

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

SHERITA HARRIS

PLAINTIFF

v.

Civil Action No.: 3:23-cv-03159-KHJ-MTP

**MISSISSIPPI DEPARTMENT OF PUBLIC
SAFETY, MISSISSIPPI CAPITOL POLICE
DEPARTMENT, OFFICER JEFFERY WALKER INDIVIDUALLY AND
IN HIS OFFICIAL CAPACITY AS A MISSISSIPPI
CAPITOL POLICE OFFICER, and
OFFICER MICHAEL RHINEWALT INDIVIDUALLY AND
IN HIS OFFICIAL CAPACITY AS A MISSISSIPPI
CAPITOL POLICE DEPARTMENT OFFICER**

**FIRST AMENDED COMPLAINT
(Jury Trial Demanded)**

COMES NOW, Plaintiff Sherita Harris, by and through her undersigned attorney, and brings this First Amended *Complaint*, alleging the following causes of action against Defendants, and shows this honorable court to wit:

PARTIES

1. Defendant Mississippi Department of Public Safety, (hereinafter “MDPS”) is a department of the State of Mississippi that trains a team of officers specially trained to respond to critical incidents. MDPS can be served with process to Sean Tindell, the Commissioner at 1900 E. Woodrow Wilson Avenue, Jackson, MS 39216.
2. Defendant Mississippi Capital Police (hereinafter “Capitol Police”) is a patrol division that provides law enforcement and security services to the Capitol Building and throughout the Capitol Complex District. Capitol Police can be served with process to Capitol Police Chief Bo Luckey at 501 North West Street, Jackson, MS 39201.
3. Defendant Jeffery Walker is an adult resident of Jackson, Mississippi, and can be served with process at his place of employment, the Capitol Police Department at 501 North West Street,

Jackson, MS 39201.

4. Defendant Michael Rhinewalt is an adult resident of Jackson, Mississippi, and can be served with process at his place of employment, the Capitol Police Department, at 501 North West Street, Jackson, MS 39201.
5. Plaintiff Sherita Harris is an adult resident of Hinds County, Mississippi.

JURISDICTION AND VENUE

6. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 and 1343 because the controversy arises under the U.S. Constitution and 42 U.S.C. § 1983. This Court has authority to award attorney's fees pursuant to 42 U.S.C. § 1988. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2) because the events giving rise to this complaint happened in this district.

STATEMENT OF FACTS

7. On August 14th, 2022, Plaintiff Harris was a passenger in a vehicle that was traveling northbound on State Street / Highway 51 in downtown Jackson, MS.
8. Plaintiff Harris was stopped at an intersection of State and Amite waiting for the traffic signal to turn green, when Defendants Walker and Rhinewalt approached the car from the rear. Immediately thereafter, Defendant Walker activated his police cruiser's emergency lights and commanded the vehicle to pull over on the side of the road.
9. The vehicle complied with Defendant Walker's commands. Shortly thereafter, Defendant Rhinewalt began to shoot into the vehicle. The driver of the vehicle attempted to drive away from Defendants Walker and Rhinewalt to escape the constant firing of bullets.
10. When the driver of the Harris occupied vehicle looked over to Plaintiff Harris, the driver noticed Plaintiff Harris slumped over in the passenger seat. Plaintiff Harris had suffered a bullet wound to the head.
11. An ambulance proceeded to take Plaintiff Harris to UMMC-Jackson. Plaintiff Harris required surgery to remove bullet fragments from her head. She remained in the hospital for

approximately three (3) to four (4) days.

12. Because of Defendants Rhinewalt and Walker's excessive force demonstrated by the shot to the head and unlawful or unauthorized vehicle chase, Plaintiff Harris suffers severe complications with her speech, gait, and overall cognizant abilities. Defendant Walker admits to shooting towards the driver of the vehicle in which Harris was a passenger after the driver exited the vehicle. Defendant Rhinewalt's bullet is the only one that is believed to have struck Plaintiff in the head and he is the only defendant that shot towards the Harris occupied vehicle.

COUNT I

42 U.S.C. § 1983 – Excessive Force in violation of the Fourth Amendment

(As to Defendant Walker and Defendant Rhinewalt)

15. Plaintiff hereby incorporates by reference all other paragraphs of this Complaint as if fully set forth herein.
16. 42 U.S.C. § 1983 provides that:

“Every person, who under color of any statute, ordinance, regulation, custom or usage of any state or territory or the District of Columbia subjects or causes to be subjected any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the constitution and law shall be liable to the party injured in an action at law, suit in equity, or other appropriate proceeding for redress . . .”
17. Defendant Walker and Defendant Rhinewalt (“Defendants”) deprived Plaintiff Harris of clearly established rights secured to her under the United States Constitution – specifically the Fourth Amendment right to be free from the use of excessive force against one's person. The moving force behind such deprivations were the policies, practices, customs, or procedures of Defendants, MDPS and Capitol Police.
18. Defendants' excessive use of force in shooting bullets into the car that Plaintiff Harris

was a passenger caused Plaintiff Harris to suffer bullet wounds to the head.

19. Any reasonable police officer in the position of Defendants would have known that the force being used against Plaintiff Harris was unconstitutional and that it was not safe to shoot into a moving vehicle.
20. Any reasonable police officer in the position of Defendants would have known that they had a duty to take reasonable measures to prevent harm to Plaintiff Harris, an innocent bystander or passenger.
21. Defendants' conduct resulted in a physical and psychological injuries to Plaintiff Harris.

COUNT II

Mississippi State Law Claims for Assault, Battery, and Recklessness (Gross Negligence)

(As to Defendant Walker and Defendant Rhinewalt)

22. Plaintiff re-alleges and incorporates each and every preceding paragraph as if fully set forth herein.
23. Defendant Walker and Defendant Rhinewalt committed intentional or reckless acts that caused apprehension of immediate harm and actual injury to Plaintiff who was not suspected of or committing a crime.
24. Defendants owed a duty to Plaintiff as officers of law and breached that duty by causing her immense harm.
25. Because of this, Plaintiff suffered severe damages and injuries.

COUNT III

State Law Claim for Intentional/Negligent Infliction of Emotional Distress

(As to Defendant Walker and Defendant Rhinewalt)

26. Plaintiff re-alleges and incorporates each and every preceding paragraph as if fully set forth herein.
27. Defendants willful, wanton, and reckless acts caused Plaintiff Harris to suffer emotional distress and mental trauma.

28. This traumatic incident has caused Plaintiff Harris severe emotional distress, such as anxiety, depression, and panic attacks.

COUNT IV
42 U.S.C. § 1983 – Failure to Train and Supervise
(As to Defendants MDPS and Capitol Police)

29. Plaintiff re-alleges and incorporates each and every preceding paragraph as if fully set forth herein.

30. Defendant MDPS and Capitol Police Negligently trained, retained, hired and supervised Defendant Maldonado.

31. At all times relevant to this action, Defendant MDPS and Defendant Capitol Police had policymaking authority, and otherwise controlled the training and supervision of Defendant Walker and Defendant Rhinewalt.

32. Defendant MDPS and Defendant Capitol Police should have known that, in such a situation, its officers have a clear constitutional duty to avoid excessive force by shooting blindly into a moving vehicle. Defendant MDPS and Defendant Capitol Police should have known that its officers would lack the legal knowledge necessary to avoid the application of excessive force in that situation without proper training and supervision, including on the issue of force with a firearm. Said defendants also failed to properly train the officer defendants on the no pursuit policy of the Capitol Police that existed on the day of the incident.

33. As a direct and proximate result of the aforementioned Defendants' negligence or failures, Plaintiff Harris sustained the damages set forth herein and all damages that will be proved at trial hereon. Defendant Walker also has bystander liability for failing to intervene and stop Defendant Rhinewalt from shooting into a moving vehicle, striking Plaintiff in the head with a bullet or bullets.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that the Court grant her relief as follows:

- a. Enter a declaratory judgment finding that the actions of the Defendants as alleged in this Complaint violated 42 U.S.C. § 1983 and provide injunctive relief.
- b. Award compensatory damages in an amount of \$3,000,000 for Plaintiff Harris or other amount that would fully compensate Plaintiff Harris for her damages, including but not limited to her physical injuries, emotional distress, and mental anguish caused by Defendants' violations of the law, as alleged in this Complaint.
- c. Award punitive damages to Plaintiff Harris in an amount sufficient to punish individual Defendants for the intentional, malicious, callous, bad faith, willful, wanton, and reckless misconduct alleged in this Complaint and that would effectively deter said individual Defendants from future extreme and excessive behavior;
- d. Award Plaintiff her attorneys' fees and costs; and
- e. Order such other and further relief as the Court deems and equitable.

RESPECTFULLY SUBMITTED, THIS the 20th day of December, 2023.

SHERITA HARRIS, Plaintiff

By: /s/Carlos E Moore
Carlos E. Moore, MSB# 100685

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