

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 16-61595-CIV-COOKE/TORRES

DONNETT M. TAFFE, Personal
Representative of the Estate of STEVEN
JEROLD THOMPSON, deceased,

Plaintiffs,

v.

SCOTT J. ISRAEL, individually and in
his official capacity as the Sheriff of Broward
County and GERALD E. WENGERT,
individually for actions taken in his official capacity
as a deputy sheriff for the Broward County
Sheriff's Office,

Defendants.

AMENDED COMPLAINT

Plaintiff DONNETT M. TAFFE, as Personal Representative of the Estate of
STEVEN JEROLD THOMPSON, deceased, sues Defendants, jointly and
severally, and alleges:

JURISDICTION

1. This is an action for damages in excess of fifteen thousand
(\$15,000.00) dollars, arising out of one or more violations of State and Federal
laws, detailed below.

2. This action is brought pursuant to 42 U.S.C. §§1983, 1988, the Fourth and Fourteenth Amendments to the United States Constitution, the tort law of Florida, and the Florida wrongful death statute. Jurisdiction is founded on 28 U.S.C. §§1331, 1343, 42 U.S.C. §§1983, 1988, the constitutional provisions mentioned above, the Florida wrongful death and survival statutes and the tort law of Florida.

3. In connection with the acts, practices and violations alleged below, the Defendants have each, either directly or indirectly, violated decedent Plaintiff's constitutional rights.

4. All conditions precedent under Florida law for the filing of this lawsuit have been satisfied. (Exhibit A).

5. The Plaintiff(s) seek an award for damages for the wrongful death of STEVEN JEROLD THOMPSON, loss of his income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel and advice, and for funeral and burial expenses under 42 U.S.C. §1983 and the Florida wrongful death statute. Additionally, the Plaintiff(s) assert injury claims for survival damages pursuant to Section 46.021, Florida Statutes. The Plaintiff(s) further seek an award for punitive damages, court costs, and attorney fees.

PARTIES

6. The decedent Plaintiff STEVEN JEROLD THOMPSON, at all times material hereto, had been a resident of Broward County, Florida.

7. The decedent STEVEN JEROLD THOMPSON died of injuries sustained on or about June 6, 2014, in Broward County, Florida. The Plaintiff DONNETT M. TAFFE, at all times material hereto, has been a United States citizen, and is the personal representative of the Estate of STEVEN JEROLD THOMPSON pursuant to the laws of the State of Florida. Said Plaintiff is authorized by law to bring this action. (Exhibit B).

8. Defendant SCOTT J. ISRAEL is the Sheriff of Broward County, Florida. Said Defendant is responsible, as Sheriff, for the conduct of the deputies in his employ and ensuring that his deputies, employees, servants and agents obey the laws of the State of Florida and the United States. Said Defendant is being sued in his official and individual capacities.

9. Defendant GERALD E. WENGERT is a resident of Broward County, Florida, and at all times material hereto, was a duly appointed deputy sheriff with the Broward County Sheriff's Office, acting under color of law, to wit, under color of the statutes, ordinances, regulations, policies, customs and usages of the State of Florida and/or Broward County. Said Defendant is being sued in his individual

capacity for conduct which occurred in his official capacity as a deputy sheriff for Defendant ISRAEL.

10. Defendant GERALD E. WENGERT shot and killed STEVEN JEROLD THOMPSON, without legal cause or excuse, violating his rights under the Fourth and Fourteenth Amendments to the United States Constitution. It is further alleged that these violations were committed as a result of the policies, practice and custom of Defendant ISRAEL, and the deliberate indifference of Defendant ISRAEL, individually.

11. At all times material hereto, and in all of their acts described herein, Defendants were acting under color of state law and color of their authority as public officials and public employees.

ALLEGATIONS OF FACT

I. The notice of misconduct within the Broward County Sheriff's office

12. Defendant ISRAEL, in his official capacity, is synonymous with the Broward County Sheriff's Office.

13. In his capacity as the Sheriff of Broward County, Defendant ISRAEL had a duty to train, supervise, discipline, control or otherwise ensure that Defendant WENGERT, and other unnamed deputy sheriffs, did not violate the

constitutional rights of persons such as the decedent STEVEN JEROLD THOMPSON.

14. Defendant ISRAEL has been charged with the responsibility of adopting and implementing rules and regulations for the employees and/or agents of the Broward County Sheriff's office.

15. Defendant ISRAEL is the final policymaker with respect to the hiring and firing of deputy sheriffs at the Broward County Sheriff's office.

16. Defendant ISRAEL has authorized certain unnamed policymakers to enforce the rules and regulations for the employees and/or agents of said Defendant. The acts of the unnamed policymakers represent an official policy of Defendant ISRAEL, and the policy-making authority for said Defendant has been delegated to these unnamed policymakers.

17. Defendant ISRAEL abdicated his policymaking and oversight responsibilities, thereby allowing the incident involving decedent STEVEN JEROLD THOMPSON to occur.

18. At all times material hereto, Defendant ISRAEL, by the acts of his employees and/or agents, permitted, tolerated and caused a pattern and practice of unjustified, unreasonable, and illegal use of force and unlawful seizures and/or arrests against members of the public by deputy sheriffs of the Broward County

Sheriff's office. Although such acts were improper, deputy sheriffs involved were not prosecuted, and/or disciplined, and/or subjected to retraining, and some of said incidents were, in fact, covered up with official claims that their acts were justified and proper.

19. Defendant ISRAEL has maintained a system of review of incidents of abuse of lawful authority such as illegal use of force and unlawful detentions and/or arrests, among other things, by deputy sheriffs, and complaints thereof, which has failed to identify and/or ignored the unlawful use of force and/or seizures by deputy sheriffs, and to subject deputy sheriffs who employed such acts to appropriate discipline, and/or supervision, and/or retraining, to the extent that it has become the de facto policy and custom of Defendant ISRAEL to tolerate such acts by his deputy sheriffs.

20. There existed, at all times material hereto, a de facto policy by Defendant ISRAEL of covering up police misconduct by failing to properly investigate alleged misconduct, and/or by conducting investigations that were intentionally deficient. Additionally, in some instances the misconduct was covered up by listing the problem investigations as "ongoing" long after any actual investigation had ceased, thereby attempting to insulate the Broward County Sheriff's office, and its employees and/or agents from scrutiny by the

public. This de facto policy enabled some deputy sheriffs to falsify reports, give false testimony, and create and/or destroy evidence, including but not limited to, throw down firearms, in order to justify their misconduct.

21. It is common knowledge that steroid use increases a person's aggressiveness and can lead to violence. Defendant ISRAEL was on notice of "steroid" abuses by members of law enforcement as far back as 2005. The investigation into steroid abuses by some Broward County deputy sheriffs has been "ongoing" since 2008 to the present. It has spanned the administrations of both former Sheriff Lamberti and Defendant ISRAEL. Based upon this notice, Defendant ISRAEL knew or should have known that implementing a drug screening program that included testing for steroids from which deputies were regularly tested was a necessary corrective measure. No corrective measure was taken by Defendant ISRAEL.

22. Despite federal law and the written policy of the Broward County Sheriff's Office requiring that the need for force during an arrest and/or seizure be "objectively reasonable" without consideration of the "subjective" view of the deputy using the force, it is Defendant ISRAEL's de facto custom, pattern or practice to review and justify the force used based upon the "subjective" view of the deputy using the force. As a result, deputies were not disciplined in regards to their use of force, however egregious and deadly, thereby allowing deputies such

as Defendant WENGERT to use excessive and deadly force without consequences.

23. It was the practice of Defendant ISRAEL to allow his deputy sheriffs when they used force to make the ultimate determination of whether or not to report said force to the supervisors and command staff. As a result, there exists no accurate record of a deputy sheriff's use of force from which Defendant ISRAEL could assess a deputy's conduct in order to properly supervise and/or discipline said deputy sheriff.

24. Defendant ISRAEL had notice of the deficient practices in the Broward County Sheriff's office in the selection, and/or supervision and/or discipline of its deputy sheriffs which were contrary to its own written policies, professional standards and State and Federal law. Defendant ISRAEL knew or should have known, based upon media reports, judicial orders and other similar incidents that corrective action was needed. Despite this notice, no corrective measures were taken by Defendant ISRAEL.

25. Defendant ISRAEL's failure to take corrective measures with respect to the known deficiencies in the selection, and/or supervision and/or discipline caused some deputy sheriffs, including Defendant WENGERT, to believe that their use of excessive and unlawful force would be condoned and an accepted practice within the Broward County Sheriff's office.

26. On January 8, 2013, Scott Israel was sworn in as the Sheriff of Broward County, Florida. As such, he assumed all the duties and responsibilities that came with that office. It became his responsibility to ensure that deputy sheriffs under his supervision and control did not violate the constitutional rights of persons such as the decedent STEVEN JEROLD THOMPSON, and take corrective measures where needed. No corrective measures were made by Defendant SCOTT ISRAEL, individually.

II. Defendant WENGERT's known history of violence

27. At the time of the shooting of STEVEN JEROLD THOMPSON on June 5, 2014, Defendant ISRAEL, in his official and individual capacities, had actual and/or constructive notice that Defendant WENGERT was unfit to be a deputy sheriff with the Broward County Sheriff's office.

28. Defendant WENGERT had been hired as a deputy sheriff by Defendant ISRAEL on February 15, 2004 as a result of a merger between the Broward County Sheriff's Office and Cooper City, Florida. The written policies with respect to the hiring of a deputy sheriff required background investigations, psychological evaluations, drug testing and polygraph examination. None of these requirements were enforced with respect to the hiring of Defendant WENGERT.

29. Throughout his employment as a deputy sheriff, Defendant WENGERT has had an obvious history of utilizing excessive force in his encounters with some citizens of Broward County, Florida. He has never been disciplined for his misconduct.

30. From 2004 until June 5, 2014, Defendant WENGERT had 73 documented use of force incidents, and ten documented complaints, including three shootings. In all instances, Defendant ISRAEL found the force complied with the policies of the Broward County Sheriff's office based upon WENGERT's unilateral version of the incident and his subjective justification for the need to use force.

31. Defendant ISRAEL has a written policy with respect to an Early Intervention Program (EIP) designed to identify deputy sheriffs whose behavior is problematic. Despite this, deputy sheriffs, including Defendant WENGERT, who were identified by the program based upon the number of complaints, and/or uses of force during a specific time frame, were not subject to any review of their conduct by the supervisory personnel of Defendant ISRAEL.

32. Defendant WENGERT had been flagged by the Early Intervention Program on seven occasions. These notices did not result in a review of his conduct by his supervisors and/or the command staff of Defendant ISRAEL.

33. Despite his conduct and large physique, Defendant WENGERT has

never been tested for steroids by Defendant ISRAEL.

34. On or about July 14, 2012, GERALD WENGERT was criminally charged with Official Misconduct, Falsifying Records, and Battery in *State v. Gerald Wengert*, Case No. 12-10446CF10A. The charges were based upon the beating of Mark Visconti. An internal affairs investigation had been initiated by Sgt. Holly Greene. Said investigation was stayed pending the outcome of the criminal proceedings. On April 19, 2013, Defendant WENGERT was found not guilty. The internal affairs investigation was not reactivated.

35. On May 13, 2013, Defendant WENGERT was allowed by Defendant ISRAEL to return to the Broward Sheriff's office as a deputy sheriff in the K-9 unit. As a K-9 deputy, Defendant WENGERT traveled throughout Broward County with minimal or no supervision by Defendant ISRAEL. As a result, Defendant WENGERT believed that, as a K-9 deputy, his actions would not be scrutinized by supervisors and/or the command staff of Defendant WENGERT.

36. At that time, Defendant ISRAEL, individually and officially, knew or should have known of WENGERT's long history of violence, making false reports to justify that violence, the numerous complaints against him, and the basis for the criminal charges brought against him. These incidents and complaints put Defendant ISRAEL on notice that WENGERT's aggressive and violent tendencies

posed a foreseeable risk to the citizens of Broward County, Florida.

37. Defendant ISRAEL, both officially and/or individually, was on actual and/or constructive notice regarding Defendant WENGERT's repeated misconduct and had the authority to take the appropriate actions necessary in order to prevent further acts of violence and constitutional violations by Defendant WENGERT. No corrective measures were taken by Defendant ISRAEL.

38. From May 13, 2013 to June 5, 2014, Defendant WENGERT was involved in six documented acts of violence. Again, in all instances, Defendant ISRAEL found the force complied with the policies of the Broward County Sheriff's office based upon WENGERT's unilateral version of the incident and his subjective justification for the need to use force.

39. Despite the foreseeability that Defendant WENGERT would continue to violate the constitutional rights of persons, such as STEVEN JEROLD THOMPSON, Defendant ISRAEL, with deliberate indifference to the obvious consequences of WENGERT's repeated actions and his own inaction, failed to take any steps to control and/or remove Defendant WENGERT.

III. The homicide of STEVEN JEROLD THOMPSON

40. On June 5, 2014, as a result of a dispatch call on a suspected armed robbery, three Broward Sheriff's Office K9 deputies, GERALD WENGERT, Todd

Yoder, and Emanuel Koutsofios, responded to Lakeview Condominiums in
Lauderhill, Florida. They searched the area with their respective dogs and found
no suspects.

41. Dispatch had provided Defendant WENGERT and deputies Yoder
and Koutsofios with the following description of the suspects: two black males,
one five foot ten and thin, one five foot eight and heavysset, both with short hair
and both dressed all in black; the tall, thin one had a gun. The suspects had no
distinguishing marks such as scars, facial hair or gold teeth.

42. Two cell phones had been stolen during the armed robbery. Using cell
phone tracking capabilities, Defendant WENGERT and deputy sheriffs Yoder and
Koutsofios were informed by dispatch that the one Sprint phone had been located
in Pembroke Pines some nineteen miles from the location of the original incident.
The second Iphone was located at Cypress Grove Apartments. Defendant
WENGERT and deputy sheriffs Yoder and Koutsofios went to the Cypress Grove
location some four miles from the location of the original incident.

43. Before the deputies arrived at the apartments, Lauderhill officers had
already set up a perimeter around the complex. Although Deputies Yoder,
Koutsofios and Defendant WENGERT were all K-9 deputies, they began
searching, without their dogs, the grassy courtyard area in the center of the

complex on foot where the last ping from the Iphone had been noted.

44. Deputy Yoder, using an Iphone tracking system on his cell phone, saw that the “ping” had moved to the center of a parking lot at the southern part of the apartment complex.

45. When Defendant WENGERT and deputies Yoder and Koutsofios arrived at the south parking lot, they observed a number of people standing in the area where the ping from the Iphone had been noted by the tracking system. As the deputies were walking towards the parking lot, Defendant WENGERT saw STEVEN JEROLD THOMPSON walking out of one of the buildings towards the parking lot.

46. On the evening of June 5, 2014, STEVEN JEROLD THOMPSON had gone out to visit a friend who lived at the Cypress Grove Apartments. As STEVEN was exiting his friend’s apartment building, he observed the deputy sheriffs and the persons in the parking area. He turned to go back into the apartment building.

47. STEVEN JEROLD THOMPSON, a twenty-six year old African American was five foot six and a half inches tall and weighted 210 pounds. He had a moustache and beard, numerous tattoos, a noticeable abrasion-type scar along the left side of his chin and his front four teeth were capped in gold.

48. That night, he was wearing a black, sleeveless tank top and over-sized athletic shorts. These “shorts” were dominated by a very large white diamond design with a wide orange border that ran from the waistband to the hem on each side of the garment. He also was wearing a baseball cap with large silver letters spelling AKOO on the front and a pair of Nike Airmax shoes that were predominately black and orange.

49. STEVEN JEROLD THOMPSON was not carrying a firearm.

50. Despite the fact that THOMPSON did not fit the description of the assailants provided by dispatch, and the fact that STEVEN was exiting the building when the Iphone was already in the parking lot where other people were standing, Defendant WENGERT began pursuing STEVEN JEROLD THOMPSON.

51. The pursuit was without legal cause or justification. Despite this, Defendant WENGERT immediately drew his firearm and began shooting. Defendant WENGERT’s bullets went everywhere, hitting walls, corridors, ceilings, lights and doorways of the apartments, endangering the lives of the residents, his fellow officers, and STEVEN JEROLD THOMPSON.

52. STEVEN JEROLD THOMPSON was shot eight times from behind by Defendant WENGERT. The shots struck him three times in the back of his right

leg, four times in the back of his left leg, and one time in the back of his left foot. THOMPSON had posed no risk of harm to Defendant WENGERT or anyone else when WENGERT shot him from behind eight times. These gunshot wounds were not fatal but caused him great pain and suffering.

53. Apartment residents standing behind their doors during the shooting heard Thompson screaming “help...help”, “he’s shooting me!” and “I’m shot!”

54. Although THOMPSON posed no risk of harm to Defendant WENGERT or anyone else, WENGERT shot THOMPSON a ninth time in the groin area while he was lying on his back on the floor. The path of the bullet was from front to back, left to right and upwards through his body, perforating several vital internal organs. This injury not only caused him great pain and suffering, it ultimately was the cause of his death.

55. In all, Defendant WENGERT had discharged twenty-five rounds, which required that he reload his gun.

56. The shooting had occurred at 11:16 p.m.. Deputy Yoder called fire rescue at 11:18 p.m. The fire department was less than five minutes away. Although there were multiple officers at either end of the corridor, Defendant WENGERT told the other deputies not to let the EMT’s in right away, claiming they needed to make sure it was safe in case a second suspect was there. This

caused an additional ten minute delay between the shooting and allowing fire rescue to have access to STEVEN JEROLD THOMPSON.

57. During the total of seventeen minutes between the shooting and allowing fire rescue access to STEVEN JEROLD THOMPSON, Defendant WENGERT went to his vehicle on the north side of the apartment complex, moved it around to the south parking lot, and then returned to the body of STEVEN JEROLD THOMPSON.

58. Thereafter, Defendant WENGERT identified a 9mm Luger Diamondback DB9 pistol found down a corridor over fifty feet from the body of STEVEN JEROLD THOMPSON as being the firearm allegedly used by the decedent during the encounter. WENGERT falsely claimed that STEVEN JEROLD THOMPSON had fired two shots at him from this firearm.

59. As THOMPSON lay dying in the corridor, the actual suspect carrying the Iphone had walked out of the front gate of the apartment complex.

60. Without provocation or justification, the decedent Plaintiff STEVEN JEROLD THOMPSON was shot nine times by Defendant WENGERT. STEVEN JEROLD THOMPSON died on June 6, 2014 at approximately 12:57 a.m..

61. The force utilized by Defendant WENGERT against STEVEN

JEROLD THOMPSON was excessive, unreasonable, and in violation of Federal and State law, as well as accepted police practices within the United States. Said Defendant had “fair warning” that such conduct violated the Plaintiff’s constitutional and state rights.

IV. The Incompetent Investigation

62. In the instant case, Defendant ISRAEL personally went to the shooting scene at approximately 1:30 a.m., at which time the investigation into the shooting death of STEVEN JEROLD THOMPSON by Defendant WENGERT was initiated by his staff.

63. Despite being on actual or constructive notice of WENGERT’s history of misconduct, Defendant ISRAEL relied wholly on Defendant WENGERT’s subjective justification for killing STEVEN JEROLD THOMPSON in deeming the shooting of the decedent by WENGERT a justifiable homicide.

64. Defendant ISRAEL’s investigation into the killing of STEVEN JEROLD THOMPSON by Defendant WENGERT was incomplete and designed to cover up WENGERT’s misconduct. Evidence that did not support WENGERT’s version was either not addressed and/or ignored by Defendant ISRAEL.

65. Defendant WENGERT’s sworn statement was not taken until a week after the shooting. It was contradicted by the physical evidence and the

inconsistent statements of the other deputy sheriffs at the scene. Defendant ISRAEL's investigation accepted WENGERT's lies as fact, and then tailored the findings of the investigation to comport with WENGERT's false statements.

66. A complete and thorough investigation would have provided actual and/or constructive notice to Defendant ISRAEL that STEVEN JEROLD THOMPSON had no involvement in the armed robbery, that he did not have a firearm, and that he did not shoot at Defendant WENGERT.

67. Defendant ISRAEL's investigation deliberately failed to conduct the most rudimentary and obvious forensic evidentiary tests such as gunshot residue tests, fingerprint and DNA analysis which would have determined that WENGERT had gunned down an unarmed man.

68. As an example, STEVEN JEROLD THOMPSON's hands had allegedly been bagged and swabbed at the hospital by the crime scene detective, who then allegedly placed both the completed gunshot residue test kit and bags into evidence. To date, this evidence has never been tested.

69. STEVEN JEROLD THOMPSON's fingerprints were not found on the 9mm Luger Diamondback DB9 pistol.

70. No DNA or fingerprints belonging to STEVEN JEROLD THOMPSON were found on any of the victims' items that had been recovered by

the deputy sheriffs in the parking lot area of Cypress Grove Apartments.

71. THOMPSON's DNA was found on the inner rim of the hat he had been wearing that fell off when he was chased into the building. The armed robbery victims said neither suspect was wearing a hat.

72. There was no blood at all on the Luger Diamondback that had supposedly been held by the dying man who was lying in a pool of blood, however THOMPSON's epithelial DNA was allegedly found on the gun. THOMPSON's epithelial DNA on the weapon is consistent with the Luger Diamondback being swiped across his hand or body as he lay dying in the corridor.

73. No DNA or fingerprint comparison was made on the Luger Diamondback to determine if it had been handled by Defendant WENGERT or anybody else.

74. Defendant ISRAEL presented this incomplete and/or intentionally incompetent investigation to the Broward County State Attorney in order to justify Defendant WENGERT's killing of STEVEN JEROLD THOMPSON. As a result, WENGERT was not prosecuted for the killing of an unarmed man.

75. The above acts and omissions of Defendants, and each of them, constitute a course of conduct and failure to act, amounting to deliberate indifference to the rights, health, safety and welfare of the decedent, STEVEN

JEROLD THOMPSON, and those similarly situated, resulting in the deprivation of the decedent's constitutional rights under State and Federal law.

76. The wrongful actions of Defendant GERALD WENGERT constitute an assault and battery under the laws of the State of Florida which caused physical pain and suffering and emotional trauma and suffering to the decedent Plaintiff.

77. The actions of Defendant WENGERT violated the clearly established and well settled federal constitutional rights of the decedent STEVEN JEROLD THOMPSON:

- a. Freedom from the unreasonable seizure of his person;
- b. Freedom from the use of excessive, unreasonable and unjustified force against his person.

78. As a direct and proximate result of the acts and omissions of the Defendants as set forth above, STEVEN JEROLD THOMPSON suffered the following injuries and damages:

- a. Violation of his constitutional rights under the Fourth and Fourteenth Amendments to the United States Constitution;
- b. Loss of his life;
- c. Physical pain and suffering and emotional trauma and suffering.

79. As a result of the death of STEVEN JEROLD THOMPSON, his family suffered the loss of his income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel and advice, and was forced to incur funeral and burial expenses.

80. As a result of the death of STEVEN JEROLD THOMPSON, his family suffered permanent mental and emotional injuries.

81. All potential beneficiaries of a recovery for the decedent's wrongful death are identified as follows:

a. The estate of the decedent, STEVEN JEROLD THOMPSON, through its personal representative DONNETT M. TAFFE;

b. Cynthia Thompson, mother.

COUNT I

ASSAULT AND BATTERY BY DEFENDANT WENGERT

82. The Plaintiff(s) reallege paragraphs 1 through 7, 9, 11, 40 through 61, 76 and 78(c).

83. The above-mentioned acts constitute an unlawful assault and battery by Defendant WENGERT on the decedent, STEVEN JEROLD THOMPSON.

84. In committing the assault and battery on the decedent, Defendant

WENGERT acted brutally, willfully, maliciously and without any excuse or justification. The Defendant callously and recklessly by his actions disregarded STEVEN JEROLD THOMPSON's life.

85. As a direct and proximate result of the above-described wrongful acts of Defendant WENGERT, STEVEN JEROLD THOMPSON suffered multiple physical injuries, one of which subsequently caused his death.

WHEREFORE, the Plaintiff(s) demand compensatory and punitive damages against Defendant WENGERT, costs and trial by jury for all issues so triable by right.

COUNT II

42 U.S.C. §1983 CLAIM AGAINST DEFENDANT WENGERT

86. The Plaintiff(s) reallege 1 through 7, 9 through 11, 40 through 61, 75, and 77 through 81.

87. While Defendant WENGERT was acting under color of state and federal law as a deputy sheriff for Defendant ISRAEL, he subjected the decedent, STEVEN JEROLD THOMPSON, to the deprivation of rights and privileges, including the constitutional rights to not be deprived of his life, liberty and due process of law, and the constitutional right to be free from the use of excessive force against his person and the right to be free from unlawful searches and

seizures under the Fourth Amendment and Fourteenth Amendment to the United States Constitution.

88. As a direct and proximate cause of the violation of the decedent's constitutional rights by said Defendant, the decedent, STEVEN JEROLD THOMPSON, suffered conscious pain and suffering.

89. The Plaintiff, DONNETT M. TAFFE, as the personal representative of the Estate of STEVEN JEROLD THOMPSON, claims damages for the constitutional violations to, and wrongful death of, STEVEN JEROLD THOMPSON under 42 U.S.C. §1983, 42 U.S.C. §1988, and the Florida Wrongful Death Statute.

90. 42 U.S.C. §1983, §1988 and the Florida Wrongful Death statute provide a remedy for violation of these rights.

WHEREFORE, the Plaintiff(s) demand compensatory and punitive damages against Defendant WENGERT, attorney fees, costs and trial by jury for all issues so triable by right.

COUNT III

STATE TORT CLAIM AGAINST DEFENDANT ISRAEL

91. The Plaintiff(s) reallege paragraphs 1 through 74, 76, 78 (b), (c), 79 through 81, 82 through 85, and 86 through 90.

92. At all times material hereto, Defendant ISRAEL acted by and through his agents, employees and/or deputy sheriffs.

93. At all times material hereto, while GERALD WENGERT acted as a deputy sheriff for the Broward County Sheriff's office, he abused his position through conduct which was outside the scope of his employment, and an abuse of his duties and responsibilities as a law enforcement officer governed by state and federal law.

94. Defendant ISRAEL has a common law duty to protect others from the result of the negligent hiring and/or supervision and/or retention of his deputy sheriffs, whose negligent or intentional acts, due to their positions as deputy sheriffs, can foreseeably cause injuries to third parties.

95. Defendant ISRAEL knew or should have known that Defendant WENGERT was unfit to be hired and/or retained as a deputy sheriff.

96. Having negligently selected and hired Defendant WENGERT, it was unreasonable for the Defendant ISRAEL to have failed to adequately supervise and/or discipline him and/or to have retained him.

97. It was foreseeable that Defendant WENGERT would abuse his position as a Broward County deputy sheriff to injure a third person.

98. The decedent, STEVEN JEROLD THOMPSON, was placed in the zone of risk created by Defendant ISRAEL's negligence in hiring and/or

supervising and/or retaining Defendant WENGERT.

99. As a direct and proximate result of the negligence of the agents, employees and/or deputy sheriffs of Defendant ISRAEL in hiring and/or supervising and/or retaining of Defendant WENGERT, Plaintiff(s) sustained injuries, since:

a. At all times relevant hereto, Defendant WENGERT was abusing his lawful authority as a deputy sheriff, acting outside of and beyond the scope of his employment as an agent of Defendant ISRAEL.

b. At all times relevant hereto, Defendant ISRAEL was on notice prior to June 5, 2014, that WENGERT in his capacity as a deputy sheriff in his employ had abused his position and acted outside the scope of his employment.

100. As a direct and proximate result of Defendant ISRAEL's negligent hiring and/or supervision and/or retention of Defendant WENGERT, the Plaintiff(s) sustained injuries for which Defendant ISRAEL is directly liable in his official capacity.

101. The Plaintiff, DONNETT M. TAFFE, as the personal representative of the Estate of STEVEN JEROLD THOMPSON, claims damages under the Florida Wrongful Death and Survival Statutes.

WHEREFORE, the Plaintiff(s) demand compensatory damages against Defendant ISRAEL, costs and trial by jury on all issues so triable by right.

COUNT IV

CLAIM AGAINST DEFENDANT ISRAEL, INDIVIDUALLY

102. The Plaintiff(s) reallege paragraphs 1 through 101.

103. At all times material hereto, Defendant ISRAEL was responsible for adopting and implementing the rules and regulations in regard to hiring, screening, training, supervising, controlling, disciplining and assigning police officers and/or employees to their duties within the Broward County Sheriff's office.

104. Defendant ISRAEL, knew or should have known that the Broward Sheriff's Office's internal review procedures were designed to cover up acts of misconduct and were inadequate to inform supervisors of the wrongdoing of subordinates.

105. Despite the notice of a history of misconduct as a result of failing to properly supervise deputies of the Broward Sheriff's Office, Defendant ISRAEL failed to institute a meaningful disciplinary system which held deputies under his command accountable for their misconduct, thereby making the incident involving the Plaintiff foreseeable.

106. Defendant ISRAEL was deliberately indifferent to his duties in that he either expressly or impliedly acknowledged and assented to the failure to train, supervise, control or otherwise screen employees of the Broward County Sheriff's Office including, but not limited to, Defendant WENGERT, for dangerous

propensities, lack of training and/or skill or other characteristics making said officers and employees unfit to perform their duties.

107. Defendant ISRAEL was deliberately indifferent to the safety of the public, including the Plaintiff, by failing to remedy these problems, even though he had notice of them.

108. The Plaintiff, DONNETT M. TAFFE, as the personal representative of the Estate of STEVEN JEROLD THOMPSON, claims damages for the constitutional violations to, and wrongful death of, STEVEN JEROLD THOMPSON under 42 U.S.C. §1983 and the Florida Wrongful Death Statute.

109. The deliberate indifference of Defendant ISRAEL violated the constitutional rights of all persons, including the decedent, for which 42 U.S.C. §1983 and the Florida Wrongful Death statute provide a remedy.

WHEREFORE, the Plaintiff(s) demand compensatory and punitive damages against Defendant ISRAEL, attorney fees, costs and trial by jury for all issues so triable by right.

COUNT V

42 U.S.C. §1983 CLAIM AGAINST DEFENDANT ISRAEL

110. The Plaintiff(s) reallege paragraphs 1 through 109.

111. At all times material hereto, Defendant ISRAEL was responsible for

adopting and implementing the rules and regulations in regard to hiring, screening, training, supervising, controlling, disciplining and assigning deputies and/or employees to their duties within the Broward County Sheriff's Office.

112. Defendant ISRAEL knew or should have known of the history of widespread abuses existing with respect to the hiring and/or training and/or supervision and/or discipline within the Broward County Sheriff's Office.

113. Defendant ISRAEL, was deliberately indifferent to the constitutional rights of all persons, including the decedent, STEVEN JEROLD THOMPSON, in its conduct in failing to properly screen, and/or select, and/or train, and/or supervise and/or discipline its deputy sheriffs and/or agents and/or employees and in failing to determine whether employees of the Broward Sheriff's Office, including Defendant WENGERT, posed a threat to the public as a result of their propensity to commit unlawful acts and to engage in violent activity.

114. Despite the notice to and knowledge of Defendant ISRAEL as to the dangerous propensities of its deputy sheriffs, including Defendant WENGERT, Defendant ISRAEL failed to implement any policies or programs to properly train and/or supervise and/or discipline said officers or otherwise intentionally failed to protect the public, including the decedent, STEVEN JEROLD THOMPSON from this danger.

115. As a result, deputy sheriffs, such as Defendant WENGERT, were caused and encouraged to believe that members of the public could be subjected to illegal use of force, and that said illegal conduct would, in fact, be permitted and/or condoned and/or accepted by Defendant ISRAEL.

116. Said Defendant was deliberately indifferent in the selection and/or training and/or supervision and/or retention of Defendant WENGERT, as deputy sheriff of the Broward County Sheriff's office, in that:

a. Defendant ISRAEL appointed Defendant WENGERT as a deputy sheriff when he knew, or, in the exercise of reasonable care, should have known, of the disposition of said Defendant to engage in such unlawful conduct.

b. Despite the fact that Defendant ISRAEL knew or should have known that this pattern of conduct was being carried out by its agents and employees, including Defendant WENGERT, Defendant ISRAEL has failed and refused to:

(1) Remove Defendant WENGERT;

(2) Take any meaningful disciplinary action against Defendant WENGERT;

(3) Provide redress for citizens, such as the Plaintiff(s), who have been injured thereby.

117. At all times material hereto, Defendant ISRAEL, through its deliberate indifference, failed to ensure that deputy sheriffs of the Broward Sheriff's Office did not violate the constitutional and statutory rights of citizens of the State of Florida, including the decedent, while said deputy sheriffs were acting under color of state law for the Broward County Sheriff's Office.

118. The foregoing acts, omissions, policies or customs of Defendant ISRAEL caused deputy sheriffs, including Defendant WENGERT, to believe that acts such as improper use of force, including deadly force, unlawful seizures, the improper discharge of their firearms and the submitting of false reports, among other things, would not be properly monitored by supervisory officers, would not be investigated or sanctioned, but instead would be tolerated, with the foreseeable result that deputy sheriffs, including Defendant WENGERT, were more likely to use improper force and make unlawful seizures.

119. At all times material hereto, Defendant ISRAEL permitted and tolerated the above described acts and thereby caused a pattern and practice of unjustified and unreasonable use of force, and unjustified, unreasonable and illegal false arrests, detentions and/or prosecutions by deputy sheriffs of the Broward Sheriff's Office against members of the public, including the decedent, which violated their Fourth and Fourteenth Amendment rights.

120. The decedent was a victim of said abuses of lawful authority, and said illegal acts were the foreseeable result of the previously described acts, omissions, policies or customs of said Defendant.

121. The above acts and omissions of said Defendant constitute a course of conduct and failure to act amounting to deliberate indifference to the rights, health, safety and welfare of the decedent and those similarly situated, resulting in the deprivation of the decedent's constitutional rights under State and Federal law.

122. The Plaintiff, DONNETT M. TAFFE, as the personal representative of the Estate of STEVEN JEROLD THOMPSON, claims damages for the constitutional violations to, and wrongful death of, STEVEN JEROLD THOMPSON under 42 U.S.C. §1983 and the Florida Wrongful Death Statute.

123. The deliberate indifference of Defendant ISRAEL violated the constitutional rights of all persons, including the decedent, for which 42 U.S.C. §1983, and the Florida Wrongful Death statute provide a remedy.

WHEREFORE, the Plaintiff(s) demand compensatory damages against Defendant ISRAEL, attorney fees, costs and trial by jury for all issues so triable by right.

DATED: April 6, 2017

s/ Barbara A. Heyer
BARBARA A. HEYER
Attorney for Plaintiffs

I HEREBY CERTIFY that on this 6th day of April, 2017, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record identified on the following Service List in the manner specified, via transmission of Notices of Electronic Filing generated by CM/ECF.

s/BARBARA A. HEYER
BARBARA A. HEYER
BAR NO. 346691
email: civilrtslaw@hotmail.com
HEYER & ASSOCIATES, P.A.
1311 SE 4th Avenue
Fort Lauderdale, FL 33316
(954) 522-4922 / Fax: (954) 522-4955
Attorneys for Plaintiff

Service List

Daniel Losey, Esq.
email: dlosey@kelleykronenberg.com
KELLEY KRONENBERG
8201 Peters Road, Suite 4000
Fort Lauderdale, FL 33324
(954) 370-9970 / Fax: (954) 370-9191
Counsel for Defendant ISRAEL

Richard T. Woulfe, Esq.
email: rtw@bclmr.com
BILLING, COCHRAN, et al.
515 E. Las Olas Blvd., Sixth Floor
Fort Lauderdale, FL 33301
(954) 764-7150 / Fax: (954) 764-7279
Counsel for Defendant WENGERT