

**IN THE UNITED STATES DISTRICT COURT IN AND FOR THE
EASTERN DISTRICT OF OKLAHOMA**

1. DAN MILLER, as Special)	
Administrator of the ESTATE OF)	
HANK MILLER, Deceased,)	
)	
Plaintiff)	
v.)	
)	
1. B.J. HEDGECOCK, in his official)	Case No.: <u>22-cv-164-KEW</u>
capacity as Sheriff of Pushmataha)	
County, State of Oklahoma;)	
)	
2. KEITH KNOLL, individually;)	
)	
3. BRIAN COLUMBUS, individually;)	
)	
4. TIMOTHY STEELY, individually;)	
)	
Defendants.)	

COMPLAINT

COMES NOW the Plaintiff, Mr. Dan Miller, in his capacity as Special Administrator of the Estate of Hank Miller, Deceased, and, by and through his attorneys, Damario Solomon-Simmons and Kymberli J. M. Heckenkemper of SOLOMONSIMMONSLAW, PLLC, and J. Spencer Bryan and Steven J. Terrill of BRYAN & TERRILL, P.C., brings this action for damages against the Defendants, B.J. Hedgecock, in his official capacity as the Sheriff of Pushmataha County, and Deputies Keith Knoll, Brian Columbus, and Timothy Steely, in their individual capacities, for the wrongful death of Mr. Hank Miller, Plaintiff’s brother, and for violations of the decedent’s civil rights. In support of his Complaint, Plaintiff submits as follows:

PARTIES, JURISDICTION & VENUE

1. The Decedent, Hank Miller (“Hank”), died as a resident of Pushmataha County, State of Oklahoma, on or about May 30, 2021.



2. Plaintiff was appointed Special Administrator of the Decedent's estate on or about March 2, 2022.

3. Plaintiff resides in Pushmataha County, State of Oklahoma.

4. The Pushmataha County Sheriff's Office is a political subdivision of the State of Oklahoma.

5. Defendant B.J. Hedgecock at all relevant times has served as the duly elected sheriff of Pushmataha County, State of Oklahoma. Under Oklahoma law, Hedgecock is a final policymaker and responsible for the adoption, supervision, implementation, and enforcement of all policies and procedures, written or unwritten, that govern the Pushmataha County Sheriff's Office (PCSO). Hedgecock is sued in his official capacity as Sheriff of Pushmataha County.

6. Defendants Keith Knoll, Brian Columbus, and Timothy Steely are individuals who, upon information and belief, are or were deputies employed by and working for the PCSO as citizens of Pushmataha County, State of Oklahoma.

7. The Court has jurisdiction over the parties and the subject matter pursuant to 28 U.S.C. § 1331.

8. The events giving rise to this action occurred within the bounds of Pushmataha County, State of Oklahoma.

9. Venue is proper in this Court pursuant to 28 U.S.C § 1391(b)(2).

STATEMENT OF FACTS

10. Plaintiff incorporates paragraphs 1 through 9 as if fully restated herein.

11. Hank was a 48-year-old disabled veteran who resided in Pushmataha County at the time of his death.

12. On or about May 30, 2021, Hank was driving down a rural road in Antlers, Oklahoma, when PCSO Deputies Knoll and Columbus stopped him for an obscured license plate.

13. During the traffic stop, Knoll asked Hank if he minded if the deputies searched his vehicle, to which Hank responded that he did mind.

14. Knoll then advised Hank that he would be unlawfully prolonging the stop to call in a K-9 unit.

15. After Knoll took Hank's identification card, Hank advised the deputies he lived nearby and was just on his way home and would "see them at the house," and began driving away.

16. The deputies followed in their vehicle behind Hank, who drove a couple of miles (following all traffic laws) and then pulled off the road into his driveway.

17. When Hank's car came to a stop, the deputies parked behind it and aggressively exited their vehicles.

18. Knoll ran towards the driver's side of Hank's vehicle with his gun pointed at Hank, yelling commands at him, while Columbus rushed toward the passenger side, where Ms. Tammy Scott, an acquaintance of Hank's, was sitting in the passenger seat.

19. Columbus pulled Ms. Scott out of the car by her hair, and the two fell to the ground outside the car.

20. Knoll then opened fire on an unarmed Hank without any justification, shooting him multiple times in the arm and torso, and ultimately causing Hank's death.



21. After he stopped shooting, Knoll stated to Columbus, "I thought he was running you over."

22. At the time of the shooting, Columbus was on the ground next to Ms. Scott, parallel to Hank's car and not in its path.



23. Prior to being shot and killed:
 - a. Hank made no threatening statements toward the officers;
 - b. Hank was not suspected of having committed a violent felony;
 - c. Hank was unarmed;
 - d. Hank was several feet away from either of the deputies; and
 - e. Hank was not posing a threat of serious bodily injury to any person.

24. Of the three deputies on scene at the time of the shooting—Knoll, Columbus, and Steely—not one of them rendered first aid to Hank following the shooting.

25. In fact, none of the deputies even checked for a pulse. Instead, the deputies stood around talking and making phone calls.

26. It was not until paramedics arrived several minutes later that Hank received any medical attention whatsoever, and by that time, it was too late; he was already dead.

27. Upon information and belief, Hedgecock had the opportunity to review video of the shooting and was adequately informed of all material facts surrounding the incident.

28. Upon information and belief, because the deputies acted consistent with the policies and practices of the PCSO, none of the deputies were disciplined, there was no training provided to address their conduct, and there were no revisions or updates to the PCSO policy manual.

29. Upon information and belief, the deputies acted consistent with official policy and practice and the way Hedgecock wants deputies to police the community.

30. Upon information and belief, Hedgecock did not provide adequate training to Knoll on the use of deadly force relative to circumstances involving vehicles, and upon information and belief, his failure to require ongoing training on the use of deadly force served as the moving force behind the injuries and damages suffered by the Estate.

31. At all relevant times, Knoll, Columbus, and Steely were acting under color of state law and within the scope of their employment as peace officers of the PSCO.

32. At all relevant times, Sheriff Hedgecock was acting under color of state law and within the scope of his employment as Sheriff of Pushmataha County.

33. The PSCO is a political subdivision of the State of Oklahoma.

CLAIM # 1: EXCESSIVE FORCE
42 U.S.C. § 1983 | Fourth Amendment to the United States Constitution
Defendants Knoll & Hedgecock (Official Capacity)

34. Plaintiff incorporates paragraphs 1 through 33 as if fully restated herein.

35. It was objectively unreasonable for Knoll to shoot Hank under the circumstances he faced.

36. By employing objectively unreasonable force against Hank, Knoll violated Hank's Fourth Amendment right to be free from the use of deadly force.

37. As a result of Knoll's objectively unreasonable use of force, Hank suffered multiple gunshot wounds and died after succumbing to his injuries.

38. Upon information and belief, the official policies and practices of the PSCO served as the moving force behind Knoll's use of deadly force because the shooting was within policy.

CLAIM # 2: DELIBERATE INDIFFERENCE TO MEDICAL NEED
42 U.S.C. § 1983 | Fourteenth Amendment to the United States Constitution
Against Defendants Knoll, Columbus, & Steely

39. Plaintiff incorporates paragraphs 1 through 38 as if fully restated herein.

40. After Knoll shot Hank, all three Defendant deputies knew Hank was seriously wounded.

41. Despite this knowledge, all three Defendant deputies failed to render first aid or even check for Hank's pulse.

42. As a result of the Defendant deputies' deliberately indifferent inaction, Hank died on the scene without receiving any medical attention.

43. Upon information and belief, the failure to render first aid was consistent with the the policies and practices of the PSCO which served as the moving force behind the injuries and damages suffered by the Estate.

CLAIM # 3: DELIBERATELY INDIFFERENT HIRING & TRAINING
42 U.S.C. § 1983
Hedgecock in his Official Capacity
as Sheriff of Pushmataha County, State of Oklahoma

44. Plaintiff incorporates paragraphs 1 through 43 as if fully restated herein.

45. In arming his deputies with firearms and sending them out to patrol the streets of Pushmataha County, Hedgecock expected deputies would use deadly force as part of their job, and

he knew or should have known that use of excessive force would be a plainly obvious consequence of failing to adequately train deputies on the proper use of deadly force.

46. Training on the use of deadly force in scenarios involving vehicles will facilitate a deputy's understanding of when to use deadly force, and in the absence of that training, deputies will invariably make a wrong decision and violate a person's constitutional right.

47. Despite this knowledge, Hedgecock employed non-CLEET certified deputies and failed to adequately train them on use of force principles with deliberate indifference to those with whom his deputies would come into contact.

48. As a result of Hedgecock's failures, Knoll was not sufficiently trained on the appropriate use of a firearm under the circumstances confronting him on the incident date.

49. As a direct result of Hedgecock's deliberately indifferent failure to train, Knoll used objectively unreasonable force causing Hank's death.

50. Additionally, Hedgecock knew or should have known that providing deputies with inadequate training regarding rendering first aid to persons shot by deputies would inevitably result in the untimely death of a citizen shot by PCSO deputies.

51. Despite this knowledge, Hedgecock failed to train deputies to render first aid to persons shot by the PCSO deputies with deliberate indifference to those persons' constitutional rights.

52. As a direct result of Hedgecock's failure to train his deputies to render first aid to persons shot by PCSO deputies, Knoll, Columbus, and Steely did not render first aid to Hank, and instead left him to die without receiving any medical attention.

53. Hedgecock, in his official capacity, is therefore liable to Hank's Estate for Knoll's objectively unreasonable use of force against and killing of Hank, and for all three Defendant Deputies' deliberate indifference to Hanks's serious medical needs.

RELIEF REQUESTED

WHEREFORE, premises considered, Plaintiff respectfully requests that the Court enter judgement in Plaintiff's favor and against the Defendants and award Plaintiff the following:

1. Actual damages, including, but not limited to, pain and suffering, mental anguish, emotional distress, and loss of consortium/companionship, in excess of \$75,000.00;
2. Punitive damages to the extent authorized by law;
3. Attorney fees in accordance with 42 U.S.C. § 1988(b);
4. Pre and post-judgment interest;
5. Costs; and
6. Any and all other relief to which the Estate is lawfully entitled to claim.

Respectfully submitted,



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