

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action _____

DAVID RICHARDSON,

Plaintiff,

v.

OFFICER LEIGH KERN, in his official and individual capacity,
SERGEANT JEREMY SCHMITZ, in his official and individual capacity, and
CITY OF WHEAT RIDGE, a Colorado municipality,

Defendants.

PLAINTIFF'S COMPLAINT

JURY DEMAND

Plaintiff demands a jury trial on all issues so triable.

INTRODUCTION

1. Plaintiff brings this civil rights action pursuant to 42 U.S.C. § 1983 and 1988, and C.R.S. § 13-21-131, for relief through compensatory damages and attorney fees stemming from Defendants' violation of Plaintiff's rights guaranteed by the Fourth and Fourteenth Amendments to the Constitution of the United States and Article II, Section 7 of the Colorado Constitution.

2. On September 1, 2025, Defendant Kern shot and then executed Plaintiff's dog, Boss. After shooting at Boss at least three times, at least one round striking him, Defendant Kern sought approval from Defendant Schmitz to "finish" Boss. Approximately two minutes after the initial shots Defendant Kern executed Boss with the approval of a supervisor without any attempt to seek veterinary care or examine Boss.
3. Plaintiff brings this lawsuit against Defendants Kern and Schmitz for their deliberate misconduct, as well as against Defendant City of Wheat Ridge for its unconstitutional practices, policies, culture, and failures to train its officers and employees that made it possible for this horrific event to occur.

JURISDICTION

4. This action is brought pursuant to 42 U.S.C. § 1983 for violations of the Fourth and Fourteenth Amendments to the U.S. Constitution and violation of C.R.S. § 13-21-131.
5. This Court has jurisdiction over Plaintiff's federal claims under 28 U.S.C. §§ 1331 and 1343.
6. This Court has discretionary supplemental jurisdiction over Plaintiff's supplemental state law claim under C.R.S. § 13-21-131 pursuant to 28 U.S.C. § 1367. This claim is so related to the constitutional claims in the action that they form part of the same case or controversy under Article III of the United States Constitution.

7. Jurisdiction supporting Plaintiff's claim for attorney fees and costs is conferred by 42 U.S.C. § 1988 and C.R.S. § 13-21-131(3).
8. Venue in the United States District Court for the District of Colorado is proper pursuant to 28 U.S.C. § 1391.

PARTIES

9. Plaintiff David Richardson is currently experiencing homelessness in Wheat Ridge, Colorado. He was the owner of Boss, a mixed-breed dog. He and Boss were located in Wheat Ridge, Jefferson County, Colorado, at the time of Boss's shooting and death.
10. Defendant Wheat Ridge Police Officer Leigh Kern ("Defendant Kern") was at all times relevant to this complaint a duly appointed and sworn police officer working for the Wheat Ridge Police Department. Defendant Kern is a named defendant in his official and individual capacity.
11. Defendant Wheat Ridge Police Sergeant Jeremy Schmitz ("Defendant Schmitz") was at all times relevant to this complaint a duly appointed and sworn police officer working for the Wheat Ridge Police Department. Defendant Schmitz is a named defendant in his official and individual capacity.
12. Defendant City of Wheat Ridge is a governmental entity and municipality incorporated under the laws of the State of Colorado for purposes of liability under 42 U.S.C. § 1983 and the Wheat Ridge Police Department is a department of the City of Wheat Ridge. Defendant City of Wheat Ridge enforces local and

state law through its law enforcement agency, the Wheat Ridge Police Department (“WRPD”).

13. At all times relevant to this Complaint, Defendant Schmitz was employed and was responsible for the oversight, supervision, discipline, and training of WRPD personnel, including Defendant Kern.
14. At all times relevant to this Complaint, Defendant City of Wheat Ridge employed and was responsible for the oversight, supervision, discipline, and training of WRPD personnel, including Defendants Kern and Schmitz. At all times relevant to this Complaint, Defendant City of Wheat Ridge was also the body responsible for WRPD’s official policies and practices as well as WRPD’s unofficial customs and practices with respect to the use of force, de-escalation, and WRPD’s interactions with canines belonging to members of the community.

FACTUAL BACKGROUND

15. The Colorado Dog Protection Act, C.R.S. § 29-5-112, passed in 2013, was enacted to reduce unnecessary shootings of dogs by setting very clear requirements for training and policy as it relates to police interactions with citizens’ dogs.
16. The training emphasizes that peace officers use non-lethal methods for deterring dogs rather than relying on deadly force.
17. Defendant City of Wheat Ridge failed to train its officers with respect to the requirements of the Colorado Dog Protection Act.

18. The Animal Protection Act, C.R.S. § 35-42-101 et seq., passed in 1990 and recently amended in 2020 and 2024, established that the protection of companion animals is a matter of statewide concern.
19. The Animal Protection Act establishes that a peace officer may lawfully euthanize a companion animal in their own judgment when accompanied by the opinion of a licensed veterinarian. If a licensed veterinarian is unavailable, the animal may be euthanized only upon the written certification of two persons called to view the animal in the presence of the agent and affirm that the animal appears to be severely injured past recovery.
20. At the time of the incident described herein, the Plaintiff, David Richardson, owned a mixed-breed dog named Boss, a medium-sized white and tan short-haired dog, pictured below.



21. Mr. Richardson found Boss in Mesa, Arizona, approximately three years ago, where Boss was left abandoned and tied to a bike rack outside a gas station.
22. Mr. Richardson was unhoused at that time and had been planning to move the day he found Boss.

23. Rather than moving, Mr. Richardson stayed with Boss for three days in the pouring rain to gain Boss's trust. Mr. Richardson believed that if he had left without Boss and no one else came to get him, that Boss would be impounded and euthanized.
24. After three days, Boss tenderly approached Mr. Richardson, and, from that point, Boss became Mr. Richardson's dog.
25. Mr. Richardson and Boss traveled together to Colorado. Mr. Richardson cared for Boss and ensured he was microchipped, wore a collar, kept under leash control, provided shelter, provided food and water, and was current on his vaccinations.
26. At the time of the incident described herein, Mr. Richardson and Boss were unhoused in an open space encampment isolated away from spaces the public would travel to or through in Wheat Ridge, where Mr. Richardson set up his own tent and kept a heavy duty Kobalt wagon with his belongings. The encampment was set back from public areas behind some trees along the freeway embankment, and no member of the public was at risk.
27. Mr. Richardson and Boss lived near the intersection of Youngfield St. and W 32nd Ave, along I-70.
28. Mr. Richardson celebrated his birthday with Boss on August 31, 2025.
29. On September 1, 2025, Mr. Richardson secured Boss to the encampment site with an approximately 10-20-foot-long bright green cable. Then Mr. Richardson

set out on his motorbike to the nearby grocery store to buy Boss food for breakfast.

30. At approximately 9:41 AM, Defendant Kern drove to this area searching for an individual on an unrelated warrant. That individual was not Mr. Richardson. Defendant Kern had no warrant, no reasonable suspicion, and no lawful basis to approach Mr. Richardson's encampment.
31. Defendant Kern noticed a green tent in the grassy area east of the Rocket gas station, located at 12851 W. 32nd Ave.
32. Defendant Kern parked on the northside of the gas station and began to approach the tent. Defendant Kern observed the cart containing Mr. Richardson's belongings.
33. Defendant Kern then noticed Boss coming out of the tent and saw Boss's collar.
34. Boss jogged over towards Defendant Kern.
35. Boss reached the end of his tethered line and would have been unable to reach Defendant Kern.
36. At the time of his approach, Boss was not barking or growling aggressively.
37. Without issuing any verbal warning, command, or attempting any non-lethal deterrent, Defendant Kern drew his pistol.
38. Defendant Kern then shot at Boss three times.
39. At least one of the rounds struck Boss and Boss collapsed to the ground.

40. This entire interaction happened within a few seconds of Defendant Kern approaching the tent.
41. While on the ground, Boss began howling in pain.
42. Defendant Kern then radioed that he had just shot a dog.
43. Defendant Kern spoke with his supervisor, Defendant Schmitz, informed him the dog was “screaming in pain” and asked if he could just “finish him.”
44. Defendant Schmitz approved Defendant Kern’s request to execute the dog.
45. Defendant Schmitz conditioned his approval to kill the dog on one sole concern, that there was a sufficient ballistic safety backdrop for shooting the dog.
46. Defendant Schmitz gave no indication that he considered the requirements of the Animal Protection Act or the Colorado Dog Protection Act.
47. Defendant Kern then approached Boss, who was lying on the ground crying, and shot Boss from within a few feet.
48. The execution shot silenced Boss, but Boss exhibited spastic movements on the ground for roughly 40 seconds after the killing shot was fired.
49. The final gunshot by Defendant Kern, approved by Defendant Schmitz, killed Boss.
50. Regardless of Boss’s temperament, there were many alternative actions Defendant Kern could have taken before resorting to deadly force. Those included, but were not limited to:
 - a. Retreating backwards and getting in his vehicle,

- b. Using a taser;
- c. Using a baton; or
- d. Using pepper spray.

51. Defendant Schmitz and Defendant Kern unlawfully decided to end Boss's life via gunshot, without an opinion of a licensed veterinarian, and without the presence of two other witnesses to assess Boss's condition to determine whether he was severely injured past recovery.
52. No assessment of any kind was made of Boss's condition before he was executed.
53. Defendant Kern noticed that his gunshot had pierced Boss's collar with his bullet and noted the collar on the ground next to Boss. He also noticed that the collar was attached to the line securing Boss to the encampment.
54. Defendant Kern's first shots untethered Boss by breaking his collar.
55. Officers Dillon Jumpe, Alan Hernandez, and Charles Hemming then arrived at the scene within minutes after Defendant Kern had radioed requesting permission to "finish" Boss.
56. Officer Jumpe was first on scene, and as he approached Defendant Kern, he noted that Boss was lying on the ground, and his tail was still barely wagging. Shortly after his arrival, Boss stopped moving, presumably dead.
57. Officer Jumpe also identified Boss's shot-off collar attached to the line securing Boss to the encampment.

58. When Officer Hernandez arrived on scene, he observed the encampment and proceeded to the Rocket gas station to attempt to obtain video footage of the area.
59. When Officer Hemming arrived on the scene, he approached Defendant Kern and Officer Jumpe near the encampment. Officer Hemming observed Boss lying on the ground in a pool of blood.
60. Within minutes of the shooting, Mr. Richardson arrived at the scene on his motorbike. Without justification, Officer Hemming immediately searched Mr. Richardson's person for weapons. Officer Hemming told Mr. Richardson about Boss's death.
61. Mr. Richardson became shocked, grief-stricken, and began crying and yelling in tears mourning the death of his companion, Boss. Mr. Richardson collapsed to the ground in anguish. Mr. Richardson requested to see Boss, but Officer Hemming advised him he could not approach Boss's body yet. Mr. Richardson then walked off to stand by the Rocket gas station, visibly and physically upset, until officers allowed him to approach Boss's body.
62. Shortly thereafter, Officer Roger Pakau arrived on scene to transport Boss's body. Officer Pakau approached Mr. Richardson, who was still extremely upset, and explained that he would take Boss to the Foothills Animal Shelter and that Mr. Richardson could claim Boss's body there.
63. Officer Pakau then walked with Mr. Richardson over to Boss's body.

64. Mr. Richardson explained to all present that Boss had a collar on, was leashed, and that the line of the leash was strong. Mr. Richardson pulled forcefully onto the line to show then present officers that Boss would not have broken free of the line on his own.
65. Mr. Richardson cried that all Defendant Kern had to do was step away and Boss would not have been able to reach him.
66. Mr. Richardson then said goodbye to Boss.
67. Officer Pakau then loaded Boss's body into a black trash bag, which Officer Pakau put in his vehicle for transport to Foothills Animal Shelter.
68. Mr. Richardson continues to experience trauma, grief, anguish, and fear as a result of Defendants killing Boss. Boss served as Mr. Richardson's sole constant companion, source of security, and protection while unhoused. Mr. Richardson remains unhoused. Without Boss, Mr. Richardson not only suffers emotionally from the loss of his companion but also suffers the loss of a vital sense of security.

CLAIMS FOR RELIEF

Claim 1 – Section C.R.S. 13-21-131 – Unlawful Seizure Violation of Colorado Constitution, Article II, Section 7 (against Defendant Kern, Schmitz)

69. Plaintiff incorporates by reference the foregoing paragraphs of this Complaint as if set forth fully herein.
70. This claim is brought against Defendants Kern and Schmitz.

71. At all times relevant to this claim, Defendant Kern was acting under color of state law in his capacity as an WRPD officer, a peace officer as defined under C.R.S. § 16-2.5-101, § 24-31-901(3).
72. Plaintiff had a constitutional right under Article II, Section 7 to the Colorado Constitution to be secure in his person and property against unreasonable seizures by law enforcement personnel.
73. Defendant Kern unreasonably seized and killed Plaintiff's dog, Boss, in violation of the Constitution of the State of Colorado.
74. Defendant Kern violated Plaintiff's state constitutional rights by engaging in an unlawful seizure and killing of Plaintiff's dog, Boss, which was objectively unreasonable in light of the facts and circumstances confronting Defendant Kern before, during and after this encounter.
75. Defendant Kern's conduct described herein was attended by circumstances of malice, or willful and wanton conduct, which Defendant Kern must have realized was dangerous, or that was done heedlessly and recklessly, without regard to the consequences or the rights and safety of others, particularly Plaintiff.
76. At all times relevant to this claim, Defendant Schmitz was acting under color of state law in his capacity as an WRPD officer, a peace officer as defined under C.R.S. § 16-2.5-101, § 24-31-901(3).

77. Plaintiff had a constitutional right under Article II, Section 7 to the Colorado Constitution to be secure in his person and property against unreasonable seizures by law enforcement personnel.
78. Defendant Schmitz unlawfully authorized Defendant Kern to shoot-to-kill Boss in violation of the procedures required by Colorado Dog Protection Act and Animal Protection Act, and in violation of the Constitution of the State of Colorado.
79. Defendant Schmitz violated Plaintiff's state constitutional rights by authorizing an unlawful seizure and killing of Plaintiff's dog, Boss, which was objectively unreasonable in light of the facts and circumstances confronting Defendant Schmitz before, during and after this encounter.
80. Defendant Schmitz's conduct described herein was attended by circumstances of malice, or willful and wanton conduct, which Defendant Schmitz must have realized was dangerous, or that was done heedlessly and recklessly, without regard to the consequences or the rights and safety of others, particularly Plaintiff.
81. By unlawfully deciding to end Boss's life via gunshot, without an opinion of a licensed veterinarian, and without the presence of two other witnesses to assess Boss's condition to determine whether he was severely injured past recovery, Defendants Kern and Schmitz violated the Colorado Dog Protection Act and the Animal Protection Act.

82. Plaintiff suffered damages as a result of Defendants' misconduct, including, but not limited to, loss of property, loss of companionship, anguish, trauma, loss of security, emotional distress, and attorney's fees.

**Claim 2 – 42 U.S.C. § 1983 – Unlawful Seizure
Violation of Fourth Amendment, Due Process
(against Defendants Kern, Schmitz)**

83. Plaintiff incorporates by reference the foregoing paragraphs of this Complaint as if set forth fully herein.

84. This claim is brought against Defendants Kern and Schmitz.

85. At all times relevant to this action, Defendants were acting under color of state law and pursuant to official policy, custom, or widespread practice, and within the ordinary course and scope of their employment, or alternatively, in their individual capacities.

86. Defendant Kern unreasonably seized and killed Plaintiff's dog, Boss, in violation of the Fourth Amendment to the U.S. Constitution.

87. Defendant Kern violated Plaintiff's Fourth Amendment and due process rights by engaging in an unlawful seizure and killing of Plaintiff's dog, Boss, which was objectively unreasonable in light of the facts and circumstances confronting Defendant Kern before, during, and after this encounter.

88. Defendant Kern's conduct described herein was attended by circumstances of malice, or willful and wanton conduct, which he must have realized was

dangerous, or that was done heedlessly and recklessly, without regard to the consequences or the rights and safety of others, particularly Plaintiff.

89. Defendant Schmitz had a duty to train and supervise Defendant Kern.
90. Defendant Schmitz failed to reasonably train and supervise WRPD officers, including Defendant Kern, in specific issues related to encountering citizens' dogs in the field and in the requirements of Colorado's Dog Protection Act, despite the obvious need to do so.
91. Defendant Schmitz knew or should have known that his failure to adequately supervise and train WRPD officers regarding citizen's dogs caused Plaintiff to be subjected to the deprivation of his right to be secure in his person against unreasonable seizures as guaranteed by the Fourth Amendment to the U.S. Constitution.
92. Defendant Schmitz authorized Defendant Kern to shoot-to-kill Boss in violation of the procedures required by Colorado Dog Protection Act and Animal Protection Act.
93. Defendant Schmitz's actions and omissions violated Plaintiff's federal constitutional rights, and were a substantial and significant contributing cause and proximate cause of Plaintiff's damages.
94. The Colorado Dog Protection Act, passed in 2013, set very clear requirements for training and policy as it relates to police and citizens' dogs.

95. Defendant Schmitz knew, or was deliberately indifferent to the fact, that his failure to train WRPD officers on the requirements of the Colorado Dog Protection Act was unlawful.
96. Defendant Schmitz knowingly ignored these requirements and when he authorized Defendant Kern to shoot Boss.
97. The shooting and killing of Plaintiff's dog, Boss, was a foreseeable consequence of Defendant Schmitz's deliberate indifference to the constitutional rights of Wheat Ridge citizens in their pets.
98. If Defendant Schmitz had provided his officers with that training, this incident would not have occurred.
99. If Defendant Schmitz had not authorized the shooting of Plaintiff's dog, Boss, this incident would not have occurred.
100. As a result of the Defendants' violations of his constitutional rights, Plaintiff has suffered damages, trauma, and emotional suffering that has destroyed his ability to enjoy life.

**Claim 3 – 42 U.S.C. § 1983 – *Monell* Claims
Unconstitutional policies, practices, customs
(against Defendant City of Wheat Ridge)**

101. Plaintiff incorporates by reference the foregoing paragraphs of this Complaint as if set forth fully herein.

102. Defendant City of Wheat Ridge is liable for the acts and omissions of its agents and/or employees, and for the herein described acts by the individual Defendants, who were acting within the scope and course of their employment.
103. Defendant City of Wheat Ridge maintained both official policies that caused the constitutional violations in this case as well as unofficial practices and customs that caused the violations in this case.
104. Defendant City of Wheat Ridge is a governmental entity and municipality incorporated under the laws of the State of Colorado for purposes of liability under 42 U.S.C. § 1983 and the Wheat Ridge Police Department is a department of the City of Wheat Ridge. Defendant City of Wheat Ridge enforces local and state law through its law enforcement agency, the Wheat Ridge Police Department (“WRPD”).
105. At all times relevant to this Complaint, Defendant City of Wheat Ridge employed and was responsible for the promulgation of policies, customs, practices, and training of WRPD personnel, including Kern and Schmitz.
106. At all times relevant to this Complaint, Defendant City of Wheat Ridge employed and was responsible for the oversight, supervision, discipline and training of WRPD personnel, including individual Defendants. At all times relevant to this Complaint, Defendant City of Wheat Ridge was the body responsible for WRPD’s official policies and practices as well as WRPD’s unofficial customs and practices

with respect to use of force, de-escalation, and WRPD's interactions with dogs belonging to members of the community.

107. Defendant City of Wheat Ridge's unconstitutional policies, practices, and customs were the driving force and proximate cause of the damages that Plaintiff suffered.
108. Defendant City of Wheat Ridge's failure to train its officers with respect to the requirements of the Colorado Dog Protection Act and how to interact with citizen's dogs reflected a deliberate choice to ignore the clear mandates of the Colorado Dog Protection Act, prioritizing operational convenience over the constitutional rights of Wheat Ridge residents and their companion animals.
109. Failing to train and supervise its officers as to dog behavior and the requirements of the Colorado Dog Protection Act made the shooting of citizens' dogs, like Plaintiff's dog Boss, an obvious and foreseeable consequence.
110. The Colorado Dog Protection Act itself put all law enforcement agencies including WRPD on notice that police shootings of dogs in Colorado were unacceptably frequent and easily avoidable if certain basic rules and practices were implemented. The Colorado legislature passed specific laws and requirements regarding what officers must do prior to shooting a Colorado citizen's dog.

111. Defendant City of Wheat Ridge did not train its officers regarding those requirements, which proximately caused damages to Plaintiff through Boss's death.

112. As a result of Defendant City of Wheat Ridge's deliberate indifference to the constitutional rights of citizens like Plaintiff, Plaintiff suffered damages, trauma, and emotional suffering that has destroyed his ability to enjoy life.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests this Court enter judgment in his favor and against Defendants, and award him all relief as allowed by law and equity, including but not limited to:

- a. Declaratory and injunctive relief, as appropriate;
- b. Actual economic damages as established at trial;
- c. Compensatory damages, including but not limited to those for past and future pecuniary and non-pecuniary losses, physical and mental pain, trauma, fear, anxiety, loss of enjoyment of life, loss of liberty, loss of sense of security, and other non-pecuniary losses;
- d. Punitive or exemplary damages against Officer Defendants for all claims as allowed by law in an amount to be determined at trial;
- e. Issuance of an Order mandating appropriate equitable relief, including but not limited to:
 - i. Issuance of a formal written apology from each Defendant to Plaintiff;

- ii. The imposition of appropriate policy changes designed to avoid future similar misconduct by Defendants;
- iii. Mandatory training designed to avoid and prevent future similar misconduct by Defendants;
- iv. Imposition of disciplinary action against appropriate employees of Wheat Ridge;
- v. Pre-judgment and post-judgment interest at the highest lawful rate;
- f. Attorney's fees and costs; and
- g. Such further relief as justice requires.

Respectfully submitted this 17th day of June, 2026.

/s/ Alexa McKay
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