

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

NELDA KELLOM as Personal  
Representative of the Estate of  
TERRANCE KELLOM, Deceased

Civil Action No.  
Hon.

Plaintiffs,

vs.

Immigration and Customs Enforcement  
Agent MITCHELL QUINN, Detroit  
Police Officers DARELL FITZGERALD  
and TREVA EATON, in their individual  
capacities, jointly and severally,

Defendants.

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**COMPLAINT AND JURY DEMAND**

NOW COME Plaintiff Nelda Kellom, as Personal Representative of the Estate of Terrance Kellom, deceased, by and through her attorneys, AYAD LAW, PLLC., and for her Complaint and Jury Demand, states as follows:

## INTRODUCTION

1. This is a civil rights and wrongful death action stemming from an incident that occurred in the City of Detroit in the afternoon hour of April 27, 2015. As a direct and proximate result of the actions and inactions of Defendants, Terrance Kellom was deprived of his civil and constitutionally guaranteed rights and endured physical and emotional pain and suffering and death. Plaintiff seeks compensatory and punitive damages, reasonable attorneys' fees, and the costs of this litigation.

2. Plaintiff seeks damages and asserts claims for Defendants' violations of 42 U.S.C. §§1983 and 1988, the 4<sup>th</sup> and 14<sup>th</sup> Amendment to the United States Constitution, and under the statutes and common law of the State of Michigan, all resulting in injury and tragic death of Terrance Kellom on April 27, 2015.

3. At the time of the events alleged in this Complaint, Defendants Mitchell Quinn, Darell Fitzgerald, and Treva Eaton were each acting in their individual capacities, within the course and scope of their employment, and under color of state and/or federal law.

## JURISDICTION AND VENUE

4. The jurisdiction of the court is invoked pursuant to the Civil Rights Act, 42 U.S.C. § 1983 *et seq*; the Judicial Code, §§ 1331 and 1343(a), *Bivens v. Six*

*Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388, 91 S. Ct. 1999 (1971), and the Constitution of the United States.

5. Plaintiff further invokes this Court's supplemental jurisdiction pursuant to 28 U.S.C. §1367(a), over any and all state law claims that are related to the claims within the original jurisdiction of this Court as they form part of the same case or controversy.

6. Venue is proper in this District under 28 U.S.C. § 1391(b). The parties reside, or at the time the events took place, resided in this judicial district, and the events giving rise to Plaintiff's claims also occurred in this judicial district.

7. The amount in controversy in this case is well in excess of \$75,000.00, the jurisdictional minimum.

### **PARTIES**

8. Plaintiff, Nelda Kellom, is the mother and Personal Representative of the Estate of Terrance Kellom, Deceased. She files this lawsuit in both her individual capacity and in her representative capacity on behalf of the Estate of Terrance Kellom. At all relevant times herein, Mrs. Kellom was a resident of Wayne County, Michigan.

9. Prior to his death, Terrance Kellom ("Terrance") was at all times relevant a citizen of the United States of America residing in Wayne County,

Michigan and entitled to the protections of the Constitution and laws of the United States of America and the State of Michigan.

10. Terrance's surviving heirs are his three-year-old son and two-year-old daughter pursuant to the probate laws of the State of Michigan.

11. Defendant Mitchell Quinn is, and at all relevant times herein, a federal law enforcement agent employed by Immigration and Customs Enforcement, a federal agency organized and existing under the laws of the United States. Defendant Quinn was at all relevant times herein a member of the Detroit Fugitive Apprehension Team who shot and killed Terrance. Defendant Quinn acted in his individual capacity, within the course and scope of his employment, and under color of federal law. Defendant Quinn is a former Detroit police officer who, during his tenure, was sued for false arrest and assault. Also, in 2008, Defendant Quinn was criminally charged with assault with a deadly weapon for aiming a loaded gun to his ex-wife's head and later suspended from the Detroit Police Department. Six months later in September 2008, Immigration and Customs Enforcement (hereinafter "ICE") hired Defendant Quinn.

12. Defendant Officer Darell Fitzgerald is, and at all relevant times herein, a law enforcement officer employed by the City of Detroit who was acting under color of federal and/or state law within the course and scope and in furtherance of his employment with the Detroit Police Department.

13. Defendant Officer Treva Eaton is, and at all relevant times herein, a law enforcement officer employed by the City of Detroit who was acting under color of federal and/or state law within the course and scope and in furtherance of her employment with the Detroit Police Department.

### **FACTUAL ALLEGATIONS**

14. Terrence was shot and killed by ICE agent Mitchell Quinn on April 27, 2015. Terrence was 20 years old.

15. On April 27, 2015, Defendants were participants of the US Marshall Detroit Fugitive Apprehension Team (DFAT).

16. The DFAT was a joint venture of multiple police agencies.

17. At approximately 1:00 p.m., officers arrived at a house located at 9543 Evergreen within the City of Detroit, to locate Terrance.

18. Upon information and belief, the house located at 9543 Evergreen was owned by Kevin Kellom, Terrance's father. It is a two-story house.

19. Kevin Kellom, Terrance Kellom, Teria Kellom, Cheffon Jones, Anthony Coleman, and Yvette Johnson were inside the house at the time officers arrived.

20. Defendant Fitzgerald and an unknown officer knocked on the door of the house. Kevin answered the door and the officers asked the whereabouts of his son Terrence.

21. Defendant Fitzgerald demanded to search the house. Teria Kellom, Terrance's sister, who came to the door, asked Defendant Fitzgerald if they had a warrant.

22. Defendant Fitzgerald wrongly told Teria and Kevin, and wrongly reported, that he had a search warrant. **(Exhibit A, Police Report).**

23. In fact, the officers had an arrest warrant for Terrance Kellom, as opposed to a search warrant and had no legal authority to enter the house. *Steagald v. United States*, 451 U.S. 204 (1981).

24. Two officers then entered the house and immediately headed upstairs.

25. Defendant Fitzgerald remained downstairs.

26. The two officers allegedly located Terrance in the attic. Once Terrance was located, they called for backup. Defendant Quinn and Eaton responded to the officers' request for backup.

27. Once Terrance was downstairs in the hallway on the first floor of the house, he was confronted by Defendant Quinn and Defendant Eaton.

28. Terrance was unarmed and had his hands in the air.

29. Without justification or excuse, Defendant Quinn fired several gunshots into the body of Terrance.

30. Upon information and belief, at least six shots were fired. Terrance was struck by four bullets fired at him in his neck, chest, leg, and back.

31. While he lay to his death, Terrance was handcuffed following the shooting.

32. Despite having an opportunity to prevent the shooting, Defendant Eaton waited until all shots were fired before she exclaimed “Why did you fucking shoot!” Defendant Quinn then rushed out of the scene.

33. Defendant Quinn falsely claimed that Terrance was wielding a hammer at him which he claimed threatened his life and caused him to fire his weapon.

34. None of the guests present in the home saw Terrance with a hammer. Corroborating this account, Terrance’s fingerprints were not found on a hammer. (Exhibit B, Laboratory Report NV15-1803 Record 2).

35. Although Terrance’s blood was found on a hammer, the Michigan State Police found that “the bloodstaining on the hammer was the result of a bloodstained object(s) contacting it and/or blood being deposited on it and then an object(s) contacting it.” (Exhibit C, Laboratory NV15-1803 Record 4, page 3).

36. None of the Defendants suffered any injuries during their interaction with Terrance Kellom.

37. At all times material and relevant, Defendant Quinn had no justifiable excuse or reason to shoot twenty-year-old Terrance Kellom.

38. Defendants Eaton and Fitzgerald had the duty and opportunity to intervene to protect Terrance and did nothing to assist him or prevent the shooting.

39. Upon information and belief, to cover up their misconduct, Defendants provided false and incomplete reports and/or gave false and incomplete versions of the events to certain superiors and the public; most significantly, regarding the possession of a search warrant and that Terrance was wielding a hammer.

40. As a direct and proximate result of Defendants' misconduct, Terrance's minor children, his family and his community suffered, *inter alia*, injury, pain and suffering, mental distress, loss of love, affection, society, companionship, consortium and expenses, as well as other injuries as a result of Terrance's death.

**COUNT I**  
***BIVENS CLAIM***  
***As to all Defendants***

41. Plaintiff incorporates by reference the allegations contained in Paragraphs 1 through 40 above as though fully set forth herein.

42. Defendants Quinn, Fitzgerald, and Eaton, acting under the color of federal law based on their positions as officers with the U.S. Marshals Service Detroit Fugitive Apprehension Team (the "DAFT"), knowingly and individually violated Plaintiff's constitutional rights through, *inter alia*, causing the above-described attack and fatal shooting of Terrence, without legal justification.

43. The actions of Defendants resulting in Terrance's death without just cause violated his rights under the Fourth Amendment to the United States Constitution to be secure in his person against, unreasonable search and seizure,



excessive force, and the unlawful use of deadly force under the Fourteenth Amendment to the United States Constitution, and caused the injuries set forth above.

44. Defendants' use of unnecessary, unreasonable, outrageous, and excessive force, as described herein, constitute wanton, willful, reckless, unjustifiable, and malicious conduct warranting the imposition of exemplary punitive damages.

45. At all times relevant, acting under color of law, Defendants were required to obey the laws of the United States including those laws identified and described in the United States Constitution.

46. The aforementioned actions of Defendants were the direct and proximate cause of the constitutional violations set forth above and of the Plaintiff's injuries.

47. Faced with the circumstances present at the aforementioned times and places, reasonably prudent law enforcement officers would or should have known that the actions of Defendants resulting in the deadly force described herein violated Terrence Kellom's clearly established Fourteenth Amendment liberty interest in bodily integrity as well as protection from unlawful search and seizure, unnecessary force, and excessive force pursuant to the Fourth Amendment to the United States Constitution.

48. Plaintiff seeks an award of compensatory damages and punitive damages against Defendants, individually, under *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971) as a result of their actions in deprivation of Plaintiff's constitutional rights.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter judgment in his favor and against Defendants jointly and severally as well as award costs, interest, attorney fees, punitive and exemplary damages so wrongfully incurred and any other relief as is just and proper.

### **COUNT II**

#### **42 U.S.C. §1983 – EXCESSIVE FORCE AND/OR UNLAWFUL USE OF DEADLY FORCE**

#### *As to Defendants Fitzgerald and Eaton*

49. Plaintiff hereby incorporates by reference the allegations contained in Paragraphs 1 through 48 as though fully set forth herein.

50. The above-described savage physical and fatal attack on Plaintiff was without legal justification.

51. At all times relevant, Plaintiff had a clearly established right to liberty protected in the substantive components of the Due Process Clause of the Fourteenth Amendment to the United States Constitution, including his right to personal safety and bodily integrity, as well as protection from unlawful search and seizure, unnecessary force, unreasonable force, and excessive force pursuant

to the Fourth Amendment to the United States Constitution.

52. At all times relevant, as police officers acting under color of law, Defendants Fitzgerald and Eaton were required to obey the laws of the United States, including those laws identified under the Fourth and Fourteenth Amendments to the United States Constitution.

53. In violation of Plaintiff's clearly established constitutionally-protected right to be free from punishment and deprivation of life and liberty without due process of law under the Fourth and Fourteenth Amendments to the United States Constitution, Defendants Fitzgerald and Eaton failed to act to prevent the use of unnecessary, unreasonable, and excessive force against Plaintiff.

WHEREFORE Pursuant to 42 U.S.C. §§1983, Defendants are liable for all damages allowed under federal law and under the Michigan Wrongful Death Statute MCL 600.2922. To the extent that the damages allowable and/or recoverable under one or both of the statutes are deemed insufficient to fully compensate Plaintiff and/or to punish or deter the Defendants, this Court must order additional damages to be allowed so as to satisfy any and all such inadequacies.

54. Plaintiff demands substantial actual or compensatory damages, and because Defendants acted maliciously, wantonly, or oppressively, punitive damages,

plus the costs of this action, attorney's fees and whatever additional relief this Court deems equitable and just.

### **COUNT III**

#### **§1983 CONSPIRACY BY DEFENDANTS**

##### *As to all Defendants*

55. Plaintiffs incorporate by reference their allegations contained in Paragraphs 1 through 54, above, as though fully set forth herein.

56. Upon Defendants realizing that Terrance Kellom was unjustly murdered, they intentionally conspired to cover-up their unlawful and unconstitutional acts by providing false and fictitious information to the authorities and to the media regarding the shooting of Terrance, including falsely claiming that warrants were presented, that Terrance threatened Defendant Quinn with a hammer, and that the discharge of the firearm was the result of a reasonable fear of harm.

57. Defendants acted in concert to cover-up the facts and circumstances of the fatal shooting of Terrance Kellom.

58. As soon as Defendants realize that they had wrongfully killed Terrance, they mutually, either tacitly or overtly, agreed to commence a conspiracy to cover-up the facts of what they had done.

59. Defendants' conspiracy sought to deprive Plaintiff Terrance Kellom and his family of their constitutional rights.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter judgment in his favor and against Defendants jointly and severally as well as award costs, interest, attorney fees and punitive damages so wrongfully incurred.

#### **COUNT IV**

#### **WRONGFUL DEATH**

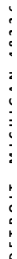
Michigan Wrongful Death Act, Mich. Comp. Laws §600.2922 *et seq.*  
(*State Supplemental Claim*)

60. Plaintiff incorporates by reference the allegations contained in Paragraphs 1 through 59, above, as though fully set forth herein.

61. As a direct and proximate result of all of the Defendants' conduct described herein, individually and/or collectively, Plaintiff's Decedent, Terrance Kellom, suffered his untimely and wrongful death.

62. As a direct and proximate result of his wrongful death, the next of kin of Plaintiffs' Decedent, Terrence Kellom, have and will forever suffer those injuries and damages set forth in Michigan's wrongful death statutes.

63. Plaintiff asserts that this Court has jurisdiction to determine damages under the Michigan Wrongful Death Act, pursuant to 28 U.S.C. §§1331 and 1343(3) and (4), as federal law, 42 U.S.C. §§1983 and 1988, allows such claims to be raised as a matter of federal law and jurisdiction; as well, it has jurisdiction under 28 U.S.C. §1367(a), which provides for supplemental jurisdiction.



**WHEREFORE**, Plaintiffs pray for judgment against Defendants, jointly and severally, for:

- a. Compensatory damages in an amount that will fully and fairly compensate Terrance Kellom's next-of-kin for their injuries, damages, and loss;
- b. All reasonable funeral and burial expenses;
- c. Costs of suit and reasonable attorneys' fees; and
- d. All other damages recoverable under Michigan's wrongful death statutes, including all such other relief which the Court deems appropriate.

**RELIEF REQUESTED**

WHEREFORE, Plaintiffs demand the following relief against all Defendants, jointly and severally, for the violation of their rights and decedent's rights as set forth herein:

- a. A declaration that Defendants violated the federal and state-law-based rights of Plaintiff's decedent;
- b. Compensatory damages for the physical and emotional injuries and pain and suffering experienced by Plaintiff's decedent and caused by Defendants' unlawful, unconstitutional, and unjustified conduct, in an amount determined by a jury to be fair, just, and reasonable and in conformity with the evidence at trial;
- c. Compensatory damages for the loss of consortium, emotional suffering, loss of society and companionship, and loss of services suffered by decedent's heirs, in an amount determined by a jury to be proper under

common law and the Michigan Wrongful Death Act, Mich. Comp. Laws § 600.2922, *et. seq.*;

- d. Punitive and exemplary damages against the individual Defendants in the amount of \$50 million dollars and to the extent allowable by law;
- e. Attorneys' fees, pursuant to the Equal Access to Justice Act and state law, as allowed;
- f. The costs, interest, and disbursements of this action; and
- g. Such other and further legal and/or equitable relief as appears just and proper to the Court or the jury in its discretion.

### REQUEST FOR JURY TRIAL

Plaintiff, by and through their attorneys, AYAD LAW, PLLC, hereby request a trial by jury in the above-captioned matter on all counts.

Respectfully Submitted,

AYAD LAW PLLC

/s/ Nabih Ayad

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