

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF IOWA
EASTERN DIVISION**

**GABRIEL STEELE, individually, and as
Executor of the Estate of AUTUMN
STEELE, and as next of friend for minor
G.S., SEAN SCHOFF, as next of friend for
minor K.S., and GINA COLBERT,
individually.**

Plaintiffs,

v.

CITY OF BURLINGTON and JESSE HILL

Defendants.

Case No. 3:16-cv-105

COMPLAINT AND JURY DEMAND

COMES NOW the Plaintiffs, Gabriel Steele, individually, and as Executor of the Estate of Autumn Steele, and as next of friend for minor G.S.; Sean Schoff, as next of friend for minor K.S.; and Gina Colbert, individually, and for their Complaint and Jury Demand against Defendants the City of Burlington, Iowa and Jesse Hill state to the Court, as follows:

INTRODUCTION

1. This is an action brought to redress the deprivation – under color of policy, regulation, official decision, custom, or usage – of rights secured to Plaintiffs by 42 U.S.C. §1983 arising under the Fourth Amendment, incorporated to the states through the Fourteenth Amendment to the United States Constitution, and the Constitution of the State of Iowa, Article I, Section 8; and includes Iowa common law negligence and loss of consortium claims.

JURISDICTION

2. Jurisdiction is conferred to this Court through 28 U.S.C. §§1331 and 1343.

3. All the unlawful and unconstitutional acts alleged herein occurred at the Steele residence in Burlington, Des Moines County, Iowa.

4. Venue is appropriate in this district under 28 U.S.C. § 1391(b).

PARTIES

5. At all times material hereto, Gabriel Steele (hereinafter referred to as “Gabriel”) was a resident of Burlington, IA. Gabriel is also the Personal Representative of the Estate of Autumn Steele, deceased (hereinafter referred to as “Autumn”) who was a citizen and resident of Burlington, Iowa. Gabriel is also the Next of Friend for minor G.S. (hereinafter referred to as “G.S.”) who at all times material hereto was a resident of Burlington, IA. G.S. is the natural son of Gabriel and was 3 years old at the time of his mother’s wrongful death.

6. At all times material hereto, Sean Schoff (hereinafter referred to as “Sean”) was a resident of Columbus, GA.

7. At all times material hereto, K.S. (hereinafter referred to as “K.S.”) was a resident of Burlington, IA and Columbus, GA. K.S. is the natural son of Sean and Autumn and was 6 years old at the time of his mother’s wrongful death.

8. At all times material hereto, Gina Colbert (hereinafter referred to as “Gina”) was a resident of Columbus, GA, and is the mother of Autumn Steele.

9. Defendant Burlington, Iowa, is a governmental subdivision of the State of Iowa and operates a police force, employing Defendant Jesse Hill.

10. Defendant Jesse Hill (hereinafter referred to as “Hill”) at all times material hereto was an employee of the City of Burlington Police Department and caused the wrongful death of Autumn Steele using wrongful and unconstitutional excessive force.

FACTUAL BACKGROUND

11. On January 6, 2015, Defendant Hill responded to a 911 call reporting a domestic dispute at the Steele residence in Burlington, Iowa.

12. Prior to his arrival at the Steele residence, Defendant Hill was informed that Autumn’s presence at the Steele residence violated the terms of a restraining order.

13. When Hill arrived on the scene he witnessed Autumn Steele and Gabriel engaged in a verbal argument in front of the home.

14. Gabriel was holding G.S. at the time.

15. Hill advised dispatch of what he saw, activated his body camera video, and exited the car, walking toward Gabriel and Autumn Steele.

16. When Hill approached Autumn Steele she was shouting at Gabriel.

17. As Hill was moving toward Autumn Steele, the family’s pet dog, Sammy, a Collie/German Shepard mix, approached him.

18. Hill unreasonably felt threatened by Sammy and fired his service weapon in the direction of the family pet, and also in the direction of Autumn, Gabriel and G.S.

19. At the time Hill fired his weapon Gabriel (holding G.S.) and Autumn were standing in the same direction and within four feet of the family pet, Sammy.

20. As Hill was firing the first shot, he lost his balance and fell backward but continued to discharge his service weapon.

21. Autumn Steele was hit by at least one of the rounds discharged from Hill's service weapon.

22. Gabriel advised Hill that Autumn Steele had been hit by the discharged rounds.

23. A witness to the shooting called 911 and requested an ambulance. Another Officer arrived on the scene and provided assistance.

24. Sammy, a Collie/German Shepherd mix, was loose on the scene while the officers provided assistance and is not in any way vicious.

25. The City of Burlington later determined Sammy to be "not vicious" and released him into Gina's custody.

26. An ambulance arrived and transported Autumn Steele to the hospital.

27. At the hospital, Autumn Steele was pronounced dead as a result of the injuries sustained from Defendant Hill's gunshots.

28. All alleged actions of the Defendants were conducted under color of state law.

COUNT I

USE OF EXCESSIVE FORCE IN VIOLATION OF THE FOURTH AMENDMENT TO THE UNITED STATES CONSTITUTION and ARTICLE I, SECTION 8 OF THE IOWA CONSTITUTION AGAINST ALL DEFENDANTS

29. Plaintiff's incorporates paragraphs 1 through 27 above as though fully set forth herein.

30. Defendant Hill's use of excessive force in the wrongful death of Autumn Steele was in violation of both the Constitutions of the United States, Fourth Amendment, and the State of Iowa, Article 1, Section 8.

31. Defendant Hill fired his weapon in the direction of Sammy, Gabriel, Autumn, and G.S. in an unreasonable, unnecessary and reckless manner, resulting in the death of Autumn Steele.

32. Defendant Hill acted under the color of state law, violated the right of Autumn Steele to be free from the use of excessive force in being placed under arrest, as guaranteed by the Fourth and Fourteenth Amendments to the United States Constitution, as enforced through 42 U.S.C. § 1983, and Article I, Section Eight, of the Iowa Constitution.

33. Defendants proximately caused damages including emotional pain and trauma, past and future to Plaintiffs by the use of excessive force in effectuating the wrongful death of Autumn Steele in violation of her rights guaranteed by the Fourth and Fourteenth Amendments to the United States Constitution and Article I, Section Eight, of the Iowa Constitution.

34. Defendants established a policy, regulation, official decision, custom, or usage, and/or ratified such conduct after the fact with reckless or in deliberate indifference to the rights of persons in the position of Steele.

35. Defendants have established, maintained, enforced, and/or ratified policies, regulations, official decisions, customs, or usages which unconstitutionally deprive citizens of the right to be free from the use of excessive while being detained by the State as guaranteed by the Fourth Amendment to the United States Constitution, and Article I, Section 8, of the Iowa Constitution.

36. Burlington and its policymakers had actual or constructive knowledge of the use of excessive force by its employees and/or ratified such conduct after the fact.

37. Steele was subjected to this official policy, regulation, official decision, custom, usage, and/or after-the-fact ratification when she was shot and killed by Defendant Hill.

38. Defendants' policy, regulation, official decision, custom, usage, and/or after-the-fact ratification as against Steele was purposeful and intentional.

39. Defendants deprived Plaintiffs of the rights guaranteed them under the Fourth Amendment to the United States Constitution, and Section I, Article 8, of the Iowa Constitution, in violation of 42 U.S.C. § 1983.

40. Plaintiffs have been damaged as a direct and proximate result of Defendants' acts and omissions, as set out in this Complaint.

41. Defendant Hill acted in a reckless and/or malicious manner subjecting him to punitive damages.

WHEREFORE, the Plaintiffs pray for judgment against the Defendants, the City of Burlington and Jesse Hill, individually and as a Police Officer for the City of Burlington, in an amount which will fully and fairly compensates them for their injuries and damages; for attorneys' fees; for interest and costs as allowed by law; for punitive damages against Defendant Hill and for such other and further relief as may be just in the premises.

COUNT II

VIOLATION OF SUBSTANTIVE DUE PROCESS IN VIOLATION OF THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND ARTICLE I SECTION 9 OF THE IOWA CONSTITUTION AGAINST ALL DEFENDANTS

42. Plaintiff's incorporates paragraphs 1 through 42 above as though fully set forth herein.

43. Defendant Hill fired his weapon in the direction of Sammy, Gabriel, Autumn, and G.S. in an unreasonable, unnecessary and reckless manner, resulting in the death of Autumn Steele.

44. At the time Defendant Hill fired his weapon at Sammy, Autumn and Gabriel were standing mere feet away as Gabriel held G.S. in his arms.

45. Given her proximity to Sammy and Defendant Hill, Autumn being shot was a reasonable and foreseeable consequence of Defendant Hill's actions in firing his weapon in her direction.

46. Defendant Hill made the decision to discharge his firearm at Sammy at a time when he had the opportunity for deliberation; Hill's decision was not made in the "heat of the moment."

47. Defendant Hill elected to attempt to disable the family dog by firing his weapon in the direction of three people despite the fact that he had several other options available to him, including seeking assistance from Gabriel and/or Autumn to control the family pet, verbal control of the family pet, physical control of the family pet, using a Taser, pepper spray, or retreating to safety.

48. Defendant Hill's actions in firing his weapon in the direction of three people, including a three-year-old child, were so egregious and outrageous as to shock the conscience.

49. In firing his weapon in the direction of three people, including a three-year-old child, Defendant Hill acted with deliberate indifference to a significant risk of harm to innocent citizens, including Autumn Steele, Gabriel and GS.

50. In firing his weapon in the direction of three people, including a three-year-old child, Defendant Hill acted with the specific intent to cause harm.

51. Defendant Hill acted under the color of state law, violated the right of Autumn Steele to substantive due process as guaranteed by the Fourteenth Amendment to the United

States Constitution, as enforced through 42 U.S.C. § 1983, and Article I, Section 9 of the Iowa Constitution.

52. Defendants established a policy, regulation, official decision, custom, or usage, and/or ratified such conduct after the fact with reckless or in deliberate indifference to the rights of persons in the position of Plaintiffs.

53. Defendants have established, maintained, enforced, and/or ratified policies, regulations, official decisions, customs, or usages which unconstitutionally deprive citizens of the right to substantive due process as guaranteed by the Fourteenth Amendment to the United States Constitution and Article 1, Section 9 of the Iowa Constitution.

54. Burlington and its policymakers had actual or constructive knowledge of the conduct of its employees and/or ratified such conduct after the fact.

55. Steele was subjected to this official policy, regulation, official decision, custom, usage, and/or after-the-fact ratification when she was shot and killed by Defendant Hill.

56. Defendants' policy, regulation, official decision, custom, usage, and/or after-the-fact ratification as against Steele was purposeful and intentional.

57. Defendants deprived Plaintiffs of the rights guaranteed them under the Fourteenth Amendment to the United States Constitution in violation of 42 U.S.C. § 1983, and Article I, Section 9 of the Iowa Constitution.

58. Plaintiffs have been damaged as a direct and proximate result of Defendants' acts and omissions, as set out in this Complaint.

59. Defendant Hill acted in a reckless and/or malicious manner subjecting him to punitive damages.

COUNT III

FAILURE TO TRAIN IN VIOLATION OF THE FOURTH AMENDMENT TO THE UNITED STATES CONSTITUTION and ARTICLE I, SECTION 8 OF THE IOWA CONSTITUTION AGAINST DEFENDANT CITY OF BURLINGTON

60. Plaintiffs incorporate paragraphs 1 through 39 above as though fully set forth herein.

61. Defendant City of Burlington failed to properly train and/or supervisor Defendant Hill in the use of deadly force and/or failed to have proper policies and procedures in place to ensure that its police officers did not discharge weapons in the direction of innocent bystanders, and/or at time when said officers are unable to fully control the weapon being discharged.

62. Defendants failure to train and/or have in place reasonable policies and procedures regarding the use of deadly force deprived Plaintiffs of the rights guaranteed them under the Fourth Amendment to the United States Constitution, and Section I, Article 8, of the Iowa Constitution, in violation of 42 U.S.C. § 1983.

63. Plaintiffs have been damaged as a direct and proximate result of Defendants' acts and omissions, as set out in this Complaint.

WHEREFORE, the Plaintiffs pray for judgment against the Defendant City of Burlington in an amount which will fully and fairly compensate them for their injuries and damages; for attorneys' fees; for interest and costs as allowed by law; and for such other and further relief as may be just in the premises.

COUNT IV

WRONGFUL DEATH – NEGLIGENCE - IOWA COMMON LAW

64. Plaintiffs incorporate paragraphs 1 through 43 above as though fully set forth herein.

65. Defendant Hill owed Plaintiffs a duty to act reasonably in the use of deadly force in their presences and to conform to an objectively reasonable standard of conduct regarding when,

where and under what circumstances use of deadly force is warranted.

66. Defendant Hill breached that duty by discharging his service weapon in the direction of Plaintiffs and/or at a time when he did not have his service weapon under control.

67. Defendant City of Burlington owed Plaintiffs a duty to have in place reasonable policies and procedures regarding the use of deadly force, and/or to properly train and supervise its police officers, including Defendant Hill, in an objectively reasonable standard of conduct regarding when, where and under what circumstances use of deadly force is warranted.

68. Defendant City of Burlington breach that duty by not having in place reasonable policies and procedures regarding the use of deadly force, and/or by failing to properly train and/or supervise Defendant Hill regarding the appropriate use of deadly force.

69. The Defendants breach of duty owed caused injuries and damages to the Plaintiffs including the wrongful death of Autumn, the loss of spousal consortium for Gabriel, the loss of parental consortium for minor children G.S. and K.S., and the loss of adult child consortium for Gina.

70. At all times relevant hereto Defendant Hill acted as an agent of Defendant City of Burlington and within the scope of his authority as a police officer.

71. Defendant City of Burlington ratified the conduct of Defendant Hill after he took the actions complained of in this complaint.

WHEREFORE, the Plaintiffs pray for judgment against the Defendants, the City of Burlington and Jesse Hill, individually and as a Police Officer for the City of Burlington, in an amount which will fully and fairly compensates them for their injuries and damages; for attorneys' fees; for interest and costs as allowed by law; for punitive damages against Defendant Hill and for such other and further relief as may be just in the premises.

COUNT V

EMOTIONAL DISTRESS - BYSTANDER – GABRIEL STEELE AND G.S.

72. Plaintiffs incorporate paragraphs 1 through 51 above as though fully set forth herein.

73. At the time Defendant Hill shot Autumn Steele Plaintiff Gabriel Steele was holding G.S. and standing just a few feet away from Autumn.

74. Plaintiffs Gabriel and G.S. were not physically struck by any bullets, but were in close proximity to Autumn at the time she was wrongfully killed, and were exposed to danger as a result of being in close proximity to Defendant Hill drawing his service weapon at an unreasonable time and discharging it in an unreasonable manner that they suffered emotional distress as a bystander within the ambit of the danger caused by the negligence of the defendant as above described.

75. At all times relevant hereto Defendant Hill acted as an agent of Defendant City of Burlington and within the scope of his authority as a police officer.

76. Defendant City of Burlington ratified the conduct of Defendant Hill after he took the actions complained of in this complaint.

77. The Defendants unlawful conduct caused injuries and damages to the Plaintiffs including severe emotional distress to Gabriel and G.S.

WHEREFORE, the Plaintiffs Gabriel Steele and G.S. pray for judgment against the Defendants, the City of Burlington and Jesse Hill, individually and as a Police Officer for the City of Burlington, in an amount which will fully and fairly compensates them for their injuries and damages; for attorneys' fees; for interest and costs as allowed by law; for punitive damages against Defendant Hill and for such other and further relief as may be just in the premises.

COUNT VI

LOSS OF CONSORTIUM – GABRIEL STEELE

78. Plaintiffs incorporate paragraphs 1 through 57 above as though fully set forth herein.

79. Plaintiff Gabriel Steele was the natural spouse of deceased Autumn Steele.

80. Since Autumn Steele's death, Plaintiff Gabriel Steele has suffered a loss of aid, companionship, cooperation, and marital affection of Autumn Steele.

81. As a result of said losses, Plaintiff Gabriel Steele has been damaged. The Defendants are liable to Gabriel Steele for his loss of consortium.

82. Gabriel Steele's losses are in addition to the losses sustained by the Estate of Autumn Steele as the result of her death caused by the wrongful conduct of the Defendants.

WHEREFORE, Plaintiff Gabriel Steele prays for judgment against the Defendants in an amount sufficient to fairly and adequately compensate him for Autumn Steele's injuries, losses and damages, for attorneys' fees, for interest and costs as allowed by law; for punitive damages against Defendant Jesse Hill; and for such other and further relief as the Court deems appropriate.

COUNT VII

LOSS OF CONSORTIUM – G.S.

83. Plaintiffs incorporate paragraphs 1 through 62 above as though fully set forth herein.

84. Plaintiff G.S. was the natural child of deceased Autumn Steele.

85. Since Autumn Steele's death, Plaintiff G.S. has suffered a loss of aid, companionship, cooperation, and motherly affection of Autumn Steele.

86. As a result of said losses, Plaintiff G.S. has been damaged. The Defendants are liable to G.S. for his loss of consortium.

87. G.S.'s losses are in addition to the losses sustained by the Estate of Autumn Steele as the result of her death caused by the wrongful conduct of the Defendants.

WHEREFORE, Plaintiff G.S. prays for judgment against the Defendants in an amount sufficient to fairly and adequately compensate him for losses and damages, for attorneys' fees, for interest and costs as allowed by law; for punitive damages against Defendant Jesse Hill; and for such other and further relief as the Court deems appropriate.

COUNT VIII

LOSS OF CONSORTIUM – K.S.

88. Plaintiffs incorporate paragraphs 1 through 67 above as though fully set forth herein.

89. Plaintiff K.S. was the natural child of deceased Autumn Steele.

90. Since Autumn Steele's death, Plaintiff K.S. has suffered a loss of aid, companionship, cooperation, and motherly affection of Autumn Steele.

91. As a result of said losses, Plaintiff K.S. has been damaged. The Defendants are liable to K.S. for his loss of consortium.

92. K.S.'s losses are in addition to the losses sustained by the Estate of Autumn Steele as the result of her death caused by the wrongful conduct of the Defendants.

WHEREFORE, Plaintiff K.S. prays for judgment against the Defendants in an amount sufficient to fairly and adequately compensate him for losses and damages, for attorneys' fees, for interest and costs as allowed by law; for punitive damages against Defendant Jesse Hill; and for such other and further relief as the Court deems appropriate.

COUNT IX

LOSS OF CONSORTIUM – GINA COLBERT

93. Plaintiffs incorporate paragraphs 1 through 72 above as though fully set forth herein.

94. Plaintiff Gina Colbert was the natural mother of deceased Autumn Steele.

95. Since Autumn Steele's death, Plaintiff Gina Colbert has suffered a loss of aid, companionship, cooperation, and mother-daughter affection of Autumn Steele.

96. As a result of said losses, Plaintiff Gina Colbert has been damaged. The Defendants are liable to Gina Colbert's for her loss of consortium.

97. Gina Colbert's losses are in addition to the losses sustained by the Estate of Autumn Steele as the result of her death caused by the wrongful conduct of the Defendants.

WHEREFORE, Plaintiff Gina Colbert prays for judgment against the Defendants in an amount sufficient to fairly and adequately compensate her for losses and damages, for attorneys' fees, for interest and costs as allowed by law; for punitive damages against Defendant Jesse Hill; and for such other and further relief as the Court deems appropriate.

JURY DEMAND

The Plaintiff's, Gabriel Steele, individually, as Executor of the Estate of Autumn Steele, and as next of friend for minor G.S.; Sean Schoff as next of friend for minor K.S., and Gina Colbert, individually, respectfully request a trial by jury on all legal claims raised by their Complaint.

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