

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

The ESTATE OF JOSEPH LOPEZ,)	
by Administrator Joe Lopez,)	
)	
Plaintiff,)	No. 22-cv-421
)	
v.)	
)	
Greensboro Police Department Officer)	
MATTHEW HAMILTON, and the CITY OF)	
GREENSBORO,)	
)	
Defendants.)	Jury Trial Demanded

COMPLAINT

NOW COMES Plaintiff ESTATE OF JOSEPH LOPEZ, by Administrator Joe Lopez, for his Complaint against Defendant Greensboro Police Officer MATTHEW HAMILTON, states:

PRELIMINARY STATEMENT

1. Joseph Lopez—a loving 29 year-old Mexican-American son, brother, cousin and friend—was shot in the face and killed with no justification by Defendant Greensboro Police Officer Matthew Hamilton. Joseph’s father, Joe Lopez, the administrator of Joseph’s estate, brings this civil rights action for damages and other relief for the death of his son.

2. Defendant Hamilton’s use of deadly force was unnecessary, unreasonable and excessive because Joseph was unarmed, made no threats and presented no immediate danger to Hamilton or others.

3. This action, brought pursuant to 42 U.S.C. § 1983 and the laws of North Carolina, seeks some measure of accountability and redress for the actions of Defendant Hamilton and the policies and practices of Defendant City of Greensboro through its Police Department, which have left Joseph’s family irreparably harmed.

JURISDICTION AND VENUE

4. This action is brought pursuant to 42 U.S.C. § 1983 to redress the deprivation under color of law of Plaintiff's rights as secured by the United States Constitution.

5. This Court has jurisdiction over federal claims pursuant to 28 U.S.C. § 1331 and state law claims pursuant to 28 U.S.C. § 1367.

6. Venue is proper under 28 U.S.C. § 1391(b). Defendant Hamilton resides within this judicial district. Additionally, the events giving rise to the claims asserted herein occurred within this judicial district.

PARTIES

7. Plaintiff Joe Lopez is the father of Joseph Lopez, he is a resident of the City of Greensboro, and he has been appointed by the Guilford County Clerk of Superior Court, North Carolina to serve as the administrator of the estate of Joseph Lopez. Joe Lopez is a party to this action solely in his capacity as the administrator of his son's estate.

8. Defendant Matthew Hamilton was at all times relevant to this action employed as a police officer in the Greensboro Police Department and engaged in the conduct complained of under color of state law and in the course and scope of his employment. Defendant Hamilton is sued in his individual capacity.

9. Defendant City of Greensboro is a North Carolina municipal corporation, was the employer of Defendant Hamilton, and is responsible for the policies, practices, patterns and customs of the Greensboro Police Department as set forth more fully herein.

FACTUAL ALLEGATIONS

The Killing of Joseph Lopez

10. On the night of November 19, 2021, numerous Greensboro Police Department officers, including Defendant Greensboro Police Department Officer Matthew Hamilton, responded to a residence at 3504 Cloverdale Drive in Greensboro, where it had been allegedly reported that decedent Joseph Lopez had been trying to enter.

11. Officer Hamilton and other GPD officers located Joseph inside a small room that was located at the rear of a two car garage at the residence.

12. Defendant Hamilton, who was a police dog handler, approached and opened the door of the room with his police dog on a leash.

13. As he stood next to the open door, Defendant Hamilton said, “Greensboro police, if you’re in there, make yourself known.”

14. Joseph replied, “Yes, I’m here.”

15. Defendant Hamilton then said, “Come on out with your hands up or I’ll send my dog in there and he’ll bite you.”

16. Joseph responded in a non-threatening manner that he would come out when it was “safe” to do so.

17. Shortly thereafter, and without justification, Defendant Hamilton then released his police dog into the room where Joseph was sitting.

18. The dog unjustifiably attacked Joseph who yelled out in distress.

19. Seconds later, Defendant Hamilton walked through the door, pulled his handgun from his holster, stepped into the room, and without saying anything, shot Joseph once square in the face with his service handgun

20. Joseph died at the scene as a result of the hollow-point gunshot wound.

21. Immediately after fatally shooting Joseph Lopez square in the face, Defendant Hamilton exclaimed “Oh shit . . . fuck.”

22. Defendant Hamilton’s use of deadly force was objectively unreasonable.

23. Joseph was unarmed, was sitting in a chair approximately 15 feet away from Hamilton, he made no verbal or physical threats to Defendant Hamilton or others, and presented no immediate danger to Defendant Hamilton or others.

24. As a direct and proximate cause of the actions of Defendant Hamilton as detailed above, Joseph suffered, among other things, terror, bodily injury, pain, suffering, and death.

25. Moments after fatally shooting Joseph, Defendant Hamilton attempted to cover-up his illegal and unconstitutional actions by falsely claiming to his fellow officers that “I saw something in his hand.”

26. Hamilton and his fellow officers cooperated in this cover-up by moving Joseph’s body, by otherwise spoliating the crime scene, and by giving false stories to investigators who nonetheless classified the case as a “homicide/murder.”

27. The Defendant City through its Police Department, despite having exclusive access to the Body Worn Camera (BWC) videos of Defendant Hamilton and the other GPD officers on the scene, contemporaneously issued a false and materially incomplete press release concerning the “murder/ homicide” of Joseph Lopez.

28. To date, Defendant Hamilton has not been disciplined for this “homicide/murder” and remains a paid member of the force to this day, some six months later.

29. Defendant Hamilton's conduct as detailed above was willful, malicious, oppressive and in reckless disregard for the constitutional rights of Joseph, thus justifying punitive damages.

De Facto Policies, Practices, Patterns, and Customs of the City of Greensboro

30. The Defendant City of Greensboro, before, during and after the unconstitutional shooting of Joseph Lopez, had in place several related policies, practices, and customs, including but not limited to:

- a. An unconstitutional pattern and practice of using excessive and deadly force disproportionately against persons of color;
- b. Failing to properly discipline GPD officers who engage in excessive and/or deadly use of force and by otherwise publicly covering-up the true nature of these incidents;
- c. Failing to properly train and supervise GPD officers in the specific areas of use of canines, use of deadly force in circumstances when a citizen is unarmed and presents no danger to himself, the officers involved, or any other person, and in de-escalation tactics.

31. The pattern, practices and customs of excessive force, failure to discipline and cover-up are evidenced, *inter alia* by the following:

- a. Many hundreds of incidents of GPD officers hogtying citizens, from 1998 to 2018, disproportionately employed against people of color, without any discipline imposed for this excessive use of force against the hundreds of GPD officers who participated in this conduct;

- b. Evidence of hundreds of these incidents spanning from 2014 to 2018 are identified and located in GPD police documents and BWC videos;
- c. These incidents include the September 8, 2018 hogtying of Marcus Smith, an African American man suffering a mental health crisis by 8 white GPD officers and supervisors; the September 7, 2018 hogtying of Preston Womack; the April 24, 2018 hogtying of Teika Carter; and the August 6, 2018 hogtying of Jaqueline Burgess, all of whom were also African American;
- d. Numerous other cases of the use of excessive and/or deadly force, failure to properly discipline and cover-up include, but are not limited to, those of Eva Foster, Dejuan Yourse, Rufus Scales, Devin Scales, Zared Jones, Jose Charles, Chieu Di Thi Vo, Isaiha Shields, all of whom are persons of color, and dozens of other excessive use of force cases from 2014 to 2018 that are identified in GPD police documents and BWC videos.

32. The City, through its successive police superintendents and other high ranking police command personnel, had actual and constructive notice of these patterns, practices and customs, and participated, acquiesced in, encouraged and/or otherwise were deliberately indifferent to them.

FIRST CAUSE OF ACTION
(42 U.S.C. § 1983 – Excessive Force)

33. Each paragraph of this Complaint is incorporated as if restated fully herein.

34. As described in the preceding paragraphs, the conduct of Defendant Hamilton toward Joseph Lopez constituted excessive force in violation of the Fourth and Fourteenth Amendments of the United States Constitution.

35. The misconduct described in this Cause of Action was objectively unreasonable and undertaken with willfulness and reckless indifference to the rights of others.

36. The foregoing wrongful acts of Defendant Hamilton terrorized and killed Joseph Lopez.

37. As a proximate result of the foregoing wrongful acts of Defendant Hamilton, Joseph Lopez sustained damages, including physical and emotional pain and suffering before death, and a loss of the enjoyment of life and other hedonic damages after death.

38. This Cause of Action is brought by the Estate of Joseph Lopez, by Administrator Joe Lopez.

SECOND CAUSE OF ACTION
(42 U.S.C. § 1983 – *Monell* Liability)

39. Each paragraph of this Complaint is incorporated as if restated fully herein.

40. At all times relevant to this Complaint, Defendant City of Greensboro, by and through, *inter alia*, its Police Department, Chiefs of Police, and City Managers, with deliberate indifference, and conscious and reckless disregard to the safety, security and constitutional and statutory rights of Decedent Joseph Lopez, including the right to be free from unreasonable and excessive force under the Fourth and Fourteenth Amendments, maintained, enforced, tolerated, ratified, permitted, acquiesced in, and/or applied, among others, one or more of the policies, practices, patterns, and customs, individually or together, as alleged above.

41. As a direct and proximate result of one or more of the foregoing alleged policies, patterns, practices and/or customs, Decedent Joseph Lopez and Plaintiff sustained injury, death, and damage as further set forth above.

**THIRD CAUSE OF ACTION
(State Law – Wrongful Death)**

42. Each paragraph of this Complaint is incorporated as if restated fully herein.

43. The wrongful death of Joseph Lopez was proximately caused by the wrongful acts, negligence, neglect, default, malice, and/or willful and wanton conduct of Defendant Hamilton, as described above, in violation of N.C. Gen. State. § 28A-18-2.

44. Joseph Lopez was and is survived by his parents, Joe Lopez and Lisa Munsey, who constitute his heirs under North Carolina law.

45. Joseph Lopez's parents suffered, and continue to suffer, significant emotional distress and harm, including but not limited to, the loss of support, society and companionship with Joseph Lopez.

RELIEF

WHEREFORE, Plaintiff asks that this Court enter judgment in its favor and against Defendants, awarding substantial compensatory damages, attorneys' fees and costs, and, because Defendant Hamilton acted in a malicious and/or willful and wanton manner, punitive damages against Defendant Hamilton, as well as any other relief this Court deems appropriate.

JURY DEMAND

Plaintiff hereby demands a trial by jury pursuant to Federal Rule of Civil Procedure 38(b) on all issues so triable.

Dated: June 6, 2022

Respectfully submitted,

/s/ Graham Holt
One of Plaintiff's Attorneys

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