

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

**ERIN JOHNSON, ADRIANA WILKINS,
and MATTHEW ABLE
Plaintiffs,**

**No. _____
JURY DEMAND**

vs.

**MCMINN COUNTY TENNESSEE,
JOE GUY, and DALTON TOWNSEND, Individually
Defendants.**

COMPLAINT

Come the Plaintiffs and for their cause of action would state as follows:

I. INTRODUCTION

This action arises under the Fourth and Fourteenth Amendments to the United States Constitution; under federal law, specifically, 42 U.S.C. §§1983 and 1988; under the Tennessee governmental tort liability statutes *Tenn. Code Ann.* §29-20-101, *et seq.*; and under Tennessee common law for intentional and/or negligent infliction of emotional distress, negligence, negligent supervision, and gross negligence.

While the individual Defendants were acting in the scope of their employment and under color of state law, they made an unlawful search and entry that resulted in the excessive use of force against the Plaintiffs, the deaths of the family pets; and the wrongful imprisonment of the Plaintiffs. The Defendants' actions caused injury to the Plaintiffs.

Action is also brought against the McMinn County, Tennessee Sheriff's Office for its failure to properly train and supervise the individual Defendants in the proper use of force, the grounds for engaging in a search of property, and its establishment of policies, procedures, practices, and customs that resulted in unlawful search and entry, as well as the excessive use of

force.

II. JURISDICTION AND VENUE

1. This court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§1331, 1343, and 1367, and venue is properly set in the United States District Court for the Eastern District of Tennessee pursuant to 28 U.S.C. §1391.

2. The causes of action alleged herein arise from factual allegations occurring in this judicial district.

3. On information and belief, it is alleged that each of the named Defendants reside in this judicial district, with at least one defendant residing within McMinn County, Tennessee. Plaintiffs reside in the state of Tennessee and within McMinn County. The amount in controversy is in excess of \$75,000.00.

4. Venue is proper in the Eastern District of Tennessee in that the events and conduct complained of herein all occurred in the Eastern District.

III. PARTIES

5. The Plaintiffs, Erin Johnson, Adriana Wilkins and Matthew Able, are all citizens and residents of McMinn County, Tennessee.

6. The Defendant McMinn County is a political subdivision of the State of Tennessee, is the employer of Defendant Dalton Townsend, and is responsible for the training and supervision of Defendant Dalton Townsend. McMinn County is responsible for establishing and implementing policies, practices, procedures, and customs used by law enforcement officers employed by the McMinn County Sheriff's Office, regarding searches, seizures, arrests, and the use of force.

7. The Defendant Joe Guy is the duly elected Sheriff for McMinn County, Tennessee and is the supervisor for Defendant, Dalton Townsend, and is responsible for the training and

supervision of Defendant Dalton Townsend. Sheriff Joe Guy is responsible for establishing and implementing policies, practices, procedures, and customs used by law enforcement officers employed by the McMinn County Sheriff's Office, regarding searches, seizures, arrests, and the use of force. Sheriff Joe Guy is sued in his official capacity.

8. The Defendant Dalton Townsend (hereinafter "Officer Townsend") was an officer with the McMinn County Sheriff's Office when the relevant events occurred and was acting under color of state law. Officer Townsend is sued in his individual and official capacities.

IV. FACTS

9. On April 04, 2022, at or about 4:00 a.m., the McMinn County Sheriff's Office received anonymous and unverified information that a subject whom they had been previously chasing was located in the 100 – 200 Block of County Road 675, Athens, Tennessee near the residence of the Plaintiffs at 189 County Road 675, Athens, Tennessee 37303.

10. Officer Townsend was one of the officers who responded to the call at the Plaintiffs' home without a warrant and without validation of the of the anonymous tip.

11. Upon arrival at the residence, one of the officers approached the front door of the residence while Officer Townsend proceeded to the side and rear of the house.

12. Officer Townsend spotted a partially opened window.

13. Officer Townsend then approached the window and opened it without permission or consent from any of the Plaintiffs.

14. Immediately inside the window, the Plaintiffs Adrianna Wilkins and Matthew Able were sleeping.

15. In the room with Ms. Wilkins and Mr. Able were two dogs - Milo and Alladin - owned by the Plaintiff Erin Johnson and Adriana Wilkins.

16. Upon hearing the window being opened, the Plaintiffs' two dogs ran toward the window in defense of the Plaintiffs and the Plaintiffs' property where they immediately encountered the Defendant, Officer Townsend.

17. Officer Townsend fired his weapon instantly killing one dog.

18. Officer Townsend then fired his weapon again wounding the second dog which later died from the injuries sustained after the Defendants refused to allow the Plaintiffs to leave the scene to seek medical care for the injured animal.

19. It was later determined that none of the Plaintiffs knew the suspect the police were attempting to locate.

20. The Plaintiffs were sleeping when the Sheriff officers arrived at the Plaintiffs' residence and there was no connection to the residence and the suspect other than the anonymous, unverified tip.

V. CAUSES OF ACTION

COUNT I

Violation of Civil Rights Pursuant to Title 42 U.S.C. §1983 (General Allegations)

21. Plaintiffs reallege and incorporate herein by reference the allegations set forth in paragraphs 1-20 of this Complaint.

22. In committing the acts complained of herein, Defendants acted under color of state law to deprive Plaintiffs of certain constitutionally protected rights under the Fourth and Fourteenth Amendments to the Constitution of the United States including, but not limited to: a) the right against unreasonable search and seizure; b) the right to be free from excessive use of force by persons acting under color of state law; and c) the right to be secure in one's own house, deprivation of liberty and false imprisonment.

23. As a direct and proximate result of the violation of their constitutional rights by the Defendants, Plaintiffs suffered general and special damages as alleged in this Complaint and are entitled to relief under 42 U.S.C §1983.

24. The conduct of Defendants was willful, malicious, oppressive and/or reckless, and was of such a nature that punitive damages should be imposed in an amount commensurate with the wrongful acts alleged herein.

COUNT II
Violation of Civil Rights Pursuant to Title 42 U.S.C. §1983
(Failure to Implement Appropriate Policies, Customs and Practices)

25. Plaintiffs reallege and incorporate herein by reference the allegations set forth in paragraphs 1-24 of this Complaint.

26. The failure of the Sheriff Joe Guy and the McMinn County Sheriff's Office to adequately train and supervise the Officer Townsend amounts to deliberate indifference to the rights of Plaintiffs to be free from excessive force and unreasonable search and seizures under the Fourth and Fourteenth Amendments to the Constitution of the United States. These actions, individually and combined, deprived the Plaintiffs Adrianna Wilkins and Mathew Able of their liberty.

27. As a result of this deliberate indifference to Plaintiffs' rights, Plaintiffs suffered extreme fright, emotional trauma and the death of two beloved and loyal family pets all of which entitles them to relief under 42 U.S.C. §1983.

28. In committing the acts complained of herein, Defendants acted under color of state law to deprive Plaintiffs as alleged herein of certain constitutionally protected rights including, but not limited to: a) the right against unreasonable search and seizure, and b) the right to be free from excessive use of force by persons acting under color of state law.

COUNT III
Violation of Civil Rights Pursuant to Title 42 U.S.C. §1983
(Use of Excessive Force)

29. Plaintiffs reallege and incorporate herein by reference the allegations set forth in paragraphs 1-28 of this Complaint.

30. The Defendant McMinn County Sheriff's Office has adopted policies, procedures, practices or customs within the McMinn County Sheriff's Office that allow, among other things, the use of excessive force when other more reasonable and less drastic methods are available.

31. The actions of Defendant McMinn County Sheriff's Office amount to deliberate indifference to the rights of Plaintiffs to be free of excessive force under the Fourth and Fourteenth Amendments to the Constitution of the United States.

32. As a result of the deliberate indifference to Plaintiffs' rights by the McMinn County Sheriff's Office and its agents, servants and employees, Plaintiffs suffered personal injuries with serious traumatization and are entitled to relief under 42 U.S.C. §1983.

COUNT IV
Violation of Civil Rights Pursuant to 42 U.S.C. §1983
(WARRANTLESS SEARCH AND ENTRY)

33. Plaintiffs reallege and incorporate herein by reference the allegations set forth in paragraphs 1-32 of this Complaint.

34. In committing the acts complained of herein, Officer Townsend acted under color of state law by entering and searching the Plaintiffs' home with no basis in fact or law to do so. In violating Plaintiffs' right to be free from warrantless search and seizure, Officer Townsend violated Plaintiffs' rights under the Fourth and Fourteenth Amendments to the Constitution of the United States.

35. As a direct and proximate result of the violation of the Plaintiffs' constitutional

right to be free from warrantless search and seizure by the Defendants, Plaintiffs suffered serious personal injuries and special damages as alleged in this Complaint and are entitled to relief under 42 U.S.C. §1983.

COUNT V
Tennessee Governmental Tort Liability Act
Pursuant to *Tenn. Code Ann.* §29-20-101/Tennessee Common Law
(Negligence)

36. Plaintiffs reallege and incorporate herein by reference the allegations set forth in paragraphs 1-35 of this Complaint.

37. Each Defendant owed each Plaintiff a duty to use due care at or about the times of the aforementioned incident.

38. In committing the aforementioned acts and/or omissions, each Defendant negligently breached said duty to use due care, which directly and proximately resulted in the injuries and damages to Plaintiffs as alleged herein.

COUNT VI
Tennessee Governmental Tort Liability Act
Pursuant to *Tenn. Code Ann.* §29-20-101/Tennessee Common Law
(Negligent Supervision)

39. Plaintiffs reallege and incorporate herein by reference the allegations set forth in paragraphs 1-38 of this Complaint.

40. Each Defendant owed each Plaintiff a duty to use due care at or about the time of the aforementioned incidents.

41. Defendants Sheriff Joe Guy and the McMinn County Sheriff's Office, negligently supervised Officer Townsend by failing to provide proper training and outline proper procedure dispatching information and confronting people.

42. In committing the aforementioned acts or omissions, each Defendant negligently

breached said duty to use due care, which directly and proximately resulted in the injuries and damages to Plaintiffs as alleged herein.

COUNT VII
Tennessee Common Law
(Assault)

43. Plaintiffs, Adrianna Wilkins and Mathew Able reallege and incorporate herein by reference the allegations set forth in paragraphs 1-42 of this Complaint.

44. Plaintiffs avers that the actions of the Defendants breached a duty of care owed to Plaintiffs to not assault them or cause them physical harm or injury, except to the extent allowed by law.

45. Plaintiffs aver that the Defendants, more specifically, Officer Townsend, knowingly, wantonly, intentionally, and with gross disregard for the rights of Plaintiffs, assaulted them by opening a window of their home without a warrant to do so and recklessly firing his weapon towards their home where they were sleeping in bed and killing two of their pets. Such conduct would be offensive to any reasonable person and placed the Plaintiffs Adrianna Wilkins and Mathew Able in fear of serious bodily injury.

46. As a direct and proximate result of the acts of the Defendants, Plaintiffs suffered psychological and emotional injury and are entitled to relief.

PRAYERS FOR RELIEF

WHEREFORE, the above premises considered, Plaintiffs demand:

1. That process issue to each of the Defendants and that each be required to answer in the time allowed by law.

2. That judgment be rendered in favor of Plaintiffs and against Defendants on all causes of action asserted herein.

3. That Plaintiffs be awarded those damages to which they are entitled by the proof submitted in this cause for mental pain and suffering, both past and future; loss of their pets and the enjoyment of life they provided, both past and future, in an amount of no less than One Million Dollars (\$1,000,000.00).

4. That Plaintiffs be awarded punitive damages against the Defendants.

5. That Plaintiffs be awarded reasonable expenses incurred in this litigation, including reasonable attorney and expert fees, pursuant to 42 U.S.C. §1988 (b) and (c).

6. That the Plaintiffs receive any and all other further and general relief to which they are entitled.

7. That a jury be impaneled to try this matter.

**Respectfully submitted,
Erin Johnson, Adrianna Wilkins,
and Matthew Able, Plaintiffs,
By their attorneys,**

CHANCEY- KANAVOS

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