

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION

KARLA M. VASQUEZ, individually and
as Parent, Next Friend, Natural and
General Guardian of Aaron Vasquez,

Plaintiffs,

v.

PICKENS COUNTY; PICKENS
COUNTY SHERIFF'S DEPARTMENT;
RICK CLARK, PICKENS COUNTY
SHERIFF; JAMES WILLIAM
TROTTER, INDIVIDUALLY; and JOHN
DOES 1-5,

Defendants.

COMPLAINT
(Jury Trial Demanded)

TO: THE DEFENDANTS ABOVE NAMED

The Plaintiffs, complaining of the Defendants, allege and say as follows:

INTRODUCTION

1. On or about August 30, 2021, Pickens County Sheriff's Deputy, Defendant James William Trotter, exercised extreme, excessive, and unwarranted force by tasing Plaintiff Aaron Vasquez, an unarmed, non-verbal, severely autistic minor, seventeen (17) times in approximately five (5) minutes despite the absence of any clear or present danger, resulting in severe injury to his person and violation of his constitutional rights.
2. Defendant Trotter even tased Aaron when he was facing away from him, and was compliant when told to put his hands behind his back and on his hips, despite being autistic and clearly not appreciating the circumstances (Ex. 1).



3. Once Aaron was on the ground and bleeding, with his hands up and not presenting any threat at all, Defendant Trotter continued to tase him. (Ex. 2).



4. At one point Defendant Trotter even asks Aaron what happened to his arm (he was knocked to the ground by the incessant tasing) and when non-verbal Aaron does not respond to his question, Defendant Trotter tases him again while Aaron is laying on the ground!
5. As soon as the other officer arrived the first thing Defendant Trotter exclaims is that Aaron hit him so he had to tase him. The other officer and Defendant Trotter then cuff Aaron face down and exposed on the roadside, despite his obviously confused, unthreatening, and fragile state. (Ex. 3)



6. After Aaron is cuffed Defendant Trotter continues his gaslighting by shouting at Aaron about why he hit him.
7. Later, when interacting with Aaron's father Defendant Trotter attempts to justify his actions again by telling him that Aaron "whopped me pretty good," which is demonstrably false based on the video evidence.
8. When interacting with Aaron's father Defendant Trotter acknowledges that the stimming behavior Aaron was doing are known to him to be "autistic type issues."

9. Eventually Defendant Trotter was arrested and charged with assault and battery and misconduct in office after the undersigned Law Firm got involved on Aaron's behalf.
10. This case is now brought against Defendants to hold them civilly accountable and to ensure that this does not happen to other vulnerable and innocent children like Aaron.

JURISDICTION AND VENUE

11. Plaintiffs' claims are brought pursuant to 42 U.S.C. §1983, the Fourth and Fourteenth Amendments to the United States Constitution, as well as the law of the State of South Carolina.
12. This Court has original jurisdiction over Plaintiffs' federal claims pursuant to 28 U.S.C. §§1331 and 1343. This Court has supplemental jurisdiction over Plaintiffs' state law claims pursuant to 28 U.S.C. § 1367. Jurisdiction supporting Plaintiffs' claim for attorney fees and costs is conferred by 42 U.S.C. § 1988.
13. Venue is proper in this District according to 28 U.S.C. §1391(b) because the events giving rise to the claims occurred in this District and all Defendants reside in this District.

PARTIES

14. That at all times pertinent to the subject matter of this litigation, the Plaintiff, Karla M. Vasquez individually, and as parent, next friend, natural and general guardian of Aaron Vasquez, was a legal resident of the United States of America and a resident of and domiciled in the State of South Carolina.
15. That at all times pertinent to the subject matter of this litigation, the Plaintiff Aaron Vasquez ("Plaintiff" and/or "Aaron"), was a citizen of the United States of America and a resident of and domiciled in the State of South Carolina.

16. Defendant Pickens County (“Defendant County”) is a governmental entity and political subdivision of the State of South Carolina within meaning of the South Carolina Tort Claims Act (S.C. Code § 15-78-10, et seq.) that is liable for the acts and omissions of its employees for the negligence, gross negligence, recklessness, and other liability forming conduct that caused harm to Plaintiff.
17. Defendant Pickens County Sheriff’s Department (“Defendant PCSD”) is a political subdivision under the laws of the State of South Carolina that is liable for the acts and omissions of its employees for the negligence, gross negligence, recklessness, and other liability forming conduct that caused harm to Plaintiff.
18. Defendant Rick Clark (“Defendant Clark”) was, at all times relevant herein, the duly elected Sheriff of Pickens County, having the exclusive power, authority, and responsibility to hire, supervise, instruct, discipline and control personnel within the PCSD.
19. Defendant James William Trotter (“Defendant Trotter”) was a deputy sheriff employed by the PCSD and on duty, acting in his official capacity and within the scope of his employment at all times relevant herein.
20. Defendants John Does 1-5, were at all times relevant herein, members of the PCSD, acting within the scope of their employment, with administrative responsibility for investigating complaints of misconduct by PCSD. Any and all identifiable individuals, though discovery or otherwise, are sued in their individual and official capacities.
21. All Defendants were acting under the color of law in the State of South Carolina at all times relevant to this Complaint. Their deprivations of Plaintiff’s constitutional rights are set forth in the following statements of fact and causes of action.

22. Plaintiff is informed and believes that Defendant Pickens County, Defendant PCSD, and Defendant Clark had the right and/or power to direct and control the manner in which its agents/employees, namely Defendant Trotter and John Does 1-5, executed their duties.
23. That Plaintiff is informed and does believe that Defendant Pickens County, Defendant PCSD, and Defendant Clark had the right and/or power to direct and control the manner in which their employees and/or agents, namely Defendant Trotter and John Does 1-5, executed their duties.
24. That the negligent and grossly negligent acts, omissions, and liability-forming conduct of all Defendants includes their agents, principals, employees, and/or servants, both directly and vicariously, pursuant to principles of non-delegable duty, apparent authority, agency, ostensible agency and/or *respondeat superior*.
25. That the acts and/or omissions of Defendants were the direct and proximate cause of the injuries, damages, and losses to Plaintiff, as is set forth more fully hereinafter.
26. Defendants are “persons” under 42 U.S.C. § 1983.
27. All Defendants are being sued in their official and individual capacities.

STATEMENTS OF FACT

28. That on the morning of August 30, 2021, Plaintiff Aaron Vasquez, a non-verbal, severely autistic minor was reported missing by his family.
29. That on the morning of August 30, 2021, a caller called the Sheriff’s office to report a suspicious person, who was Aaron.
30. That the caller indicated that Aaron was not able to speak when he interacted with him and that it seemed as if “something is wrong with him” as he was “wearing pajamas backward.” The caller even noted that “Ma’am he looks young.” The caller, clearly concerned about

Aaron, can even be heard telling him not to walk a specific way down the road for his own safety.

31. Defendant Trotter responded to that call involving a suspicious person, which was Aaron the missing minor.
32. That at all times relevant hereto, Aaron was unarmed.
33. That at no time did Aaron attempt to flee.
34. That at no time did Plaintiff Aaron Vasquez present an imminent threat or danger to himself, Defendant Trotter, or others.
35. That within four (4) minutes of arriving on scene, Defendant Trotter tased Aaron repeatedly.
36. That over the course of the next five (5) minutes, Defendant Trotter pulled the trigger of his taser repeatedly, tasing Aaron seventeen (17) times.
37. Aaron sustained severe injuries as a result of Defendant Trotter's gratuitous and excessive use of force.
38. That Plaintiff is informed and does believe that Defendants have previously used excessive and unnecessary force against innocent citizens.
39. That Plaintiff is further informed and does believe that the department of internal affairs of Defendant PCSD was placed on notice of Defendant Trotter's previous use of excessive and unlawful force, yet continued to allow their agents/employees to use such excessive and unlawful force in the course of their agents'/employees' duties.
40. That Defendant Pickens County, Defendant PCSD, and Defendant Clark allowed, condoned, encouraged, were deliberately indifferent, emboldened unconstitutional

conduct, and otherwise acted improperly and unconstitutionally with respect to the improper actions of their officers.

41. That, at all material times, Defendants acted under color of the laws, statutes, ordinances, and regulations of the State of South Carolina.
42. That Defendants' conduct, as set forth herein, was contrary to generally accepted, reasonable law enforcement procedures, training, and tactics, and caused damage to Plaintiff as set forth in this Complaint.
43. That the acts and/or omissions of Defendants, as set forth herein, were the direct and proximate cause of the injuries, damages, and losses of Plaintiff, including but not limited to, pain and suffering, shock, humiliation, shame, embarrassment, anxiety, medical bills, as well as future pain and suffering, future medical bills, and other damages, both economic and noneconomic, as may be learned during the discovery of this case.
44. That the acts and/or omissions of Defendants violated the following clearly established and well-settled rights of Plaintiff established by the United States Constitution and the South Carolina Constitution.

FOR A FIRST CAUSE OF ACTION

42 U.S.C. §1983

**Fourth and Fourteenth Amendment Violation – Excessive Force & Due Process
(Against All Defendants)**

45. Plaintiff hereby incorporates all other paragraphs of this Complaint as if fully set forth herein.
46. By the acts and omissions described above, Defendants named in this cause of action violated 42 U.S.C. § 1983, depriving Plaintiff of clearly established and well-settled constitutional rights protected by the Fourth and Fourteenth Amendments to the United States Constitution.

47. At the time Plaintiff was seized on August 30, 2021, he had a clearly established constitutional right under the Fourth Amendment to the United States Constitution to be secure in his person from unreasonable seizure through excessive force.
48. That there was no articulable suspicion or probable cause or any legal justification for the seizures as there was no reasonable basis to believe a crime had been committed or was about to be committed.
49. Any reasonable law enforcement officer knew or should have known of this clearly established right.
50. Defendant Trotter's seizure by, among other actions, tasing Plaintiff seventeen (17) times, constituted greater force than was reasonably necessary to affect the unlawful seizure in any event.
51. Defendant Trotter's excessive use of force caused extreme pain and injury to Plaintiff.
52. As a direct and proximate result of Defendants' acts and/or omissions, as is set forth more fully herein above, Plaintiff sustained injuries and damages and will continue to suffer as otherwise set forth in this Complaint.
53. Defendant Trotter's conduct as set forth herein, constitutes intentionally, maliciously, willfully, wantonly, and/or in reckless disregard of Plaintiff's federally protected rights which entitles Plaintiff to punitive damages and penalties allowable under 42 U.S.C. § 1983 and the South Carolina Code. Plaintiff is also entitled to reasonable costs and attorneys' fees under 42 U.S.C. § 1988 and applicable South Carolina codes and laws.
54. Such other particulars as may be learned through discovery in this case.

FOR A SECOND CAUSE OF ACTION
42 U.S.C. §1983
Fourteenth Amendment Violation – Racism
(Against All Defendants)

55. Plaintiff re-alleges and reiterates every allegation of the preceding paragraphs, as fully as if repeated herein verbatim.
56. That Plaintiff is Hispanic.
57. That Plaintiff is guaranteed equal protection under the Fourteenth Amendment.
58. That at the time of his unlawful seizure by excessive force, Officer Trotter used racially motivated language, including calling Aaron a variety of Hispanic surnames (Sanchez, Gomez) that are not his and despite there being a missing person report out for Aaron under his own surname of Vasquez. That the same is indicative of his desire to deprive Plaintiff of due process and of rights, privileges, liberties and immunities secured by the Constitution of the United States of America.
59. That Defendants have a custom, practice or policy of tolerating violations of the Fourteenth Amendment of the United States Constitution.
60. At the time when Defendants violated Plaintiff's due process rights, Plaintiff had a clearly established constitutional right under the Fourteenth Amendment to the United States Constitution to be afforded due process of law. Any reasonable law enforcement officer knew or should have known of this clearly established right.
61. The orders issued by Defendants, and the authority on which those orders were based, failed to provide people of ordinary intelligence a reasonable opportunity to understand what conduct they prohibited, and authorized or encouraged arbitrary and discriminatory enforcement, or both.
62. Defendants engaged in these actions intentionally, willfully, and wantonly, demonstrating deliberate indifference to, and a reckless disregard for, Plaintiff's constitutionally protected rights.

63. Defendants' intentional actions or inactions as described herein intentionally deprived Plaintiff of due process and of rights, privileges, liberties, and immunities secured by the Constitution of the United States of America.

64. As a direct and proximate cause and consequence of Defendants' unconstitutional acts and omissions, described above, Plaintiff suffered injuries, damages, and losses.

FOR A THIRD CAUSE OF ACTION
42 U.S.C. §12132
Title II of the American Disabilities Act
(Against All Defendants)

65. Plaintiff re-alleges and reiterates every allegation of the preceding paragraphs, as fully as if repeated herein verbatim.

66. At the time Plaintiff was seized on August 30, 2021, Plaintiff suffered from autism and an intellectual disability.

67. At the time Plaintiff was seized, he was engaging in stimming, a self-soothing behavior commonly exhibited by children with autism when feeling anxious.

68. That Officer Trotter knew Plaintiff was engaging in stimming activity and that such activity was related to Plaintiff's disability.

69. That Officer Trotter seized Plaintiff with excessive force, arresting him for engaging in stimming activity.

70. That Officer Trotter failed to take into account Plaintiff's disability when assessing the amount of force exerted.

71. That Defendant Pickens County, Defendant PCSD, and Defendant Clark failed to implement training necessary for law enforcement officers to understand the signs and behaviors of different disabilities as required by the American Disabilities Act.

72. As a direct and proximate result of Defendants' acts and/or omissions, as is set forth more fully herein above, Plaintiff sustained injuries and damages as otherwise set forth in this Complaint.

73. Defendant Trotter's conduct as set forth herein, constitutes intentionally, maliciously, willfully, wantonly, and/or in reckless disregard of Plaintiff's federally protected rights.

74. Such other particulars as may be learned through discovery in this case.

FOR A FOURTH CAUSE OF ACTION
(Negligence and Gross Negligence — South Carolina Tort Claims Act)
(As to Defendant Pickens County, Defendant PCSD, and Defendant Clark, in His Official Capacity)

75. Plaintiff re-alleges and reiterates every allegation of the preceding paragraphs, as fully as if repeated herein verbatim.

76. Defendants above-named in this cause of action departed from the duties of care required by law enforcement officers and the agencies that hire, train, and employ these officers, and were thereby negligent, careless, grossly negligent, reckless, and acted in violation of the duties owed to Plaintiff in that they committed one or more of the following acts and/or omissions or commission, any or all of which were departures from the prevailing duties of care:

- a. In failing to ensure the safety and reputation of Plaintiff;
- b. In failing to appreciate the conditions that existed during the events in question;
- c. In failing to adhere to proper law enforcement procedures;
- d. In failing to use discretion before, during, and after the incident that is the subject of this Complaint to consider other methods available to apprehend suspects;
- e. In failing to have in place proper and adequate policies, procedures, and protocols for law enforcement officers to investigate allegations and reports, training of

officers or, if such policies, procedures, and protocols were in place, in failing to use due care to enforce them; and

- f. In such other particulars as may be ascertained through discovery procedures undertaken pursuant to the Federal Rules of Civil Procedure.
77. As a direct and proximate result of the negligence, carelessness, gross negligence, recklessness, and departure from the duties of care owed by the above-referenced Defendants in this cause of action, Plaintiff was severely injured and has suffered severe and extreme emotional distress, anxiety, grief, sorrow, and other harms and losses for which Plaintiffs are entitled to recover in an amount to be determined by a jury at the trial of this action.

FOR A THIRD CAUSE OF ACTION
(Outrage/Intentional Infliction of Emotional Distress)

78. Plaintiff re-alleges and reiterates every allegation of the preceding paragraphs, as fully as if repeated herein verbatim.
79. Defendants intentionally or recklessly inflicted severe emotional distress on Plaintiff, or Defendants were substantially certain that their actions would cause Plaintiff to suffer severe emotional distress.
80. Defendants' extreme, outrageous, and atrocious actions exceeded all possible bounds of decency, were shocking in light of the circumstances confronting them, and are intolerable in a civilized community.
81. As a direct and proximate result of Defendants' extreme and outrageous conduct, Plaintiff has suffered extreme and severe emotional distress, nervousness, and anxiety.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court enter a judgment in favor of Plaintiffs against each Defendant, and award all relief allowed by law, including but not limited to the following:

- A. Compensatory and consequential damages, including damages for emotional distress, humiliation, loss of enjoyment of life, and other pain and suffering on all claims allowed by law in an amount to be determined at trial;
- B. Punitive damages on all claims in an amount to be determined at trial;
- C. Attorneys' fees and the costs associated with this action under 42 U.S.C. § 1988, including expert witness fees, on all claims allowed by law;
- D. Post-judgment interest at the lawful rate; and
- E. Any other appropriate relief at law and equity that this Court deems just and proper.

POULIN | WILLEY | ANASTOPOULO, LLC

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