

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

RACQUEL MARIE SANCHEZ,

Plaintiff,

CASE NO.: 8:19-cv- -T-

v.

CHAD CHRONISTER, as Sheriff of Hillsborough
County, Florida, in his official capacity; and
DEAN GREENE, II, in his individual capacity,

Defendants.

COMPLAINT AND DEMAND FOR JURY TRIAL

COMES NOW, Racquel Marie Sanchez, by and through her undersigned counsel, and hereby sues the defendants, Chad Chronister, in his official capacity as Sheriff of Hillsborough County, Florida, and Hillsborough County Sheriff's Deputy Dean Greene, II, in his individual capacity.

INTRODUCTION

1. This is an action brought by a United States citizen, Racquel Marie Sanchez, who was the victim of excessive force in violation of the Fourth Amendment, common law battery and, in the alternative, common law negligence, by defendant Dean Greene, II, who shot Ms. Sanchez with a round fired from his AR-15 rifle, causing permanent injuries. There was no reasonable basis for defendant Greene's application of any force against Ms. Sanchez, who was a fully compliant, non-resisting investigatory detainee within defendant Greene's care and custody at the time she was shot.

2. Ms. Sanchez alleges that defendant Greene, employed by defendant Chad Chronister and acting within the course and scope of his employment, committed the state law torts of battery and, alternatively, of negligence, which are actionable against Sheriff Chronister in his official capacity under Florida law, specifically § 768.28(9), *Fla. Stat.* As actionable under 42 U.S.C. §1983, Ms. Sanchez also alleges that defendant Greene violated her Fourth Amendment right to be free from the application of excessive force following the initiation of a Fourth Amendment seizure. Ms. Sanchez also alleges under 42 U.S.C. § 1983 that defendant Chronister, in his official capacity, violated the Fourth Amendment because the failure to train Greene and his fellow deputies constitutes a policy, custom, or usage that caused the deprivation of Ms. Sanchez's Fourth Amendment rights. Ms. Sanchez seeks declaratory and compensatory relief, punitive damages from defendant Greene on the Fourth Amendment claim against him, and attorneys' fees and costs on the federal civil rights claims.

3. This action arises under Florida common law and the Constitution and laws of the United States. This court has jurisdiction over the federal claims pursuant to 28 U.S.C. §§ 1331 & 1343, and jurisdiction over the supplemental state law claims pursuant to 28 U.S.C. § 1367.

4. All incidents material to this action occurred in Hillsborough County, Florida, and defendant Chronister is a state constitutional officer serving Hillsborough County, Florida.

Venue is appropriate in this Court pursuant to Local Rule 1.02(b)(4).

PARTIES

5. Plaintiff Racquel Marie Sanchez is an adult United States citizen and, at all relevant times, was a resident of the State of Florida and of Hillsborough County. She was 19 years old at the time of defendant Greene's application of force against her.

6. Defendant Chad Chronister is the Sheriff of Hillsborough County, Florida, and is sued in his official capacity as a state constitutional officer on the supplemental state law claims of battery and negligence, and on the Fourth Amendment municipal policy claim.

7. Defendant Dean Greene, II, was, at all relevant times, a deputy employed by the Hillsborough County Sheriff's Office, and is sued in his individual capacity on the Fourth Amendment claim.

COMPLIANCE WITH PROCEDURAL REQUIREMENTS

8. Plaintiff timely provided notice of her negligence and battery claims pursuant to § 768.28(6), *Fla. Stat.* regarding the supplemental state tort claims against defendant Chronister, in his official capacity. There are no administrative preconditions applicable to the federal civil rights claims.

FACTUAL ALLEGATIONS

9. On February 6, 2018, deputies employed by the Hillsborough County Sheriff's Office planned the undercover purchase of a suspected stolen firearm from, and the arrest of, Roberto Rivera, Jr. Defendant Greene's role in the operation was "eyes and ears," that is, monitoring undercover communications and communications between his fellow officers, maintaining general surveillance of the scene, and detaining persons other than Rivera who were expected to be present at the scene. The "buy-bust," as it is known, was to occur in the early evening hours.

10. According to the action plan formulated by defendant Greene and other deputies participating in the buy-bust operation, two undercover deputies of the Hillsborough County Sheriff's Office made plans to meet Rivera in the parking lot of a local Home Depot, after closing hours, to purchase the firearm. The business is located on U.S. Highway 60 in the

Brandon area of Hillsborough County. Upon the undercover deputies' signal, other deputies would promptly arrive at the scene and arrest Rivera.

11. The action plan for the buy-bust operation also provided that Rivera's arrest would be executed by a five-member tactical team once the undercover deputies sent a prearranged signal. Additional deputies would also be present on the scene as the "rescue team."

12. According to the action plan, the two undercover deputies would park in an unmarked car and await Rivera's arrival. The five-member tactical team, located in two vehicles, would be located nearby, ready to converge on the scene and arrest Rivera upon completion of the undercover transaction. The three deputies assigned to arrest Rivera arrived in one of the vehicles, and Corporal Morales and defendant Greene arrived in the other, which was driven by Morales. A third Hillsborough County Sheriff's Office vehicle contained the rescue team. According to the action plan, Morales and defendant Greene were assigned to secure any occupants remaining in the suspect vehicle as Rivera was being arrested.

13. In the early evening hours, the undercover deputies arrived at the prearranged parking lot in their undercover vehicle, and parked. Rivera then arrived by vehicle, as the deputies expected. Plaintiff Racquel Sanchez, Rivera's girlfriend, drove the car, a 2001 Mercury Grand Marquis. Rivera was the front seat passenger, and Anthony Cardoza, another passenger, sat in the back seat. The Sheriff's tactical team, including defendant Greene, expected that Rivera would be accompanied by other individuals, according to prior communications between Rivera and the undercover deputies. Ms. Sanchez remained in the driver's seat throughout the events. No weapons were present inside her car.

14. Ms. Sanchez parked the car in the northern portion of the large parking lot, to the left of a vehicle in which the two undercover deputies were present. Both cars faced east, and were parked in adjacent, marked parking spaces.

15. The nearest building to the two cars was a business called Mister Car Wash. The business was outfitted with exterior surveillance cameras, one of which captured many of the relevant events. The camera was located to the northwest of the vehicles.

16. Upon arrival, Rivera exited Ms. Sanchez's car, retrieved the firearm from the car's trunk, and entered the front seat of the adjacent undercover car.

17. Shortly thereafter, the undercover deputies provided a signal to alert the Sheriff's tactical team to execute Rivera's arrest. Defendant Greene monitored the signal, and gave a signal to the tactical team to initiate the arrest of Rivera. The undercover deputies quickly exited the undercover car, and did not participate in Rivera's arrest.

18. Three deputies ran to the undercover car to arrest Rivera. One was positioned at the right front of the vehicle, another deputy was located at the right rear of the vehicle, and a third was positioned at the left passenger door of the undercover vehicle, that is, in the area between the two parked cars.

19. Consistent with the action plan, Morales and Greene ran to Sanchez's car for the purpose of detaining but not arresting its occupants, including Sanchez. The detention was for the purpose of securing the scene until Rivera could be fully secured and taken into custody. Defendant Greene and Morales were both armed with firearms. Morales took a position at the left rear of Ms. Sanchez's car.

20. Defendant Greene was armed with his personally owned, but Sheriff-approved, Colt AR-15 rifle.

21. Defendant Greene and Corporal Morales pointed their firearms at Ms. Sanchez and Cardoza, and simultaneously yelled forceful commands to them to show their hands. Ms. Sanchez, still in the driver's seat, immediately complied with the deputies' commands, and remained compliant, indeed raising her hands outside the vehicle as commanded by Greene and Morales. She otherwise remained utterly still.

22. At that moment, Ms. Sanchez was seized within the meaning of the Fourth Amendment, as she immediately and fully surrendered to Greene's and Morales's deliberate and commanding show of authority. More specifically, Ms. Sanchez was seized by defendant Greene's and Morales's pointing of their firearms at her, accompanied simultaneously with their forceful verbal commands to show her hands. She immediately and fully complied. Under these circumstances, no reasonable person would conclude that he or she was free to leave. Stated differently, defendant Greene and Morales performed an investigatory detention, that is, the seizure, of Ms. Sanchez by means intentionally applied, namely, the combination of verbal commands and the coercive effect of pointing their firearms at her. At the point Ms. Sanchez voluntarily complied, which was instantaneous upon the official show of authority, she was seized within the meaning of the Fourth Amendment.

23. Upon Ms. Sanchez's immediate compliance with defendant Greene's and Morales's verbal commands and the coercive use of their firearms, Greene and Morales became responsible for all reasonable care and custody of Ms. Sanchez. From that point, defendant Greene had a duty of all reasonable care to his detainee, Ms. Sanchez. The duty of reasonable care and custody of a detainee includes protection from all intentionally inflicted and unreasonably imposed harmful acts.

24. Defendant Greene, according to the action plan, was assigned to take the “windshield position” at the left front of Ms. Sanchez’s car. The purpose was to make eye contact with Ms. Sanchez while pointing his rifle at her, with the intent to ensure that she would not flee in the vehicle, or otherwise.

25. Defendant Greene left Corporal Morales’s vehicle and travelled along the left side of Sanchez’s car. He pointed his firearm and continued to issue commands at Ms. Sanchez as a means of maintaining his investigatory detention of her. Once Ms. Sanchez immediately surrendered to defendant Greene’s and Morales’s show of authority, she continuously complied - without exception - throughout the incident, including during the period after she was shot.

26. The distance between Morales’s car and the front of Ms. Sanchez’s car is approximately 20 yards. As he covered that distance on foot, Greene discharged his firearm once. The discharge occurred at one of the very few moments during his movement along the left side of her car that the round could have struck Ms. Sanchez.

27. The single round penetrated the driver’s door of the Mercury Grand Marquis, entered Racquel Sanchez’s outer left thigh, travelled through the width of her leg, and exited from her left inner thigh. The trajectory of the round remained unchanged as it travelled through the car door and through Ms. Sanchez’s thigh. Ms. Sanchez was seriously injured.

28. Within two seconds of defendant Greene’s discharge of his rifle, the deputy located at the right rear passenger window of the undercover car discharged his weapon, striking Rivera, who was also seriously injured. This deputy mistakenly assumed that defendant Greene’s discharge of his Colt AR-15 was a gunshot from Rivera.

29. Defendant Greene provided initial medical care to Ms. Sanchez, who continued to remain compliant and cooperative. She was soon transported to an emergency room for urgent care of her wounds.

30. Defendant Greene, shortly after the incident, told Hillsborough County Sheriff's Sergeant Christopher Rule that Ms. Sanchez "was non-compliant." Defendant Greene told Sergeant Rule that, "He had shouted several commands at her to raise her hands and that she was not being compliant." Sergeant Rule believes that defendant Greene originally said that that Sanchez "was possibly reaching for something [. H]er hands went up and then they went back down as he approached her car." In so explaining his actions, defendant Greene indicated that the discharge of his firearm was intentional.

31. These accusations are factually untrue, as the videotape captured by the Mister Car Wash camera demonstrates that Ms. Sanchez's was immediately compliant with defendant Greene's and Morales' initial shows of authority, and her full compliance at all times thereafter.

32. Ms. Sanchez has suffered permanent physical injury and from immediate and lingering pain. Her sciatic nerve was permanently damaged, and as a result she suffers from "foot drop," a condition caused by the inability of the nerves in her left leg to control muscles that govern the lifting and lowering of her left foot. Ms. Sanchez suffers, and continues to suffer, continuing pain and discomfort from the gunshot and the nerve damage it caused. Ms. Sanchez has permanent scarring at the entry and exit wound in her left thigh, a permanent deficiency in her normal gait, and permanent limitations on her physical activities.

33. Ms. Sanchez also suffered, and continues to suffer, mental and emotional distress, humiliation, pain and suffering, and other non-economic losses as a result of defendant Greene's unreasonable application of deadly force.

34. The Hillsborough County Sheriff's Office subsequently investigated Greene for a violation of the agency's disciplinary standard relating to the use, storage, and handling of weapons. The standard, § 4.6.06, provides in pertinent part that, "Sheriff's personnel shall use or handle weapons in a careful, safe, and prudent manner on and off-duty." The Sheriff's Office concluded that he violated the standard, and on May 29, 2018 suspended him for three days, and imposed a requirement of remedial firearms training.

COUNT I

(State Law Battery Claim Against Defendant Chad Chronister, in his official capacity)

Plaintiff sues defendant Chad Chronister in his official capacity and states:

35. All factual allegations of paragraphs 9 through 34 are realleged in full and adopted herein.

36. Defendant Greene committed the state law tort of battery against Racquel Marie Sanchez, which is actionable against Chad Chronister, Sheriff of Hillsborough County, in his official capacity, pursuant to § 768.28(9), *Fla. Stat.* Defendant Greene applied deadly force upon plaintiff without her consent, and with no legal or justifiable reason. In intentionally applying force and harmfully applying an amount of force that was unreasonable and excessive under the circumstance, Greene committed the Florida common law tort of battery.

37. As a result of the battery of plaintiff, she suffered the losses described above in paragraphs 32 and 33.

COUNT II

(State Law Negligence Claim Against Defendant Chad Chronister, in his official capacity)

Plaintiff sues defendant Chad Chronister in his official capacity and states:

38. All allegations of paragraphs 9 through 34 are realleged in full and adopted herein.

39. Alternatively, defendant Greene negligently harmed plaintiff Racquel Sanchez, which is actionable against Chad Chronister, Sheriff of Hillsborough County, in his official capacity, pursuant to § 768.28(9), *Fla. Stat.* Defendant Greene owed a duty of reasonable care to Ms. Sanchez, breached that duty, and in so doing caused serious harm to her.

40. As a result of defendant Greene's negligence, she suffered the losses described above in paragraphs 32 and 33.

COUNT III

(42 U.S.C. § 1983 Excessive Force Claim for Violation of the Fourth

Amendment Against Defendant Dean Greene, II in his individual capacity)

Plaintiff sues defendant Dean Greene, II, in his individual capacity and states:

41. All allegations of paragraphs 9 through 32 are realleged in full and adopted herein.

42. Defendant Greene inflicted excessive force on Racquel Sanchez, and in so doing violated the Fourth Amendment to the United States Constitution. At the time Ms. Sanchez was subjected to excessive force, she had been previously "seized" within the meaning of the Fourth Amendment as an investigatory detainee.

42. Defendant Greene and Corporal Morales seized Ms. Sanchez by their intentional and deliberate show of authority, which in these circumstances were a combination of issuing forceful verbal commands and pointing their firearms at her. Ms. Sanchez immediately complied with their show of authority, and at that moment she was seized under the Fourth Amendment. Defendant Greene, also at that moment, became responsible for her reasonable care

and custody, and had a duty to protect her from all intentionally inflicted and unreasonably imposed harmful acts, including the infliction of excessive force.

43. Defendant Green, however, did not maintain a reasonable seizure of Ms. Sanchez. Instead of safely detaining her, he discharged his AR-15 rifle, striking her with a high-velocity round that penetrated a car door and passed through the width of her left thigh, and causing permanent physical and emotional damages to a 19-year old woman.

45. The application of objectively unreasonable force, whether intentionally inflicted or unreasonably imposed, upon a compliant investigatory detainee violates the Fourth Amendment right to be free from an unreasonable seizure, and is actionable pursuant to 42 U.S.C. § 1983.

46. The application of force was objectively unreasonable because: 1) there was no need for the application of force under the circumstances; 2) the amount of force was therefore wholly disproportionate to the need for force, which was non-existent; and 3) the great magnitude of the injuries inflicted on Ms. Sanchez by Greene's use of force reflected its excessiveness. The application of force was also objectively unreasonable to the extent it originated in defendant Greene's failure to take reasonable care in avoiding harm to his investigatory detainee, Ms. Sanchez, to whom he owed a reasonable care as a citizen in his care and custody.

47. As a result of defendant Greene's violation of the Fourth Amendment, she suffered the losses described above in paragraphs 32 and 33.

48. Defendant Greene's infliction of excessive force against Ms. Sanchez in violation of the Fourth Amendment is actionable pursuant to 42 U.S.C. § 1983.

COUNT IV

(42 U.S.C. § 1983 Excessive Force Claim for Violation of the Fourth
Amendment Against Defendant Chad Chronister, in his official capacity)

Plaintiff sues defendant Chad Chronister in his official capacity and states:

49. All allegations of paragraphs 9 through 34, and 42 through 47, are realleged in full and adopted herein.

50. Defendant Greene violated Racquel Sanchez's Fourth Amendment right to be free from an unreasonable seizure by applying deadly force.

51. Defendant Greene's constitutional violation was caused by defendant Chronister's failure to train his deputies in the safe and appropriate use of deadly force, a subject upon which defendant Chronister knows to a moral certainty is necessary for avoiding constitutional deprivations like the one Racquel Sanchez suffered. This failure to train was a moving force in the constitutional deprivation, and constituted an official policy, custom, and usage.

52. This failure to train was evidenced both by the fact that defendant Greene, as part of his disciplinary sanction, was subjected to additional firearms training, and also because a second deputy used deadly force during the same incident in circumstances in which it was not justifiable.

53. As a result of defendant Chronister's, in his official capacity, failure to train, and because this failure to train was the moving force in defendant Greene's violation of the Fourth Amendment, Racquel Sanchez suffered the losses described above in paragraphs 32 and 33.

54. The Fourth Amendment claim against defendant Chronister in his official capacity is actionable pursuant to 42 U.S.C. § 1983.

PRAYER FOR RELIEF

WHEREFORE, plaintiff Racquel Sanchez prays that this Court will enter relief in the following terms:

1. A judgment for declaratory and compensatory relief on all Counts;
2. A judgment for punitive damages on Count III;
3. An award of costs, expert witness fees, and attorneys' fees pursuant to 42 U.S.C.

§ 1988 on Counts III and IV;

4. An award of standard costs on all Counts; and
5. Such other relief as the Court deems just and proper.

Finally, plaintiff requests a trial by jury.

Respectfully submitted this 12th day of July, 2019,

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