

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION

Civil Action No. 2:21-cv-34-FL

LILLIE BROWN CLARK, as the)
administrator for the Estate of Andrew)
Brown, Jr.,)

)
Plaintiff,)

)
v.)

)
INVESTIGATOR DANIEL MEADS,)
in his individual capacity; DEPUTY)
SHERRIFF II ROBERT MORGAN, in)
his individual capacity; CPL. AARON)
LEWELLYN, in his individual)
capacity; SHERRIFF TOMMY S.)
WOOTEN, II, in his official capacity;)
WESTERN SURETY BONDING)
COMPANY, Surety for Sheriff Tommy)
S. Wooten, II,)

)
Defendants.)

**ANSWER OF DEFENDANT
INVESTIGATOR DANIEL MEADS
TO PLAINTIFF’S AMENDED
COMPLAINT**

Defendant DANIEL MEADS (“Responding Defendant” or “Investigator Meads”),
by and through his undersigned attorneys and pursuant to Rules 12 and 15 of the Federal
Rules of Civil Procedure, respectfully submits his Answer to Plaintiff’s Amended
Complaint [DE 56] (*hereinafter*, “Complaint”).¹

¹ Plaintiff’s Amended Complaint was filed on October 28, 2021 and supersedes Plaintiff’s original
Complaint [DE 1, corrected version at DE 15]. *See* Text Order, Nov. 5, 2021.

ANSWER AND FIRST DEFENSE

Without waiving any other defenses asserted herein, Investigator Meads responds to the individually numbered paragraphs of Plaintiff's Complaint as follows:

INTRODUCTION

The purported factual allegations of Plaintiff's preliminary or introductory statement are denied. It is expressly denied that the Investigator Meads violated Plaintiff's rights in any way.

JURISDICTION AND VENUE

1. It is admitted that Plaintiff's allegations give this Court original jurisdiction under 28 U.S.C. § 1331. Except as otherwise admitted, denied.

2. It is admitted that Plaintiff's allegations give this Court supplemental jurisdiction under 28 U.S.C. § 1367. Except as otherwise admitted, denied.

3. It is admitted that Plaintiff's allegations give this Court personal jurisdiction over Investigator Meads. The remaining allegations are not directed toward Investigator Meads and therefore require no response. Except as otherwise admitted, denied.

4. It is admitted that Plaintiff alleges that all of the defendants reside or are located within the Eastern District of North Carolina and that the alleged facts giving rise to Plaintiff's action all occurred within the Eastern District of North Carolina. Except as otherwise admitted, denied.

PARTIES

5. Responding Defendant lacks sufficient knowledge to form a belief as to the truth of the allegations of Paragraph 5, and therefore said allegations are denied.

6. The allegations of Paragraph 6 are admitted.

7. The allegations of Paragraph 7 are not directed toward Investigator Meads and therefore require no response.

8. The allegations of Paragraph 8 are not directed toward Investigator Meads and therefore require no response.

9. The allegations of Paragraph 9 are not directed toward Investigator Meads and therefore require no response.

10. The allegations of Paragraph 10 are not directed toward Investigator Meads and therefore require no response.

11. The allegations of Paragraph 11 are admitted.

12. It is admitted that Investigator Meads is a sworn law enforcement officer with the Pasquotank County Sheriff's Office (*hereinafter*, "PCSO") and that Investigator Meads led the briefing. It is further admitted that Investigator Meads had not received information regarding any specific weapon in Brown's possession and that this fact was included in the briefing; however, it is specifically denied that Investigator Meads told officers that Brown was not armed or that Brown was not dangerous. Except as otherwise admitted, denied.

13. It is admitted upon information and belief that the residence of Andrew Brown, Jr. (*hereinafter*, "Brown") was located at 421 Perry Street, Elizabeth City, North Carolina. It is further admitted that Brown was believed by Investigator Meads to be present at his residence on April 21, 2021, at or about 8:20 a.m. It is further admitted that the most recent information received by Investigator Meads indicated that Brown was in his vehicle. Investigator Meads lacks sufficient knowledge to form a belief as to the truth

of the remaining allegations of Paragraph 13, and therefore said allegations are denied. Except as otherwise admitted, denied.

14. The allegations contained in Paragraph 14 are admitted.

15. The documents attached as Exhibit A to Plaintiff's Complaint speak for themselves and are the best evidence of its contents. The remaining allegations of Paragraph 15 are legal allegations which require no response. To the extent those allegations require a response and except as otherwise admitted, the allegations of Paragraph 15 are denied.

16. The documents attached as Exhibit A to Plaintiff's Complaint speak for themselves and are the best evidence of their contents. The remaining allegations of Paragraph 16 are legal allegations which require no response. To the extent those allegations require a response and except as otherwise admitted, the allegations of Paragraph 16 are denied.

17. The provisions of North Carolina criminal law which may pertain to Plaintiff's allegations may be found in Chapter 14 of the North Carolina General Statutes, which speaks for itself and is the best evidence of its contents. It is admitted that Investigator Meads had not received information regarding any specific weapon in Brown's possession; however, it is specifically denied that Brown had no violent history or propensities. Except as otherwise admitted, denied.

18. It is admitted that when Investigator Meads arrived at Brown's residence, Brown appeared to be speaking into a cell phone; however, it is specifically denied that both of Brown's hands were visible to Investigator Meads. Investigator Meads lacks

sufficient knowledge to form a belief as to the truth of the remaining allegations of Paragraph 18, and therefore said allegations are denied.

19. It is admitted that law enforcement officers designated as members of the PSCO Special Operation and Tactics Team (*hereinafter*, "SOAT") were involved in the planned operation to execute the subject search and arrest warrants. It is further admitted that the SOAT members were armed, although not all had rifles, and it is specifically denied that Investigator Meads was armed with a rifle. It is further admitted that SOAT members shouted commands at Brown when the confrontation began, but it is denied that those commands were accompanied by profanity. Except as otherwise admitted, denied.

20. It is admitted that at one point during the subject events, Brown placed his vehicle in reverse gear and backed while turning his vehicle, such that it struck an officer who was standing by the driver's side door of the vehicle. Investigator Meads lacks sufficient knowledge to form a belief as to the truth of the allegations concerning Brown's feelings or motivations, and therefore said allegations are denied. Except as otherwise admitted, denied.

21. It is admitted that at one point during the subject events, Brown placed his vehicle in drive and sped forward toward the law enforcement officers. Except as otherwise admitted, denied.

22. It is admitted that as Brown struck an officer and appeared likely to strike more officers, Investigator Meads fired his service weapon at Brown. Upon information and belief, Investigator Meads' shots struck Brown's windshield. Except as otherwise admitted, denied.

23. It is admitted that while Brown sped forward toward law enforcement officers, Investigator Meads continued to fire his service weapon at Brown. Upon information and belief, seven shots altogether were fired, and those shots struck the windshield and side of the vehicle. Investigator Meads lacks sufficient knowledge to form a belief as to the truth of the allegations concerning the precise trajectory of the shots he fired, and therefore said allegations are denied. Except as otherwise admitted, denied.

24. It is admitted that while Brown struck an officer with his vehicle and appeared likely to strike other officers, Investigator Meads fired his service weapon at Brown, but Investigator Meads did not continue to fire after Brown's vehicle no longer appeared likely to strike the officers. Except as otherwise admitted, denied.

25. The allegations contained in Paragraph 25 are not directed toward Investigator Meads and therefore require no response. To the extent a response is required, denied.

26. The allegations contained in Paragraph 26 are not directed toward Investigator Meads and therefore require no response. To the extent a response is required, denied.

27. Investigator Meads lacks sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 27, and therefore said allegations are denied.

28. Investigator Meads lacks sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 28, and therefore said allegations are denied.

29. It is admitted that Sgt. Bishop and Sgt. Swindell are PCSO deputies that held the rank of Patrol Sergeant during the subject events. Investigator Meads lacks sufficient

knowledge to form a belief as to the truth of the remaining allegations contained in Paragraph 29, and therefore said allegations are denied. Except as otherwise admitted, denied.

30. It is admitted upon information and belief that Brown died from gunshot wounds sustained during the subject alleged events. Except as otherwise admitted, denied.

31. The documents attached as Exhibit B to Plaintiff's Complaint speak for themselves and are the best evidence of their contents. It is specifically denied that Investigator Meads fired any shot that struck the back of Brown's head. Except as otherwise admitted, denied.

32. It is admitted that Brown's vehicle crossed the street and collided with a tree. It is further admitted that Brown was removed from the vehicle after the collision and initially landed on his side when he was pulled out, but was immediately turned onto his back so that CPR and any other appropriate emergency first aid could be administered. Except as otherwise admitted, denied.

33. It is admitted that officers entered Brown's residence briefly to clear it for safety purposes. It is admitted that Defendant Meads counted the number of rounds in his service weapon after clearing a room in Brown's residence before surrendering the weapon to SBI. It is specifically denied that Brown's residence was searched. Investigator Meads lacks sufficient knowledge to form a belief as to the truth of the allegations concerning Detective Langley's statements to SBI, and therefore said allegations are denied. Except as otherwise admitted, denied.

34. It is admitted that Defendant Meads counted the number of rounds in his service weapon before surrendering the weapon to SBI, but it is denied that said action constituted a “manipulation” or “alteration” of the gun. It is specifically denied that Defendant Meads altered his gun in any way or that he told or “admitted” to anyone, including the SBI, that he “altered” his gun. It is specifically denied that Investigator Meads withheld that information from SBI and specifically admitted that Investigator Meads told the interviewing agent during his first interview by SBI that he had counted the bullets in his weapon. Except as otherwise admitted, denied.

35. Investigator Meads lacks sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 35, and therefore said allegations are denied.

36. Investigator Meads lacks sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 36, and therefore said allegations are denied.

37. Investigator Meads lacks sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 37, and therefore said allegations are denied.

38. Admitted upon information and belief.

39. Investigator Meads lacks sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 39, and therefore said allegations are denied.

40. Investigator Meads lacks sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 40, and therefore said allegations are denied.

41. Admitted upon information and belief.

42. It is admitted that Defendant Meads counted the number of rounds in his service weapon before surrendering the weapon to SBI, but it is specifically denied that

said action was a “manipulation” or “alteration” of the gun. It is specifically denied that Investigator Meads withheld that information from SBI and specifically admitted that Investigator Meads told the interviewing agent during his first interview by SBI that he had counted the bullets in his weapon. Except as otherwise admitted, denied.

43. Investigator Meads lacks sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 43, and therefore said allegations are denied.

44. Investigator Meads lacks sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 44, and therefore said allegations are denied.

45. Investigator Meads lacks sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 45, and therefore said allegations are denied.

46. Investigator Meads lacks sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 46, and therefore said allegations are denied.

47. It is specifically denied that Investigator Meads fired his weapon at Brown’s vehicle after Brown’s vehicle ceased to pose a deadly threat to his fellow officers. The allegations contained in Paragraph 47 are denied.

48. The text of the opinion and order issued by the United States Court of Appeals for the Fourth Circuit in *Williams v. Strickland*, 917 F.3d 763 (4th Cir. 2019) speaks for itself and is the best evidence of its contents. Except as otherwise admitted, denied.

49. Admitted.

50. The text of the PCSO Use of Force Policy 300.4.1 MOVING VEHICLES speaks for itself and is the best evidence of its contents. Except as otherwise admitted, denied.

51. It is admitted that Investigator Meads was acting in his capacity as a law enforcement officer employed by PCSO at the time of the subject events. The remaining allegations of Paragraph 51 constitute legal conclusions or are not directed toward Investigator Meads and require no response. Except as otherwise admitted, denied.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

52. The preceding paragraphs are incorporated by reference as though fully stated herein. The text of 42 U.S.C. § 1983 speaks for itself and is the best evidence of its contents. Except as otherwise admitted, denied.

53. It is admitted that Investigator Meads is a person. The remaining allegations of Paragraph 53 constitute legal conclusions or are not directed toward Investigator Meads and require no response. Except as otherwise admitted, denied.

54. It is admitted that Investigator Meads was acting within the course and scope of his official duties or employment during the subject events. The remaining allegations of Paragraph 54 constitute legal conclusions or are not directed toward Investigator Meads and require no response. Except as otherwise admitted, denied.

55. The text of the Fourth Amendment to the United States Constitution speaks for itself and is the best evidence of its contents. The remaining allegations of Paragraph

55 constitute legal conclusions and require no response. Except as otherwise admitted, denied.

56. The text of the Fourth Amendment to the United States Constitution speaks for itself and is the best evidence of its contents. The remaining allegations of Paragraph 56 constitute legal conclusions and require no response. Except as otherwise admitted, denied.

57. It is admitted that Investigator Meads received training and has knowledge concerning the Fourth Amendment to the United States Constitution. It is specifically denied that Investigator Meads violated Brown's constitutional rights. Except as otherwise admitted, denied.

58. Denied.

59. Denied.

60. It is admitted that deadly force was used by Investigator Meads and other PCSO officers in response to the deadly threat posed by Brown. It is further admitted upon information and belief that Brown's death was caused by gunshot wounds sustained during the subject events. It is specifically denied that Investigator Meads violated Brown's constitutional rights. Except as otherwise admitted, denied.

61. Denied.

62. Denied.

63. Denied.

64. Denied.

65. Denied.

66. Denied.

67. Denied.

SECOND CLAIM FOR RELIEF

68. The preceding paragraphs are incorporated by reference as though fully stated herein.

69. It is admitted that Investigator Meads pointed a firearm at Brown and that deadly force was used by Investigator Meads and other PCSO officers in response to the deadly threat posed by Brown. It is specifically denied that Investigator Meads' use of force was unjustified or excessive. Except as otherwise admitted, denied.

70. Denied.

71. Denied.

72. Denied.

73. It is admitted upon information and belief that Brown's death was caused by gunshot wounds sustained during the subject events. It is specifically denied that Investigator Meads' use of force was unjustified or excessive. Except as otherwise admitted, denied.

74. Denied.

75. Denied.

THIRD CLAIM FOR RELIEF

76. The preceding paragraphs are incorporated by reference as though fully stated herein.

77. The allegations contained in Paragraph 77 are not directed toward Investigator Meads and require no response. To the extent a response is required, denied.

78. The allegations contained in Paragraph 78 are not directed toward Investigator Meads and require no response. To the extent a response is required, denied.

79. The allegations contained in Paragraph 79 are not directed toward Investigator Meads and require no response. To the extent a response is required, denied.

80. The allegations contained in Paragraph 80 are not directed toward Investigator Meads and require no response. To the extent a response is required, denied.

81. The allegations contained in Paragraph 81 are not directed toward Investigator Meads and require no response. To the extent a response is required, denied.

FOURTH CLAIM FOR RELIEF

82. The preceding paragraphs are incorporated by reference as though fully stated herein.

83. Denied.

84. Denied.

85. It is admitted that Investigator Meads was acting within the course and scope of his official duties or employment during the subject events. The remaining allegations contained in Paragraph 85 constitute legal conclusions or are not directed toward Investigator Meads and require no response. Except as otherwise admitted, denied.

86. Denied.

FIFTH CLAIM FOR RELIEF

87. The preceding paragraphs are incorporated by reference as though fully stated herein.

88. It is admitted that Investigator Meads owed all duties required by law. It is specifically denied that Investigator Meads breached any duty required by law. Except as otherwise admitted, denied.

89. Denied.

90. Denied.

91. Denied.

92. It is admitted that Investigator Meads was acting within the course and scope of his official duties or employment during the subject events. The remaining allegations contained in Paragraph 92 constitute legal conclusions or are not directed toward Investigator Meads and require no response. Except as otherwise admitted, denied.

93. Denied.

EACH AND EVERY ALLEGATION OF PLAINTIFF'S COMPLAINT, INCLUDING THE PRAYER FOR RELIEF, NOT OTHERWISE ADDRESSED HEREIN, IS DENIED.

FIRST AFFIRMATIVE DEFENSE

The Responding Defendant pleads sovereign and governmental immunity as a defense to all applicable claims asserted herein and to the extent not waived by the purchase of insurance and/or participation in a risk pool.

SECOND AFFIRMATIVE DEFENSE

The Responding Defendant pleads qualified and public official immunity as a complete defense to all claims asserted in the Complaint.

THIRD AFFIRMATIVE DEFENSE

The Responding Defendant pleads all other applicable immunities to which he is entitled by operation of law in bar of Plaintiff's rights to recover herein.

FOURTH AFFIRMATIVE DEFENSE

The Responding Defendant has complied with all applicable laws and regulations and, having so complied, acted without improper motive and any injury accruing to Plaintiff, the existence of which is specifically denied, is not actionable.

FIFTH AFFIRMATIVE DEFENSE

The Responding Defendant alleges that Mr. Brown's actions on the day in question caused Plaintiff's alleged injuries and damages, in that Mr. Brown acted in such a manner so as to cause the Responding Defendant to reasonably fear for the safety of his fellow officers, failed to comply lawful orders and commands, and otherwise engaged in hostile, aggressive, threatening, and assaultive conduct. These acts by Mr. Brown were a direct and proximate cause of any damages allegedly sustained by Mr. Brown or Plaintiff, and are specifically pled in bar of Plaintiff's right to recover any damages in this action.

SIXTH AFFIRMATIVE DEFENSE

The Responding Defendant pleads self-defense and provocation as a defense to all applicable claims asserted in the Complaint.

SEVENTH AFFIRMATIVE DEFENSE

Legal justification is pled as an affirmative defense in bar of Plaintiff's alleged right to recover in this action.

EIGHTH AFFIRMATIVE DEFENSE

At all relevant times, Responding Defendant acted in compliance with and pursuant to N.C.G.S. § 15A-401. Responding Defendant's compliance therewith is hereby pled as an affirmative defense to all applicable claims herein.

NINTH AFFIRMATIVE DEFENSE

Plaintiff's claims for punitive damages are barred by N.C.G.S. §1D *et seq.* and by the constitutions of the United States and North Carolina. Plaintiff's claims for punitive damages are in violation of the Fifth and Fourteenth Amendments to the Constitution of the United States in that they would deprive the Responding Defendant of property without due process of law; further, the claims for punitive damages are violative of the Fourteenth Amendment of the Constitution of the United States concerning equal protection; and the punitive damages claims are further in violation of the Eighth Amendment of the Constitution of the United States prohibiting imposition of excessive fines.

TENTH AFFIRMATIVE DEFENSE

As an additional and affirmative defense as to Plaintiff's claim for punitive damages, Responding Defendant raises all defenses, rights, remedies, immunities and limits set out in Chapter 1D of the North Carolina General Statutes, as a bar or limitation to Plaintiff's right to recover punitive damages herein.

ELEVENTH AFFIRMATIVE DEFENSE

If it should be determined that Responding Defendant was guilty of any negligence or gross negligence, which is again denied, then, in that event, it is alleged upon information and belief that the Plaintiff's decedent, Andrew Brown, Jr., contributed to his injuries in that he failed to use the judgment of a reasonably prudent person under the circumstances and he was otherwise negligent and/or grossly negligent as will be shown through discovery and at trial. These acts on the part of Plaintiff's decedent were a direct and proximate cause of any injuries or damages sustained by Plaintiff, and are specifically pled as contributory negligence and gross contributory negligence and as a bar of any right which Plaintiff might otherwise have to recover herein.

TWELFTH AFFIRMATIVE DEFENSE

THE RESPONDING DEFENDANT RESERVES THE RIGHT TO AMEND HIS ANSWER AND TO ASSERT ADDITIONAL AFFIRMATIVE DEFENSES AS THE CLAIMS OF PLAINTIFF ARE MORE FULLY DISCLOSED DURING THE COURSE OF THIS LITIGATION.

WHEREFORE, having fully answered each and every allegation contained in Plaintiff's Complaint, the Responding Defendant prays to the Court as follows:

1. That the Plaintiff have and recover nothing of the Responding Defendant by way of this action;
2. For the costs of this action, including reasonable attorneys' fees;
3. For a trial by jury on all issues of fact so triable herein; and

4. For such other and further relief as the Court may deem just and proper.

This the 6th day of December, 2021.

HARTZOG LAW GROUP LLP

/s/ Dan M. Hartzog Jr. _____

DAN M. HARTZOG, JR.

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CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that this day the foregoing pleading was served on the parties to this action by filing it with the Court's CM/ECF System, which will send notice to counsel of record and effect service upon all parties.

This the 6th day of December, 2021.

HARTZOG LAW GROUP LLP

/s/ Dan M. Hartzog Jr.

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