

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
CHATTANOOGA DIVISION**

Z.H., by next friend Tianna Perry, C.H., by
next friend Tianna Perry, D.H., by next friend
Patrice Robinson, K.H., by next friend
Kimberly Spivey, and S.H., by next friend
Doris Toney,

Plaintiffs,

v.

THE CITY OF CHATTANOOGA,
TENNESSEE, and CELTAIN BATTERSON,

Defendants.

CASE NO.

DEMAND FOR JURY TRIAL

COMPLAINT

On August 11, 2023, Defendant Celtain Batterson, at the time an Investigator with the Chattanooga Police Department (“CPD”), shot and killed Roger Heard. Roger had an arrest warrant out of Knoxville, and Batterson was leading a task force to serve the warrant. To call the operation “botched” would be a gross understatement; Batterson – who resigned during the CPD’s investigation into his shooting – violated policy at every turn, putting citizens and officers at risk in a rabid approach to serving a garden-variety warrant, and ultimately killed Roger after Roger was unarmed, in an execution-style killing.

That night, Batterson was surveilling Roger at a busy Chattanooga gas station. When Batterson saw that Roger was starting his car to leave, he decided to go in. Rather than sending in uniformed officers (as was the operational plan), Batterson and his partner sped into the crowded gas station in an unmarked car without running lights or sirens. With more than a dozen people in the vicinity, the officers blocked Roger’s car and Batterson got out, pulled a gun

on Roger, and walked up to Roger's door. Batterson was in plain clothes (jeans and a red shirt), was not wearing a visible badge, and did not identify himself as police or give Roger any warning. In the ensuing Internal Affairs ("IA") investigation, it was determined that Batterson was not easily identified as law enforcement.

Roger, seeing a large man with a gun coming at him, pushed his car door and shot at Batterson, hitting him in the arm, and fled across the parking lot. Another officer who had just arrived on the scene then shot Roger and Roger fell to the ground. When Roger went down, his gun went flying and landed several feet away, well out of reach. At that point, Roger was down, he was no longer moving, and he was unarmed.

What happened next is conscience-shocking. Batterson approached Roger lying on the ground unarmed, stood over him, and shot him approximately nine times, with one shot hitting Roger in the head and killing him. Plaintiffs, Roger's surviving children, bring suit against Batterson for killing their father in violation of the Fourth and/or Fourteenth Amendments to the U.S. Constitution, and for reckless misconduct and assault and battery under state law. In addition, Plaintiffs bring suit against the City of Chattanooga for failing to properly train and/or discipline Batterson.

Parties, Jurisdiction, and Venue

1. Roger Heard died unmarried. He is survived by five children, identified below.
2. Plaintiff Z.H. is the minor child of Roger Heard and, as such, holds statutory rights under Section 20-5-106 of the Tennessee Annotated Code to pursue a wrongful death action regarding Roger's death. Plaintiff Z.H. resides in this District with her next friend and parent, Tianna Perry, who has the authority to file and pursue this action on this Z.H.'s behalf.

3. Plaintiff C.H. is the minor child of Roger Heard and, as such, holds statutory rights under Section 20-5-106 of the Tennessee Annotated Code to pursue a wrongful death action regarding Roger's death. Plaintiff C.H. resides in this District with her next friend and parent, Tianna Perry, who has the authority to file and pursue this action on this C.H.'s behalf.

4. Plaintiff D.H. is the minor child of Roger Heard and, as such, holds statutory rights under Section 20-5-106 of the Tennessee Annotated Code to pursue a wrongful death action regarding Roger's death. Plaintiff D.H. resides in this District with her next friend and parent, Patrice Robinson, who has the authority to file and pursue this action on this D.H.'s behalf.

5. Plaintiff K.H. is the minor child of Roger Heard and, as such, holds statutory rights under Section 20-5-106 of the Tennessee Annotated Code to pursue a wrongful death action regarding Roger's death. Plaintiff K.H. resides in this District with her next friend and parent, Kimberly Spivey, who has the authority to file and pursue this action on this K.H.'s behalf.

6. Plaintiff S.H. is the minor child of Roger Heard and, as such, holds statutory rights under Section 20-5-106 of the Tennessee Annotated Code to pursue a wrongful death action regarding Roger's death. Plaintiff S.H. resides in this District with her next friend and legal guardian, Doris Toney, who has the authority to file and pursue this action on this S.H.'s behalf.

7. In their capacities as Roger's children, Plaintiffs are entitled to recover the full value of Roger's life and extreme pain and suffering as a result of Defendant Batterson's acts and omissions, as well as any other damages cognizable under the law.

8. Defendant Celta Batterson is an individual who was, at all times relevant to the allegations in this complaint, an employee of the CPD, acting under color of law.

9. The City of Chattanooga, Tennessee is a Tennessee municipality which operates the CPD. The City of Chattanooga is responsible for the policies, practices, customs, and operations of the CPD, as well as hiring, training, supervising, controlling, and disciplining its officers including but not limited to Batterson.

10. All parties herein are subject to the personal jurisdiction of this Court.

11. Venue is proper in this Court pursuant to 28 U.S.C. §§1391(b)(1) and (b)(2) because one or more Defendant(s) resides within the Eastern District of Tennessee and because the events giving rise to this claim occurred in the Eastern District of Tennessee.

12. All Defendants have been properly served with process in this action.

Facts

13. On August 11, 2023, Defendant Celta Batterson was a CPD Investigator working on Operation Street Sweeper.

14. Operation Street Sweeper's function, in part, included serving outstanding arrest warrants.

15. On that date, one of the people on whom a warrant was being served was Roger Heard, who had an outstanding warrant for nonviolent drug offenses out of Knoxville, Tennessee.

16. Batterson was in charge of the operation.

17. Batterson got word that Roger was at a Speedway gas station in Chattanooga.

18. Batterson and his partner drove to the gas station and confirmed that Roger was there, in a black Kia SUV.

19. Multiple additional officers responded quickly and parked nearby prepared to make an arrest – in both marked and unmarked vehicles.

20. The original plan was for multiple marked police vehicles to move in to arrest Roger.

21. When Roger began to pull out of the gas station, instead of sending in the marked police cars or following Roger to make a traffic stop away from the crowded gas station, Batterson and his partner sped into the parking lot and drove straight at Roger's car, head-on.

22. Batterson and his partner pulled nose-to-nose with Roger's car and Batterson immediately got out of the car, pulled a gun on Roger, and walked up to Roger's door.

23. Batterson was not in uniform when he pointed a gun at Roger.

24. Batterson was wearing jeans and a red t-shirt, neither of which in any way indicated he was law enforcement.

25. Batterson was not wearing a visible badge.

26. If Batterson was wearing a badge at all, it was hung on the holster of his gun.

27. Batterson's holster was placed low and on his hip, where his badge would not be visible to a person in front of him (i.e. a person he would be approaching with a gun).

28. When Batterson got out of the car, pulled a gun on Roger, and walked up to Roger's door, he did not identify himself as law enforcement.

29. When Batterson got out of the car, pulled a gun on Roger, and walked up to Roger's door, he did not issue any verbal warnings; he did not say "freeze, police!" or "you are under arrest!" or "police!" or "arrest warrant!" or anything else telling Roger why he was coming at him with a gun.

30. In fact, when Batterson got out of the car, pulled a gun on Roger, and walked up to Roger's door, he did not say anything at all.

31. In the ensuing IA investigation, CPD officials determined that Batterson was not easily identified as law enforcement.

32. Any reasonable person in Roger's position would not have perceived the man coming at them as a police officer. A reasonable person would have seen a big, aggressive stranger pointing a gun in his face, who meant to either kill or rob him.

33. Roger – seeing a big, aggressive stranger pointing a gun in his face – pushed his car door and shot at Batterson, hitting him in the arm, and fled away from Batterson, across the parking lot.

34. Another officer who had just arrived on the scene shot Roger as Roger ran away from Batterson.

35. When the other officer shot Roger, Roger fell to the ground.

36. When Roger fell to the ground, his gun went flying and landed several feet away, well out of reach.

37. At that point, Roger was down, he was no longer moving, he had been shot and had surrendered, and he was unarmed.

38. Batterson approached Roger lying on the ground unarmed, stood over him, and shot him approximately nine times.

39. One shot hit Roger in the head and killed him.

40. Below are screenshots from body cam video capturing Roger falling and the gun flying. The final frame shows Batterson executing Roger when Roger was unarmed and lying on the concrete.



41. Below are two more screenshots of the shooting. The first is from the same body cam; the second is from gas station surveillance.



42. Roger's decision to shoot at Batterson was a legitimate act of self-defense. Roger was in his car in a gas station at night when a man who did not appear to be a police officer blocked his car and walked up to his car pointing a gun in his face, never indicating he was a police officer.

43. Batterson's decision to shoot Roger nine times after Roger was down, unarmed, and presented no danger or threat – was an execution.

44. Batterson, through gross violations of CPD policy (and common sense), created the dangerous and volatile scenario which caused Roger to shoot at him, and which lead to Roger's death.

45. In the ensuing CPD IA investigation, CPD officials found that Batterson was not easily recognizable as law enforcement, did not have his body armor on, and there was no evidence he activated any emergency equipment on the car when he pulled his gun on Roger and approached him.

46. CPD officials also learned in the IA investigation that, during the pre-arrest Operation Street Sweeper briefing, Batterson told to the other officers something along the lines of, "if he got the chance to take down Heard or to get Heard that he was going to do it."

47. As Batterson's different CPD policy violations came to light, and while Batterson was still on administrative leave for committing aggravated assault against a deputy (discussed below), CPD officials conducted a search of Batterson's office on May 1, 2024.

48. There was also a tentative interview scheduled for Batterson on May 2, 2024, but rather than come in for an interview, Batterson resigned, effective May 1, 2024.

Batterson's Other Internal Affairs Investigations

49. Batterson has been the subject of at least seven legitimate IA investigations, all showing a staggering capacity for dishonesty, a true lack of judgment, an obsessiveness bordering on fanaticism, and a bent toward aggressive and assaultive behavior.

2015 Aggressive Pursuit and Dishonesty

50. In November of 2015, Batterson was suspended because he was too aggressive in a police pursuit in violation of CPD policy. He lied about the policy violations, but the IA investigation revealed the truth.

51. Batterson was involved in a police pursuit in which he claimed that the person he was pursuing had intentionally hit his car, justifying his need to pursue aggressively.

52. During the pursuit (i.e. in real-time), he said over the radio that the person had "just ran into my car," and that the person "just rammed my vehicle again." He wrote in an incident report after the pursuit that "the suspect turned his vehicle directly into my patrol car or into the path of my patrol car causing contact."

53. When Batterson's superiors reviewed the video of the pursuit, they found that Batterson had hit the suspect's car from behind while pursuing it, not the other way around as he had claimed.

54. A PIT maneuver would not have been authorized in the situation, which Batterson knew. When confronted with the reality that he had hit the suspect from behind twice, Batterson claimed that he was not trying to PIT the suspect's car and that the contact was "unintentional."

55. Batterson was suspended for 16 hours for the policy violations.

2017 Reprimand

56. Batterson received a Letter of Reprimand in 2017 which is not found in his personnel file. Presumably, it will be produced in discovery.

2019 Suspension – Second Pursuit Violation

57. Batterson was suspended for 70 hours in September of 2019 for a pursuit violation.

58. The IA investigatory file for this serious policy violation was not found in Batterson's personnel file. Presumably, it will be produced in discovery.

59. Batterson was found to have committed a Class II pursuit violation, Class I extra employment violation, a Class II submitting department reports violation, a Class II misrepresentation, and a Class II improper procedure violation.

60. While the IA file has not been produced by CPD, this marks the second IA investigation in which Batterson made serious, material misrepresentations in the course of his official duties, resulting in a 70-hour suspension.

2019 Discourtesy

61. In November of 2019, Batterson was reprimanded for being discourteous to a member of the public. Batterson refused to provide his name and badge number to a citizen who had asked.

2023 Insubordination and Unsatisfactory Performance

62. After he shot and killed Roger on August 11, 2023, Batterson was placed on administrative leave.

63. On August 12, 2023, the day after Roger's death, Batterson was informed that he was being placed on administrative leave for a week.

64. During the next week while he was on administrative leave, Batterson inserted himself into police investigations in violation of his leave, despite direct orders from his superiors to stop.

65. The investigation into these policy violations never reached a formal conclusion since Batterson resigned on May 1, 2024, but the IA report reflects that Batterson committed Level II Insubordination and Unsatisfactory Performance.

2024 Felony Aggravated Assault (and Influencing a Witness)

66. In February of 2024, while he was still under investigation for Roger's death (and his insubordination in the wake of Roger's death), Batterson was relieved of duty and placed on administrative leave after he assaulted a deputy with the Hamilton County Sheriff's Office ("HCSO").

67. On February 10, 2024, Batterson went to the Erlanger Emergency Room where a colleague (a fellow CPD officer) was working a moonlighting job; Batterson was bringing the colleague dinner.

68. Batterson was off-duty and not on official business but was wearing his typical work clothes including his gun and badge, which allowed him to be in an area which was restricted from the general public; the IA investigation revealed that he "used his authority as a police officer dressed in his soft uniform to act outside the scope of his responsibility."

69. While Batterson was at the hospital, he got into a conversation with his CPD colleague and a female HCSO deputy about Taser use.

70. The conversation turned to talk about being Tased when, without warning and certainly without consent, Batterson unholstered his CPD colleague's Taser and Tased the HCSO deputy three inches above her right knee.

71. The deputy sustained burns from the Taser, and she reported the incident to her superiors.

72. On February 15, 2024, once Batterson found out that there was an investigation into the incident, he called the deputy directly and obtained information relating to the IA investigation prior to being interviewed himself.

73. Batterson also tried to influence the deputy's story. During the call, Batterson claimed that the deputy had "asked for it." She had not.

74. Batterson also played on the deputy's sympathies, telling the deputy that he was now under investigation and was at risk of losing his job.

75. Batterson also told the deputy he didn't know why CPD was making such a big deal out of everything.

76. The next day, February 16, 2024, Batterson was placed on administrative leave pending the outcome of the IA investigation.

77. After Batterson was placed on leave, he again tried to influence the deputy. Batterson texted the deputy to tell her that his badge had been taken, and he asked if she had retracted her story.

78. In the IA investigation, Batterson admitted to calling and texting the deputy, but claimed he was not trying to coerce or influence the deputy.

79. When asked directly about the contents of the February 15 phone call to the deputy, he lied about the more damning aspects of the call.

80. Batterson claimed he did not tell the deputy she had "asked for it," and that he had not told the deputy he did not understand why the agency was making "such a fuss" about the felony aggravated assault.

81. In the IA investigation, Batterson claimed that he Tased and burned the deputy as an “educational experience” for the deputy.

82. Batterson is not certified to provide Taser training or conduct training scenarios.

83. Ultimately, CPD officials determined that when Batterson Tased and burned the deputy, he had committed aggravated assault, a Class C felony carrying a three- to fifteen-year prison sentence.

84. In the IA investigation, Batterson acknowledged that the incident “could be viewed as an aggravated assault.”

85. Very luckily for Batterson, the deputy did not want Batterson prosecuted for committing felony aggravated assault against her.

86. The investigation into Batterson’s felony aggravated assault never reached a formal conclusion since Batterson resigned on May 1, 2024.

COUNT I

Excessive Force

87. Plaintiffs incorporate by reference paragraphs 1 through 86 of this Complaint as if fully stated herein.

88. Defendant Batterson used excessive force in violation of the Fourth and Fourteenth Amendments to the United States Constitution when he shot and killed Roger.

89. Batterson shot and killed Roger after Roger had already been shot and gone down, and after Roger’s gun went flying and landed several feet away, well out of reach.

90. At that point, Roger was down, he was no longer moving, and he was unarmed; he presented no threat of injury to anybody.

91. Despite the fact that Roger did not present a threat to anybody, Batterson approached Roger lying on the ground unarmed, stood over him, and shot him approximately nine times.

92. One shot hit Roger in the head and killed him.

93. Batterson had no valid reason for this use of deadly force.

94. At all times material hereto, Batterson was acting under color of law as a CPD Investigator.

95. Plaintiffs claim damages for the injuries set forth above under the Fourth and Fourteenth Amendments to the U.S. Constitution against Batterson for violations of Roger's constitutional rights under color of law.

COUNT II **Municipal Liability**

96. Plaintiffs incorporate by reference paragraphs 1 through 86 of this Complaint as if fully stated herein.

97. Defendant the City of Chattanooga, operating through the CPD, committed acts and omissions under color of law in its capacity as a state actor, causing Roger's death and depriving him of his Constitutional rights.

98. In deprivation of Roger's Constitutional rights, the City of Chattanooga/CPD failed to adequately train its officers in the proper use of force in situations such as those presented in this case and/or failed to adequately discipline its officers for policy and ethical violations, including the use of unnecessary force.

99. The City of Chattanooga/CPD created and/or allowed an environment to exist at CPD whereby officers believed they could use excessive force on individuals without being

adequately punished for doing so, which made the incident at issue in this case foreseeable and preventable.

100. With regard to Batterson specifically, the City of Chattanooga/CPD kept Batterson on the force, allowed him to carry a weapon, allowed him to make arrests via Operation Street Sweeper, and allowed him to take operational control of Operation Street Sweeper – all while knowing that he had the internal affairs history outlined above, which in August of 2023 included two separate prior incidents where he acted with aggression and dishonesty, such as ramming a vehicle during a pursuit then lying about it, as well as other potential incidents to be developed in discovery.

101. Policymakers for the City of Chattanooga/CPD were aware of the inadequate training and discipline issues, aware specifically of Batterson's capacity for dishonesty, lack of judgment, obsessiveness bordering on fanaticism, and bent toward aggressive and assaultive behavior.

102. Policymakers for the City of Chattanooga/CPD turned a blind eye to these training and discipline issues, and to Batterson's troubling history, creating a custom, pattern, and practice that allows officers to ignore written policies and receive no meaningful retribution or punishment for violating those policies, and giving Batterson reason to believe such conduct was tolerated or encouraged at the CPD.

103. As a direct and proximate cause of these constitutional violations by the City of Chattanooga, Roger was killed.

104. Plaintiffs claim damages for the injuries set forth above under the Fourth and Fourteenth Amendments to the U.S. Constitution against the City of Chattanooga for violations of Roger's constitutional rights under color of law.

COUNT III
State Law – Reckless Misconduct

105. Plaintiffs incorporate by reference paragraphs 1 through 86 of this Complaint as if fully stated herein.

106. Batterson's entire approach to Roger's arrest was reckless.

107. Batterson and his partner sped their unmarked vehicle into the parking lot and drove straight at Roger's car, head-on, without running lights or sirens.

108. Batterson then pulled a gun on Roger and rushed Roger's door.

109. Batterson was not in uniform when he pointed a gun at Roger; he was wearing jeans and a red t-shirt, neither of which in any way indicated he was law enforcement.

110. In addition, if Batterson was wearing a badge, the badge was hung on the holster of his gun, on his hip and to the side, where his badge would not be visible to a person in front of him (i.e. a person he would be approaching with a gun).

111. When Batterson got out of the car, pulled a gun on Roger, and walked up to Roger's door, he did not identify himself as law enforcement or issue any sort of verbal warning.

112. In the ensuing IA investigation, CPD officials determined that Batterson was not easily identified as law enforcement.

113. Defendant Batterson committed reckless misconduct under Tennessee law when he rushed Roger with a gun, knowing that he and his partner had just sped towards him head-on in an unmarked car without running lights or sirens, knowing that he (Batterson) was in plain clothes without a visible badge, and failing to announce himself as a police officer.

114. When Batterson rushed Roger with a gun, he was aware of, but consciously disregarded, a substantial and unjustifiable risk of such a nature that its disregard constituted a

gross deviation from the standard of care that an ordinary person would exercise under all the circumstances.

115. This sequence of events caused Roger's death.

116. In addition, Batterson committed reckless misconduct when he shot Roger after Roger had been shot, gone down, and after Roger's gun went flying and landed several feet away, well out of reach.

117. At that point, Roger was down, he was no longer moving, and he was unarmed; he presented no threat of injury to anybody.

118. Despite the fact that Roger did not present a threat to anybody, Batterson approached Roger lying on the ground unarmed, stood over him, and shot him approximately nine times.

119. One shot hit Roger in the head and killed him.

120. Batterson had no valid reason for this use of deadly force.

121. Batterson's use of deadly force was reckless.

122. When Batterson shot Roger approximately nine times after Roger was on the ground and unarmed, he was aware of, but consciously disregarded, a substantial and unjustifiable risk of such a nature that its disregard constituted a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances.

123. At all times material hereto, Batterson was acting under color of law as a CPD Investigator.

124. Plaintiffs claim damages for the injuries set forth above under Tennessee law against Batterson for their father Roger's death.

COUNT IV
State Law - Assault and Battery

125. Plaintiffs incorporate by reference paragraphs 1 through 86 of this Complaint as if fully stated herein.

126. Defendant Batterson committed assault and battery under Tennessee law when he rushed Roger with a gun and when he shot and killed Roger.

127. Batterson and his partner sped their unmarked vehicle into the parking lot and drove straight at Roger's car, head-on.

128. Batterson then pulled a gun on Roger and rushed Roger's door.

129. Batterson was not in uniform when he pointed a gun at Roger; he was wearing jeans and a red t-shirt, neither of which in any way indicated he was law enforcement.

130. In addition, if Batterson was wearing a badge, the badge was hung on the holster of his gun, on his hip and to the side, where his badge would not be visible to a person in front of him (i.e. a person he would be approaching with a gun).

131. When Batterson got out of the car, pulled a gun on Roger, and walked up to Roger's door, he did not identify himself as law enforcement or issue any sort of verbal warning.

132. In the ensuing IA investigation, CPD officials determined that Batterson was not easily identified as law enforcement.

133. This sequence of events – Batterson's rushing Roger while pointing a gun at him, knowing that he and his partner had just sped towards him head-on in an unmarked car without running lights and sirens, knowing that he (Batterson) was in plain clothes without a visible badge, and failing to announce himself as a police officer – amounted to assault and battery under Tennessee law.

134. This sequence of events caused Roger's death.

135. In addition, Batterson committed assault and battery against Roger when he shot Roger after Roger had been shot, gone down, and after Roger's gun went flying and landed several feet away, well out of reach.

136. At that point, Roger was down, he was no longer moving, and he was unarmed; he presented no threat of injury to anybody.

137. Despite the fact that Roger did not present a threat to anybody, Batterson approached Roger lying on the ground unarmed, stood over him, and shot him approximately nine times.

138. One shot hit Roger in the head and killed him.

139. Batterson had no valid reason for this use of deadly force.

140. Batterson's use of deadly force was willful and malicious.

141. At all times material hereto, Batterson was acting under color of law as a CPD Investigator.

142. Plaintiffs claim damages for the injuries set forth above under Tennessee law against Batterson for their father Roger's death.

Prayer for Relief

WHEREFORE, Plaintiffs pray that this Court issue the following relief:

- 1) That process issue in accordance with the law;
- 2) That the Court award Plaintiffs compensatory and general damages in an amount of not less than the full value of Roger's life and extreme pain and suffering as a result of Defendant Batterson's acts and omissions, as well as any other damages cognizable under the law.
- 3) That the Court award punitive damages in an amount to be determined by the enlightened conscience of the jury against the Defendants;

- 4) That the Court award costs of this action, including attorneys' fees, to Plaintiffs, pursuant to any applicable laws regarding such awards;
- 5) That pre- and post- judgment interest be awarded to Plaintiffs under federal statutes and case law;
- 6) That the Court award Plaintiffs such other and further relief as it deems just and necessary; and
- 7) That Plaintiffs be granted a trial by jury.

This 7th day of August, 2024

s/McCracken Poston
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UNITED STATES DISTRICT COURT

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Eastern District of Tennessee 

Z.H., by next friend Tianna Perry, C.H., by next friend
Tianna Perry, D.H., by next friend Patrice Robinson, ,
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friend Doris Toney

Plaintiff(s)

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The City of Chattanooga and Celtaen Batterson

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

The City of Chattanooga
c/o Phillip A. Noblett, City Attorney
100 E. 11th Street, Suite 200
Chattanooga, TN 37402

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

McCracken Poston (BPR #020375)
Law Offices of McCracken Poston
7713 Nashville Street
Ringgold, Georgia 30736 (706) 965-8300

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

UNITED STATES DISTRICT COURT

for the

Eastern District of Tennessee



Z.H., by next friend Tianna Perry, C.H., by next friend
Tianna Perry, D.H., by next friend Patrice Robinson, ,
K.H., by next friend Kimberly Spivey, S.H., by next
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Plaintiff(s)

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Civil Action No.

The City of Chattanooga and Celta Batterson

Defendant(s)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

Celta Batterson
302 Shadowood Drive
Smyrna, TN 37167

A lawsuit has been filed against you.

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McCracken Poston (BPR #020375)
Law Offices of McCracken Poston
7713 Nashville Street
Ringgold, Georgia 30736 (706) 965-8300

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

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Signature of Clerk or Deputy Clerk

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was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Z.H., by next friend Tianna Perry, C.H., by next friend
Tianna Perry, D.H., by next friend Patrice Robinson, et al.

(b) County of Residence of First Listed Plaintiff Hamilton County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

McCracken Poston, Law Offices of McCracken
Poston7713 Nashville Street, Ringgold, Georgia 30736
706-965-8300 postonlaw@gmail.com

DEFENDANTS

The City of Chattanooga Tennessee and Celtain Batterson

County of Residence of First Listed Defendant Hamilton County
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. § 1983

Brief description of cause:

Civil rights claims for excessive force and municipal liability, and state law claims for assault and battery, and reckless misconduct.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE

08/07/2024

SIGNATURE OF ATTORNEY OF RECORD

/s/ McCracken Poston

FOR OFFICE USE ONLY

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.