereto, Defendant DEKALB COUNTY through its police department and officers, maintained a custom of using cruel and usual punishment and excessive force.

92.

At all times material hereto, the cited conduct represents a pattern in which citizens including the decedent, ANTHONY S. HILL, were injured, endangered, or killed by the deliberate and intentional and/or reckless misconduct of the Defendant DEKALB COUNTY police officers, specifically, Officer OLSEN, and serious incompetence or misbehavior was widespread throughout the Defendant DEKALB COUNTY Police Department.

93.

At all times material hereto, Defendant DEKALB COUNTY maintained a system of review of incidents of abuse of lawful authority such as use of cruel and unusual punishment and illegal use of force by its police officers, and complaints thereof, which has failed to identify such unlawful conduct by its police officers, and further failed to subject police officers who employed such acts to appropriate

discipline and/or supervision, and/or retraining and/or termination, to the extent that it has become the de facto policy and custom of Defendant DEKALB COUNTY to permit and/or tolerate such acts by its police officers.

94.

Defendant DEKALB COUNTY through Defendants MAY and the BOARD, and DKPD along with its police officers, have maintained a long-standing, widespread history of failure to properly hire and/or train and/or supervise and/or discipline and/or retrain and/or terminate its police officers for, among other things, unlawful use of cruel and unusual punishment and illegal use of force even though it had notice of this unlawful conduct by its agents and/or employees.

95.

At all times material hereto, the foregoing acts, omissions, policies or customs of Defendant DEKALB COUNTY caused its police officers including Defendant OLSEN, to believe that acts such as cruel and unusual punishment and illegal use of force, among other things, would not be properly monitored by supervisory officers, and would not be investigated or sanctioned, but instead would be permitted and/or tolerated, with the foreseeable result that its police

officers, specifically and including Defendant OLSEN were more likely to use cruel and unusual punishment and excessive force.

96.

At all times material hereto, decedent, ANTHONY S. HILL, was a victim of said abuses of lawful authority and said illegal acts were the direct result of the previously described acts, omissions, policies, or customs of Defendant DEKALB COUNTY.

97.

As a direct and proximate result of the acts described above, in violation of the United States Constitution, Plaintiffs make this claim for wrongful death of ANTHONY S. HILL as the Personal Representatives of the Estate and as Surviving Parents.

98.

At all times material hereto, Plaintiffs, CAROLYN GIUMMO and ANTHONY S. HILL, SR. Individually and as Surviving Parents and Personal Representative of the Estate of ANTHONY S. HILL, deceased, claim damages for the wrongful death of ANTHONY S. HILL as allowed under the Georgia law and other damages. Such damages include the full value of life of ANTHONY S. HILL

as well as funeral and burial expenses under 42 U.S.C. §§1983 and 1988 and the Wrongful Death statutes under Georgia law.

WHEREFORE, Plaintiffs demand compensatory and punitive damages against Defendant DEKALB COUNTY, in his individual and official capacity, attorneys fees, costs, and further demands trial by jury of all issues triable as of right by a jury.

COUNT IV
WRONGFUL DEATH CLAIM AGAINST ALL DEFENDANTS

Plaintiff adopts and incorporates by reference paragraphs 1 through 98 of her Complaint for Damages as if said paragraphs are set forth fully herein.

99.

The negligent conduct of all Defendants as set forth in this Complaint for Damages actually and proximately caused the wrongful death of Anthony Hill on March 9, 2015.

100.

As a result of Defendants' deliberate use of excessive force and cruel and unusual punishment, Anthony Hill suffered fatal injuries.

101.

Consequently, Plaintiff brings this action pursuant to the provisions of O.C.G.A. § 51-4-2 and other applicable laws of this state to recover the full value of the life of Anthony Hill, without any deductions for necessary or other personal expenses that would have been incurred by the decedent had he lived.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief:

- a. that Plaintiff recovers for the deprivation of Anthony Hill's civil rights and liberties in an amount to be determined by the enlightened conscience of a jury;
- b. that Plaintiff recovers for Anthony Hill's death in an amount to be determined by the enlightened conscience of the jury;
- c. that Plaintiff recovers punitive damages in an amount to be determined by the enlightened conscience of a jury;
- d. that Plaintiff recovers reasonable attorney's fees and costs of litigation as allowed under 42 U.S.C. § 1988 and state law;
- e. that Plaintiff is given equitable and injunctive relief to enjoin the Defendants for having a policy, practice and custom of disregarding the medical needs of detainees with medical health issues; and

- f. that Plaintiff recovers such other and further relief as is just and proper; and that all issues be tried before a jury.

This 11th day of November, 2015.

THE CHESTNUT FIRM, LLC

/s/ Tracey Blackwell
Tracey Blackwell, Esq.
Georgia Bar No.: 732752
303 Peachtree Street NE, Suite 4150
Atlanta, GA 30308
TELEPHONE (470) 428-2120
FACSIMILE (855) 377-2667
tblackwell@chestnutfirm.com
ATTORNEY FOR PLAINTIFFS