

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
MOBILE DIVISION

**SHUNTA DAUGHERTY,** )  
individually, and as the )  
administrator of the estate of )  
**MICHAEL DASHAWN MOORE,** )

Plaintiff, )

v. )

**HAROLD HURST,** )  
in his individual capacity, )

Defendant. )

Civil Action No.:  
\_\_\_\_\_

**JURY DEMANDED**

**COMPLAINT**

COMES NOW the Plaintiff **SHUNTA DAUGHERTY**, as the administrator of the estate of **MICHAEL DASHAWN MOORE**, and through her undersigned attorney files this Complaint. Ms. Daugherty will use 42 U.S.C. § 1983 to vindicate her rights under the Fourth and Fourteenth Amendments to the United States Constitution, to redress the deprivation of the Mr. Moore’s Constitutional rights by Officer **HAROLD HURST**, the Defendant in this action. Ms. Daugherty will also seek to hold Defendant Hurst liable under Alabama law for the wrongful death of her son. In support of her Complaint, the Plaintiff alleges the following:

## INTRODUCTION

Officer Harold Hurst killed the Michael Moore (“the Decedent”) by shooting him while the Decedent was standing and also while the Decedent was on the ground, bleeding out and motionless. Every eyewitness to this shooting has stated that the Decedent had his hands up and was *not* resisting at the time Hurst fatally shot the Decedent, nor was the Decedent resisting or threatening the life of Hurst (or anyone else) prior to being fatally shot. Hurst allegedly pulled the Decedent over for a routine traffic stop.

Significantly, an initial newspaper report stated a gun was found in the glove compartment of the car the Decedent was driving, but that report kept changing. Hurst claims the Decedent had a gun, but the gun was *never* photographed at the scene, and this alleged gun was *never* confiscated at the scene—despite Hurst having rolled the Decedent over to cuff the Decedent’s hands behind his back, and despite the fact that medical personnel and police officers, who moved the Decedent’s body multiple times at the scene, never confiscated or identified a gun on the Decedent’s body.

Instead, this gun was allegedly found at the hospital, allegedly under the Decedent’s body, after he was pronounced dead. One thing is for sure, however,

witnesses say that the Decedent had his hands up and had no weapon in his hands prior to, or at the time of, being shot by Hurst.

**PARTIES**

2.

At all times relevant to this Complaint, Plaintiff Shunta Daugherty was a citizen of the United States and a resident of Mobile, Alabama. Ms. Daugherty is the natural mother of the Decedent and is the administrator of the Decedent's estate. At all times relevant to this Complaint, the Decedent had clearly established legal rights under state and federal law and the United States Constitution. Ms. Daugherty submits herself to the jurisdiction and venue of this Court and is entitled to bring this action on the Decedent's behalf under state and federal law for all general, special, compensatory, punitive, and any other permissible damages.

3.

At all times relevant to this Complaint, Defendant Harold Hurst was a United States citizen, an Alabama resident, and a sworn officer of the City of Mobile Police Department. At all times relevant to this Complaint, Hurst was acting under the color of state law. At all times relevant to this Complaint, Defendant Hurst was subject to the laws of the State of Alabama and subject to all

policies, procedures, special orders, general orders, guidelines and regulations of the City of Mobile Police Department.

Officer Hurst claims that he pulled the Decedent over for a routine traffic stop. The Decedent pulled over the subject car without fleeing and without incident. Hurst commanded the Decedent to exit the subject car, and the Decedent obeyed Hurst's command by exiting the car without resisting—wearing elastic-waist-band basketball shorts and a T-shirt; the Decedent has just finished playing basketball prior to being pulled over by Hurst. Once out of the car, the Decedent had his hands up and did not make any sudden movements, according to witnesses. Nevertheless, Hurst shot the Decedent, and then when the Decedent fell to the ground, Hurst shot him again. Witnesses say that Hurst then rolled the Decedent over and cuffed the Decedent's hands behind his back, and notably: Hurst never confiscated an alleged gun from the Decedent at that time, or at any other time.

As the Decedent laid on the ground, with his hands cuffed behind his back, Hurst never attempted to photograph (or direct anyone to photograph) the alleged gun that Hurst later alleged that the Decedent had. As the Decedent laid on the ground bleeding out, Hurst never attempted to render first aid to the Decedent. As the Decedent laid on the ground bleeding out, paramedics arrived and rolled the Decedent's body over while police were present, and no gun was ever taken from

the Decedent's body at that time. In fact, no gun was ever taken from the Decedent's body by anyone while the Decedent's body was at the scene where the fatal shooting took place. Paramedics picked up the Decedent's body and placed it on a cot to be put into the awaiting ambulance—still no gun was found.

Once at the hospital, City of Mobile Police Officers entered the Decedent's hospital room. Allegedly, a gun was found under the Decedent's body at the hospital. When witnesses were asked whether the gun that was allegedly found was the Decedent's gun, those witnesses said no and that they had never seen the gun the police claimed was found on the Decedent's body. Ms. Daugherty is using 42 U.S.C § 1983 as the vehicle to sue Hurst in his individual capacity regarding federal claims. Hurst may be personally served with process at his place of employment, the City of Mobile Police Department.

#### **JURISDICTION AND VENUE**

4.

This Court has original subject matter jurisdiction over the federal claim in this action in accordance with 28 U.S.C. § 1331 because the claim raises a federal question under the laws and Constitution of the United States.

5.

This Court has supplemental subject matter jurisdiction over the state claim in this action under 28 U.S.C. § 1367(a) because the state and federal claims form part of the same case or controversy under Article III of the United States Constitution.

6.

This Court has personal jurisdiction over the Defendant because he is domiciled in Alabama.

7.

Venue is proper in the Southern District of Alabama under 28 U.S.C. § 1391(b)(1) because the Defendant resides in this district and under 28 U.S.C. § 1391(b)(2) because a substantial part of the events giving rise to the claims occurred in this district.

**FACTS COMMON TO ALL COUNTS**

8.

On or about June 13, 2016, the Decedent was playing basketball with friends, at a gym, while wearing elastic-waist band shorts, a t-shirt, and sneakers.

9.

After playing basketball, the Decedent and two friends entered a vehicle (“subject vehicle”); the Decedent was the driver while one friend rode in the front passenger seat and the other friend rode in the back seat.

10.

The Decedent began to drive the subject vehicle on roads located in Mobile, Alabama.

11.

On June 13, 2016 while the Decedent drove the subject vehicle on roads located in Mobile, Alabama, Officer Harold Hurst signaled the Decedent to pull over while Hurst was driving a police car issued to him by the City of Mobile Police Department.

12.

The vehicle the Hurst was driving when he signaled the Decedent to pull over was marked with insignia that identified Hurst’s vehicle as a City of Mobile Police Department Vehicle.

13.

Hurst gave the directive to the Decedent to pull over the Decedent’s vehicle in Hurst’s capacity as a City of Mobile Police officer.

14.

At the time Hurst directed the Decedent to pull over the Decedent's vehicle, Hurst was a paid employee of the City of Mobile Police Department.

15.

The Decedent pulled over the car of which he was driving, upon Hurst's directive, without trying to flee.

16.

Once Hurst signaled the Decedent to pull over the car that the Decedent was driving, Hurst did not have to chase the Decedent or take any action to block the Decedent's car or otherwise force the Decedent to stop that car of which the Decedent was driving.

17.

Once pulled over, Hurst eventually directed the Decedent to exit the subject car by getting out of the front driver seat, and the Decedent followed Hurst's command without resisting.

18.

Once the Decedent exited the subject car, the Decedent had his hands up, as Hurst pointed his government issued firearm at the Decedent.

19.

While the Decedent had his hands up, Hurst saw that the Decedent did not have a weapon in his hand, including Hurst seeing that the Decedent did not have a gun in his hands.

20.

While the Decedent had his hands up and while Hurst had his government issued firearm pointed directly at the Decedent, the Decedent made no sudden hand movements, nevertheless, Hurst shot the Decedent.

21.

After being shot by Hurst, the Decedent fell to the ground where he laid motionless while bleeding and during that time, Hurst shot the Decedent again.

22.

As the Decedent laid on the ground shot, Hurst did not know if the Decedent was dead.

23.

As the Decedent laid on the ground shot by Hurst, Hurst rolled the Decedent over and cuffed the Decedent's hands behind his back.

24.

Neither prior to cuffing the Decedent's hands behind his back or after cuffing the Decedent's hands behind his back did Hurst ever confiscate any weapon (firearm or otherwise) from the Decedent's body.

25.

While at the scene where he shot the Decedent several times, and as the Decedent laid on the ground with his hands cuffed behind his back, Hurst never confiscated a gun from the Decedent's body.

26.

While at the scene where he shot the Decedent several times, and as the Decedent laid on the ground with his hands cuffed behind his back, Hurst never photographed a gun on the Decedent's person.

27.

While at the scene where he shot the Decedent several times, and as the Decedent laid on the ground with his hands cuffed behind his back, Hurst never identified a gun as being the Decedent's gun.

28.

While at the scene where he shot the Decedent several times, and as the Decedent laid on the ground with his hands cuffed behind his back, Hurst never

identified any gun that he claimed the Decedent possessed that caused Hurst to fear for his, Hurst's, life.

29.

When Hurst rolled the Decedent's body over to cuff the Decedent's hands behind the Decedent's back, Hurst did not identify a gun on the Decedent's body.

30.

Emergency medical personnel touched the Decedent's body in numerous places; rolled the Decedent's body over; and picked his body up to put it on a stretcher, while at the scene of the shooting—and during that entire process, no medical personnel confiscated a gun from the Decedent's body while prepping the Decedent to be transported from the scene of the shooting to the local hospital.

31.

Emergency medical personnel touched the Decedent's body in numerous places; rolled the Decedent's body over; and picked his body up to put it on a stretcher, while at the scene of the shooting—and during that entire process, no medical personnel identified a gun on the Decedent's body while prepping the Decedent to be transported from the scene of the shooting to the local hospital.

32.

While emergency medical personnel touched the Decedent's body in numerous places; rolled the Decedent's body over; and picked his body up to put it on a stretcher, while at the scene of the shooting, many law enforcement officers observed said medical personnel—and *not one* those observing law enforcement officers identified a gun on the Decedent's body while said medical personnel prepped the Decedent's body to be transported from the scene of the shooting to the local hospital.

33.

Once the Decedent's body was transported to the local hospital, law enforcement officers from the City of Mobile Police Department entered the room in which the Decedent's body was located, and thereafter a gun was found under the Decedent's body.

34.

The gun allegedly found under the Decedent's body was shown to the two passengers who were riding with the Decedent in the subject car at the time Hurst pulled the subject car over, and those two passengers said that they had never seen said gun before.

**COUNT ONE (FEDERAL CLAIM)**  
**42 U.S.C. § 1983—FOURTH AMENDMENT VIOLATION**

35.

The Plaintiff hereby reiterates and incorporates by reference the allegations contained in paragraphs 1-34 as if set forth fully herein.

36.

At all times relevant to this Complaint the Decedent had a clearly established right under the Fourth Amendment to the United States Constitution to be free from unreasonable seizure by government agents such as the Defendant.

37.

*Based on all facts that have been incorporated to support this Count,* Officer Hurst violated the Decedent's clearly established right to be free from unreasonable seizure by using deadly force on the Decedent when the Decedent posed no threat to the Defendant or to any other person.

38.

Because of Hurst's objectively unreasonable conduct, the Plaintiff therefore seeks a punitive damage judgment against the Defendant, in an amount to be determined by the enlightened conscience of a jury, together with interest and any costs this Court deems just.

**COUNT TWO (STATE CLAIM)**  
**ALA. CODE § 6-5-410—WRONGFUL DEATH**

39.

The Plaintiff hereby reiterates and incorporates by reference the allegations contained in paragraphs 1-38 as if set forth fully herein.

40.

The Plaintiff is the natural mother of the Decedent and the administrator of the Decedent's estate.

41.

While working within the scope of his employment with the City of Mobile, the Defendant violated the Decedent's clearly established Fourth Amendment right to be free from unreasonable seizure.

42.

The Defendant's violation of the Decedent's clearly established Fourth Amendment right to be free from unreasonable seizure was the direct and proximate cause of the Decedent's death.

43.

Because the Defendant's wrongful act caused the death of the Decedent, the Plaintiff is entitled to bring this survival action pursuant to ALA. CODE § 6-5-410.

44.

The Plaintiff has complied with all Notice of Claim requirements. A copy of said Notice is attached to this Complaint as **Exhibit A**.

45.

The Plaintiff therefore seeks a punitive damage judgment against the Defendant, in an amount to be determined by the enlightened conscience of a jury, together with interest and any costs this Court deems just.

**COUNT THREE (STATE CLAIM)**  
**NEGLIGENCE**  
*(Against Hurst in his individual capacity)*

46.

The Plaintiff hereby reiterates and incorporates by reference the allegations contained in paragraphs 1-45 as if set forth fully herein.

47.

At the time that Officer Hurst fatally shot the Decedent, the City of Mobile Police Department had a strict policy that Hurst could not shoot a knowingly unarmed person who posed no threat to his life or to the life of others. Hurst violated this mandate, *under the facts incorporated to support this Count*, because at the time he shot the Decedent, he knew the Decedent was unarmed, posed no threat to Hurst himself, and posed no threat to anyone else because Hurst saw the

Decedent had no gun in his hand, made no sudden movements and never tried to even approach Hurst—in addition to the other facts used to support this Count. Consequently, Hurst’s use of deadly force fell below that of a well-trained City of Mobile Police Officer and constitutes negligence on the part Hurst for which Hurst is liable to Plaintiff under all controlling law with respect to compensatory, special, punitive, and nominal damages.

**PRAYER FOR RELIEF**

WHEREFORE, the Plaintiff respectfully prays for the following relief:

1. That this Court exercise jurisdiction over this case and grant a jury trial;
2. That this Court decide, as a matter of law all issues not required to be determined by a jury;
3. That this Court award all permissible damages recoverable from the Defendant, including general, special, compensatory, punitive, and any other damages deemed appropriate, in an amount to be determined at trial;
4. That this Court permit recovery of reasonable attorney’s fees and costs in an amount to be determined by this honorable Court; and

5. That this Court grant any additional relief that this honorable Court deems appropriate under the circumstances.

**\*JURY TRIAL DEMANDED\***

Respectfully submitted this 9<sup>th</sup> day of February, 2017,

S/ ERIC TAVARIS HUTCHINS  
Eric Tavaris Hutchins  
ASB-6600-E21H

**LAW OFFICE OF ERIC TAVARIS  
HUTCHINS, LLC**  
116 Madison St  
Alexander City, AL 35010  
Telephone (256) 392-4040

s/MARIO WILLIAMS  
Mario Williams  
Ga Bar No. 235254

**NEXUS CARIDADES ATTORNEYS, INC.**  
44 Broad Street, NW, Suite 200  
Atlanta, Georgia 30303  
Telephone (404) 654.0288  
Facsimile (404) 592.6225  
mwilliams@nexuscaridades.com