

**FIRST JUDICIAL DISTRICT COURT
COUNTY OF SANTA FE
STATE OF NEW MEXICO**

**SCOTT FUQUA,
Plaintiff,**

vs.

**No. D-101-CV-2023-01380
Case assigned to Sanchez-Gagne, Maria**

**SANTA FE COUNTY SHERIFF'S OFFICE, CORPORAL
CHRISTOPHER ZOOK, DEPUTY JACOB MARTINEZ,
DEPUTY LEONARDO GUZMAN,**

Defendants.

**CIVIL COMPLAINT FOR DAMAGES
AND PETITION FOR THE APPOINTMENT
OF A PERSONAL REPRESENTATIVE UNDER THE
WRONGFUL DEATH ACT FOR THE ESTATE OF JASON ROYBAL**

COME NOW, SCOTT FUQUA, by and through undersigned counsel and pursuant to Rule 1-017B, petition the Court for an Order appointing SCOTT FUQUA as Personal Representative of the Estate of JASON ROYBAL solely under the New Mexico Wrongful Death Act, NMSA 1978 § 41-2-3, as amended. Further, Clark, Jones & Ruyle, LLC. and Doug Perrin, Esq. and states the following as in their Civil Complaint for Damages.

The Petitioner, Scott Fuqua, a Santa Fe County resident has standing under the Wrongful Death Act. Jason Roybal was born on August 22, 1988 and died on June 24, 2021. To Petitioners' knowledge, no other Wrongful Death Personal Representative has been appointed.

Accordingly, Scott Fuqua desires and has consented to serve as Wrongful Death Personal Representative for the purposes of investigation and pursuing an action under the New Mexico Wrongful Death Act. Pursuant to *In Re Sumler*, 2003-NMCA-030,133 N.M. 319, "A person seeking appointment as a § 41-2-3, personal representative is not required to

proceed under the Probate Code and the substantive and procedural provisions of the Probate Code do not govern the appointment of a § 41-2-3 personal representative." Furthermore, the Court of Appeals also held that the Wrongful Death Personal Representative "may be a personal representative who is not the administrator." *Id.*

Finally, a Personal Representative separate from probate is required because "appointment as the personal representative of a decedent's estate is neither necessary **nor sufficient** authority for a person to serve as a NMSA 1978 § 41-2-3 personal representative." *Id.* at 9.

For these reasons, we seek to have an independent personal representative, approved under NMSA 1978§ 41-2-3, as the Personal Representative "to centralize the claims and to prevent multiple and possibly contradictory lawsuits." *Chavez v. Regents of The University of New Mexico*, 103 **N.M.** 606, 609 (1985).

I. PARTIES

1. Scott Fuqua, is a citizen of the State of New Mexico and is a resident of Santa Fe County;

2. Upon information and belief, Corporal Christopher Zook, Deputy Jacob Martinez and Deputy Leonardo Guzman are employees of the Santa Fe County Sheriff's Department in the capacity of law enforcement officers;

3. Upon information and belief, at all times relevant to this action, Corporal Christopher Zook, Deputy Jacob Martinez and Deputy Leonardo Guzman were acting in the scope of their employment and under the color of state law;

4. The Santa Fe County Sheriff's Department (Sheriff) is an entity sanctioned by the State of New Mexico and operating pursuant to the laws of the State of New Mexico.

5. The Sheriff, and its employees, are responsible for all policies, customs and procedures of the Sheriff, including Corporal Christopher Zook, Deputy Jacob Martinez and Deputy Leonardo Guzman;

II. JURISDICTION AND VENUE

6. Jurisdiction over the parties and the subject matter herein is proper with this Court pursuant to Article VI of the New Mexico Constitution.

7. Venue is proper in this Court pursuant to NMSA 1978, § 38-3-1(A), because Plaintiff Scott Fuqua is a citizen and resident of Santa Fe County, State of New Mexico and all acts herein occurred in Santa Fe County;

III. FACTUAL BACKGROUND

8. Upon information and belief on June 24, 2021, Corporal Christopher Zook, Deputy Jacob Martinez and Deputy Leonardo Guzman were involved in a automobile pursuit with the purported aim of investigating possible criminal activity;

9. During the course of Corporal Christopher Zook, Deputy Jacob Martinez and Deputy Leonardo Guzman's investigation it was determined that Jason Roybal had active warrants and was in possession of a stolen motor vehicle;

10. The chase culminated in Corporal Christopher Zook, Deputy Jacob Martinez and Deputy Leonardo Guzman discharging their firearms and striking and killing Jason Roybal;

11. The fatal shot and or shots were discharged as Mr. Roybal was unarmed and fleeing law enforcement on foot.

COUNT 1: TORT CLAIM VIOLATIONS AGAINST SANTA FE COUNTY

12. Plaintiff alleges and incorporates by reference the allegations above is fully set forth

herein;

13. The Sheriff owed Mr. Roybal a duty to use due care in the hiring, training and supervision of Corporal Christopher Zook, Deputy Jacob Martinez and Deputy Leonardo Guzman;

14. Due to the negligent failure of the Sheriff in their duty to hire, train and supervise these Officers, the Mr. Roybal suffered severe injury, including death;

15. As a direct and proximate result of the aforesaid negligent acts of the Sheriff, the Plaintiff suffered physical injury, and death;

COUNT 2: FOURTEENTH AMENDMENT
RIGHT TO BODILY INTEGRITY AND FOURTH
AMENDEMENT RIGHT TO BE FREE FROM EXCESSIVE FORCE

16. Plaintiff alleges and incorporates by reference the allegations above as if fully set forth herein.

17. Corporal Christopher Zook, Deputy Jacob Martinez and Deputy Leonardo Guzman's actions violated the Plaintiff's Fourth Amendment rights to be secure in his person from unreasonable seizures;

35. Corporal Christopher Zook, Deputy Jacob Martinez and Deputy Leonardo Guzman violated the Plaintiff's Fourteenth Amendment right to bodily integrity under the law;

36. Corporal Christopher Zook, Deputy Jacob Martinez and Deputy Leonardo Guzman acted willfully, knowingly and purposefully to deprive the Plaintiff of his constitutional rights;

37. As a direct and proximate results of Corporal Christopher Zook, Deputy Jacob Martinez and Deputy Leonardo Guzman's grossly reckless behavior and deliberate indifference towards Mr. Roybal, the Mr. Roybal suffered severe injuries and the deprivation of his civil rights, including death;

WHEREFORE, Plaintiff requests judgment against the Defendant(s) for damages,
including:

- a. Awarding actual and compensatory damages to sufficiently compensate Plaintiff;
- b. Awarding damages for Plaintiff's pain and suffering and loss of enjoyment of life;
- c. Awarding litigation expenses, costs, pre and post judgment interest, and attorney's fees provided by law;
- d. Awarding punitive damages against Defendant Corporal Christopher Zook, Deputy Jacob Martinez and Deputy Leonardo Guzman;
- e. Awarding other relief, the Court deems just and proper.

Respectfully submitted,

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