

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division**

LATOYA K. BENTON, ADMINISTRATOR OF THE
ESTATE OF XZAVIER D. HILL, DECEASED

Plaintiff,

vs.

SETH W. LAYTON

**Individually and In His
Official Capacity As A State
Trooper For The Virginia
State Police**

Benjamin I. Bone

**Individually and In His
Official Capacity As A State
Trooper For The Virginia
State Police**

Virginia State Police

Defendant

JURY TRIAL DEMANDED

Complaint

COMES NOW the Plaintiff, LaToya K. Benton, Administrator of the Estate of Xzavier D. Hill, Deceased, not coming by counsel, and moves this Court for judgment against Defendants, Seth Layton and Benjamin Bone, individually and in his official capacity as a Virginia State Trooper for the State of Virginia, on the following grounds

Introduction:

This civil rights case arises from the unlawful shooting that killed of Xzavier D. Hill (“Mr. Hill”), a young, thriving, Black man.) but also the violation(s) of Mr. Hill’s right to life, due process as well as equal protection of law. Despite being just a child Xzavier was an outstanding contributor to his community and society working as an apprentice at his mother’s government contracted cleaning company, a local lifeguard, and a cashier at McDonald’s. As a citizen of the United States of America Xzavier is guaranteed his constitutional rights to life, equal protection and due process all of which he was deprived of. As Mr. Hill resides in an open carry state it should be reasonably expected he could possibly have a firearm. Simple knowledge of possessing a firearm however should not and cannot be a reasonable conclusion. By itself and without further investigation that ANY crime intervention of shooting said alleged possessor. Simple knowledge only established at that time that Mr. Hill was well within his legal rights

1. On January 9 2021, Virginia State Police Officers Seth Layton and Benjamin Bone violated those rights by shooting young Mr. Hill three times, killing him while being stuck inside of his vehicle during a traffic stop
2. When Officer(s) Seth Layton and Benjamin Bone shot Mr. Hill, he was trapped inside of his vehicle. Officer(s) Layton and Bone had pulled Mr. Hill over for a maybe misdemeanor eluding and/or possibly reckless driving offense. At the time Mr. Hill was killed his car was the road, and immobilized posing no threat to Virginia State Troopers and community.
3. Mrs. Benton mother, LaToya K. Benton, brings this action in his capacity as the Administrator of her son’s estate to vindicate Mr. Hill’s rights under state and federal law to be free of arbitrary, deadly violence by the police.

JURISDICTION

4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331, as it involves claims under federal law, namely 42 U.S.C. § 1983.
5. This Court has supplemental jurisdiction, pursuant to 28 U.S.C. § 1367(a) over the state law claims, including claims alleged pursuant to Virginia Code § 8.01-50, *et seq.* (wrongful death statute), or, alternatively, pursuant to Virginia Code § 8.01-25, *et seq.* (survival statute).
6. Venue is proper pursuant to 28 U.S.C. § 1391(b) because a substantial part of the acts and omissions giving rise to Plaintiff's claims occurred in this district.
7. Assignment to the Richmond Division of the Eastern District of Virginia is proper pursuant to Eastern District of Virginia Local Rules 3(B)(4) and 3(C) because a substantial part of the acts and omissions giving rise to Plaintiff's claims occurred in this division.

PARTIES

8. Plaintiff LaToya K. Benton, Administrator of the Estate of Xzavier D. Hill, Deceased, at the time of the incident described herein, was an adult at the age of 18 and a resident of the Commonwealth of Virginia.
9. Plaintiff is the mother of Mr. Hill, who was an adult at the age of 18 and a resident of the Commonwealth of Virginia at the time of his death on January 9, 2021. A copy of Mr. Hill's Death Certificate is attached hereto as Exhibit A.
10. Mr. Hill was an eighteen-year-old Black man. He was five feet, six inches tall and weighed 165 pounds at the time of his death.
11. Plaintiff was qualified and duly appointed as Administrator of the Estate of Xzavier D. Hill, Deceased, by the Charlottesville Circuit Court on May 19, 2021. A copy of the Certificate of Qualification is attached hereto as Exhibit B.
12. Defendant(s) ("Troopers Layton and Trooper Bone") were at the time of the incident described herein an adult resident of the Commonwealth of Virginia. At all relevant times, Troopers Layton and Trooper Bone were employed by the Virginia State Police Department ("VSP"), a division of the City of Virginia Beach.
13. At all relevant times, Troopers Layton and Trooper Bone were acting in the course and scope of their employment with Virginia State Police; as an agent, servant and/or employee of VSP; and under color of state law pursuant to 42 U.S.C. § 1983.

Defendant Virginia State Police (“VSP”) is a municipal corporation operating under the laws of the Commonwealth of Virginia

At all relevant times, Virginia State Police operated and controlled the VSP, and was the public employer of Trooper Layton and Trooper Bone.

FACTUAL ALLEGATIONS

14. On the morning of January 9, 2021, Mr. Hill was heading home after visiting with friends.

15. At approximately 4:30 a.m., Virginia State Police were positioned in a “cross-over”. Mr. Hill’s sedan approached the cross-over at a speed of 96 miles per hour in a posted 65 miles per hour zone

16. Once Mr. Hill passes the “cross-over”, Troopers then begin to follow Mr. Hill still yet to activate the vehicles sirens or provide the state police dispatcher with Mr. Hill’s license plate information.

17. Initially Mr. Hill does begin to accelerate; there is no record of his actual speed. During this time officers activated their vehicles sirens

18. Mr. Hill came to a complete stop on the right shoulder of the road before proceeding to make a U-turn into the westbound lanes of Interstate 64. This U-turn maneuver resulted in his becoming stuck in a ditch beyond the westbound shoulder and away from traffic

Immediately, both Officers exit their vehicle with guns drawn on Mr. Hill and give him 17 various commands.

Trooper Layton: Get out of the car now! Get out of the car now! Get out of the car now!

Trooper Bone: Show me your hands, do it now!

Trooper Layton: Get out of the car now!

Trooper Bone: Put your hands up!

As Mr. Hill attempts to follow the commands he pleads with the troopers to be patient frantically calling out ‘My door doesn’t open. My door doesn’t open’ Both Troopers ignore Mr. Hill’s terror and continue to shout commands that, due to the state of his vehicle, he could not follow immediately. Mr. Hill then places his left arm out of the window in an effect to open the door, still the officers continue to shout more commands.

Trooper Bone: Put your hands up!

Xzavier Hill again pleading with the troopers: My door doesn’t open

Trooper Bone: Put your hands out door and do it now! Put your hands out the door!

Xzavier Hill: My door doesn’t open.

Trooper Layton: Put your hands out the door! Stop moving! Put your hands out the door! Put your hands out the window! Put your hands out of the window!

19. Seconds later Trooper Layton yells “hey he’s reaching”

Trooper Bone: stop reaching! gun.

Trooper Layton: He’s got a Gun! Gun! Gun!

Not allowing Mr. Hill the opportunity to comply with all commands given by the officer immediately, and without warning, clear visibility, or any alternative measures Troopers Layton and Bone fired their police-issued firearms at Mr. Hill, shooting him three and killing him.

20. Only after killing Mr. Hill does one of the officers ask him to “drop the weapon,” however by this time it was too late and Mr. Hill was deceased in his passenger seat.

At no relevant times was Mr. Hill speaking or acting in a manner that would suggest that he posed *any* threat, let alone a *deadly* threat, to Troopers Layton & Bone or anyone else. He was in fact pleading that he was stuck inside of his vehicle and scared for his life.

21. Upon viewing the trooper Dash-Camera footage, Troopers Layton and Bone failed to issue any warning prior to firing their police-issued firearm and ending Mr. Hills life.

22. During the incident, Troopers Layton and Bone failed to make any reasonable effort to address and/or diffuse the situation in a non-violent or non-lethal manner.

23. During the incident, both Troopers failed to activate their body cameras as pursuant to Virginia State Police policies, procedures, and/or protocols.

24. Upon viewing the police dash camera footage, both Troopers failed to render life-saving medical aide and/or failed to cause others to render life-saving medical aide to Mr. Hill after shooting him three times. You can hear on the video one the Troopers says “let him go”

25.As a result of Trooper Seth Layton and Trooper Benjamin Bone’s actions, Mr. Hill died at the scene on January 9, 2021 at just 18 years old.

COUNT I – 42 U.S.C. § 1983 – EXCESSIVE FORCE

26.Plaintiff realleges and incorporates paragraphs 1 – 31, as if fully set forth herein. 33.

Count I is brought against Virginia State Trooper Seth Layton and Virginia State Trooper Benjamin Bone in their individual capacities and in their official capacities as police officers of the VSP.

27.Trooper Seth Layton and Trooper Benjamin Bone used lethal force against Mr. Hill, who as a citizen of the United States of America has the right to life and due process.

28. The shooting was motivated at least in part by Mr. Hill’s race as a Black man. The shooting further constituted an excessive and unreasonable use of force under the totality of the circumstances, and it deprived Mr. Hill of remedies, privileges and immunities guaranteed to every citizen of the United States, including, but not limited to, rights guaranteed by the Fourth and Fourteenth Amendments of the United States Constitution.

29.At all relevant times, Trooper Seth Layton and Trooper Benjamin Bone were acting as an agent, servant, and/or employee of Virginia. In their individual and official capacities, Trooper Layton and Trooper Bone acted within the scope of their employment as VSP officers and under pretense and color of state law.

30.As a direct and proximate result of Trooper Layton and Bone’s unreasonable and wrongful use of force that violated Mr. Hill’s civil and constitutional rights, Mr. Hill died on January, 21 2021.

31.No reasonable officer in Trooper Layton and Trooper Bone’s position would have acted in the wrongful manner Trooper Layton and Trooper Bone did, under the circumstances presented on the night in question.

32.Trooper Layton and Troopers Bone acted willfully, knowingly, and with specific intent to deprive Mr. Hill of his constitutional rights secured by 42 U.S.C. § 1983, and by the Fourth and Fourteenth Amendments to the United States Constitution.

COUNT II – 42 U.S.C. § 1983 – FAILURE TO PROPERLY TRAIN AND SUPERVISE

(Virginia State Police’s Custom and Policy)

33.Plaintiff realleges and incorporates paragraphs 1 – 40, as if fully set forth herein.

34.Count II is brought against Virginia State Police.

35. Upon information and belief, prior to the death of Mr. Hill, Virginia State Police had a custom or policy of failing to properly train, instruct, and/or supervise its police officers, including Trooper Layton and Trooper Bone, as to the proper circumstances under which to draw a firearm and/or use deadly force, or to as to the proper techniques for exhausting all reasonable alternatives before using deadly force, including but not limited to professional presence/identification, verbalization, soft control techniques, intermediate techniques, hard control techniques, and/or non-lethal force.

36.Upon information and belief, Virginia State Police was aware that its inadequate policies and practices made it substantially more likely that citizens like Mr. Hill would be subjected to unreasonable and/or deadly force by Virginia State Police Officers.

37. Such inadequate training, instruction, and/or supervision constitutes deliberate indifference on the part of Virginia to the rights of those persons, including Mr. Hill, whom its police officers are likely to encounter.
38. As a direct and proximate result of Virginia State Police and failing to perform its ministerial duties as stated above, Mr. Hill was subjected to the unlawful use of deadly force by Trooper Layton and Trooper Bone, and was thereby deprived of his civil rights as guaranteed under the United States Constitution, and state and federal statutes.

COUNT III – GROSS NEGLIGENCE

39. Plaintiff realleges and incorporate paragraphs 1 – 46, as if fully set forth herein.
40. Count III is brought against Trooper Layton and Trooper Bone in his individual capacity and in his official capacity as a police officer of the VSP.
41. During the incident in question, it was Trooper Layton and Troopers Bone's duty as a sworn police officer in the Commonwealth of Virginia to act with reasonable care and due regard for persons within the community, including Mr. Hill.
42. Without limitation, Trooper Layton and Troopers Bone breached said duty in the following particulars:
- a. Failed to make a reasonable inquiry into Mr. Hill's identity or motivation prior to using deadly force, even though Mr. Hill was trapped inside of his vehicle off the road, was not acting in a threatening manner, was communicating verbally, and attempting to comply with the conflicting commands given by officers;
 - b. Failed to attempt de-escalation in the situation or use other non-lethal force to ascertain the situation prior to using deadly force
 - c. Failed to provide any warning of using deadly force prior to firing weapons at Mr. Hill;

- d. Failed to make a reasonable effort to determine whether Mr. Hill posed a viable threat prior to firing weapons;
 - e. Failed to exhaust all other reasonable alternatives before using deadly force, including but not limited to professional presence/identification, verbalization, soft control techniques, intermediate techniques, hard control techniques, and/or less lethal force;
 - f. Failed to use only that level of force necessary to successfully accomplish legitimate police functions and/or objectives and which was commensurate with the level of threat presented;
 - g. Failed to use a reasonable type and degree of force based upon the facts of the situation and that was commensurate with the level of threat presented;
 - h. Failed to render life-saving medical aide and/or failed to cause others to render life saving medical aide to Mr. Hill after shooting him three times; and
 - i. Breached duty to Mr. Hill in such other respects that will become known through the course of discovery.
- b. The aforesaid conduct and actions of Trooper Layton and Troopers Bone demonstrated such an indifference to Mr. Hill as to constitute an utter disregard of caution or prudence, amounting to a complete neglect of the safety of Mr. Hill. Trooper Layton and Troopers Bone's gross negligence, as described herein, is conduct that would shock the conscience of fair-minded people.
 - c. As a direct and proximate result of Trooper Layton and Troopers Bone's aforesaid conduct, Mr. Hill died on January 9, 2021.
 - d. As a further direct and proximate result of the conduct of Trooper Layton and Troopers Bone, Plaintiff claims additional damages for medical expenses; reasonable funeral expenses; sorrow, mental

anguish, and solace, including loss of society, companionship, comfort, guidance, kindly offices and advice; compensation for reasonably expected loss of income of the decedent; and such other damages as set forth pursuant to Virginia Code § 8.01-52.

- e. Plaintiff is a statutory beneficiary of Xzavier D. Hill, Deceased.

COUNT IV – ASSAULT AND BATTERY

- f. Plaintiff realleges and incorporates paragraphs 1 – 54, as if fully set forth herein. 56.

Count IV is brought against Trooper Layton and Trooper Bone in their individual capacities and in his official capacities as a police officers of the VSP.

43. In the course of shooting Mr. Hill on January 9, 2021, Trooper Layton and Trooper Bone committed an assault and battery against Mr. Hill, i.e., by discharging at least three bullets from a police-issued weapon that struck Mr. Hill in an offensive manner against his will, and/or by placing Mr. Hill in reasonable fear that he may receive further imminent bodily harm and/or injury.

44. Said conduct on the part of Trooper Layton and Trooper Bone was committed without legal justification or excuse.

45. As a direct and proximate result of Trooper Layton and Troopers Bone's aforesaid conduct, Mr. Hill was injured on January 9, 2021, and died on January 9, 2021.

46. As a further direct and proximate result of the conduct of Trooper Layton and Trooper Bone, Plaintiff claims additional damages for medical expenses; reasonable funeral expenses; sorrow, mental anguish, and solace, including loss of society, companionship, comfort, guidance, kindly offices and advice; compensation for reasonably expected loss of income of the decedent; and such other damages as set forth pursuant to Virginia Code § 8.01-52.

47. Plaintiff is a statutory beneficiary of Xzavier D. Hill, Deceased.

COUNT V - SURVIVORSHIP

48. Plaintiff realleges and incorporates paragraphs 1 – 61, as if fully set forth herein. 63.

Count V is brought against Trooper Layton and Trooper Bone in their individual capacities and in their official capacities as police officers of the VSP.

49. The aforesaid acts and omissions of Trooper Layton and Trooper Bone proximately caused Mr. Hill to suffer great pain and anguish from the time he was shot by Trooper Layton and Troopers Bone until the time of his death on January 9, 2021.

50. As a direct and proximate cause of the aforesaid acts and omissions of Trooper Layton and Trooper Bone, the Estate of Xzavier D. Hill is entitled to damages for the significant pain and suffering that Mr. Hill endured while still alive.

COUNT VI – VIRGINIA CODE § 8.01-50. *et seq.* – WRONGFUL DEATH

51. Plaintiff realleges and incorporates paragraphs 1- 61, as if fully set forth herein.

52. Count VI is brought against Trooper Layton and Troopers Bone in their individual capacities and in their official capacities as police officers of the VSP.

53. . Hill's death was caused by the wrongful, reckless, grossly negligent, and/or excessive use of force by Trooper Layton and Trooper Bone.

54. Had Mr. Hill survived Trooper Layton and Troopers Bone's wrongful, reckless, grossly negligent, and/or excessive use of force, he would have been entitled to maintain an action against him and recover damages in respect thereof.

55. As a further direct and proximate result of Trooper Layton and Troopers Bone's aforesaid acts and omissions, Plaintiff claims additional damages for medical expenses; reasonable funeral expenses; sorrow, mental anguish, and solace, including loss of society, companionship, comfort,

guidance, kindly offices and advice; compensation for reasonably expected loss of income of the decedent; and such other damages as set forth pursuant to Virginia Code § 8.01-52. 71. Plaintiff is a statutory beneficiary of Xzavier D. Hill, Deceased.

COUNT VII - PUNITIVE DAMAGES

56. Plaintiff realleges and incorporates paragraphs 1 – 71, as if fully set forth herein. 73.

Count VII is brought against Trooper Layton and Trooper Bone in their individual capacities and in their official capacities as police officers of the VSP.

57. The acts and omissions of Trooper Layton and Trooper Bone that directly and/or proximately caused the death of Mr. Hill, including but not limited to the application of deadly force against Mr. Hill, constituted acts and omissions which under the circumstances amounted to a willful, wanton, reckless, malicious, brutal, and violent disregard of the rights and safety of Mr. Hill and for which an award of punitive damages is warranted.

58. As a direct and proximate result of the aforesaid conduct, Mr. Hill was deprived of his civil rights as guaranteed under the United States Constitution, and state and federal statutes; and Mr. Hill died on January 9, 2021.

59. As a further direct and proximate result of the conduct of Trooper Layton and Troopers Bone as aforesaid, plaintiff claims an award of punitive damages pursuant to Virginia Code § 8.01-52. 77. Plaintiff is a statutory beneficiary of Xzavier D. Hill, Deceased.

WHEREFORE, Plaintiff, LaToya K. Benton, Administrator of the Estate of Xzavier D. Hill, Deceased, by counsel, demands judgment against Defendants, Seth W. Layton, Benjamin I. Bone individually and in their official capacities as police officers for the State of Virginia and Virginia State police, jointly and severally, for damages in the amount of Sixty Million Dollars (\$60,000,000.00), together with the cost of this action, attorneys' fees, prejudgment interest from January 9, 2021, and any other relief this Court deems just, proper and equitable. Plaintiff further requests punitive damages be awarded against Defendant, Seth W. Layton, Benjamin I. Bone, individually and in his official capacity as a police officer for the State of Virginia, in the amount of Three Hundred Fifty Thousand Dollars (\$350,000.00).

Finally, Plaintiff demands a trial by jury.

**LaToya K. Benton ADMINISTRATOR OF
THE ESTATE
OF XZAVIER D. HILL, DECEASED**

By: _____/s/

LaToya Benton

ADMINISTRATOR OF THE ESTATE

12563 Summit Manor Drv

Telephone: (240) 779-7360

Email:

justiceforxzavier21@gmail.com

