

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

ERIN SMITH *
c/o Goodwin Weber PLLC
267 Kentlands Blvd #250
Gaithersburg, MD 20878¹ *

& *

ERIN SMITH, PERSONAL *
REPRESENTATIVE OF THE ESTATE OF JEFFREY SMITH
c/o Goodwin Weber PLLC
267 Kentlands Blvd #250
Gaithersburg, MD 20878
Plaintiff *

v. * Case No.
DR. DAVID KAUFMAN *
411 East Capitol St., SE
Washington, DC 20003 *

& *

JOHN DOE *
Address Unknown *

Defendant(s)

COMPLAINT

COME NOW the Plaintiffs, Erin Smith (individually, as surviving spouse of Jeffrey Smith); and Erin Smith, Personal Representative of the Estate of Jeffrey Smith; by and through GOODWIN WEBER PLLC, and undersigned counsel David P. Weber, CFE, and Brian Mahany, and file this Complaint against David Kaufman and John Doe. As grounds therefore, Plaintiffs state as follows:

1. Plaintiff Erin Smith is a resident of the Commonwealth of Virginia residing in Fairfax County.

¹ Plaintiff is the widow of a Washington, DC Police Officer who died as a proximate cause of the Capitol Insurrection. Her address is not provided for her personal safety.

2. Plaintiff Erin Smith was appointed as the Personal Representative of Jeffrey Smith in the Circuit Court of Fairfax County (Case Number 2021-0000214).

3. Defendant Dr. David Kaufman is a resident of the District of Columbia.

4. Defendant John Doe is currently unidentified. It is believed that his identity will be ascertained through discovery and further investigation.

5. Jurisdiction is founded on 28 USC §1332, as there is complete diversity between all parties.

6. Venue is proper in this Court as this lawsuit pertains to a cause of action that arose in Washington, DC.

7. On or about January 6, 2021, Jeffrey Smith was employed as a Police Officer by the Metropolitan Police Department. Due to the circumstances surrounding the planned Trump election event, MPD assigned Officer Smith to the Civil Disturbance Unit. Specifically, Officer Smith was part of the larger contingent of MPD and other federal law enforcement that was tasked with responding to the Capitol Insurrection.

8. On January 6, 2021 at around 5:00 pm., Officer Smith was working at the United States Capitol. Officer Smith together with fellow MPD officers re-took the Capitol from the insurrectionists, pushing the insurrectionists out of the US Capitol.

9. At that time and place, Kaufman was part of the insurrectionist mob inside the US Capitol and was being escorted out of the building by MPD officers. Co-Defendant John Doe handed a cane or crowbar (or similar object) to Kaufman. Kaufman, in turn, violently swung the cane and struck Officer Smith in the face/head. Officer Smith was in a particularly vulnerable situation because his face shield was up (leaving his face and eyes exposed). It appears that Kaufman and John Doe specifically and maliciously targeted Officer Smith because his visor was in

the upright position, making him vulnerable to this brutal and vicious attack.

10. At all times relevant hereto, Erin Smith was married to Jeffrey Smith.

11. Officer Smith died on January 15, 2021. The cause of death was severe depression and brain injury proximately caused by concussion Officer Smith received by the assault of January 6, 2021 by Kaufman and John Doe. An estate has been opened in the Circuit Court for Fairfax County, FI-2021-0000214.

12. At the time of her death, Erin Smith was dependent on Officer Smith for support.

13. Erin Smith, as the surviving widow, is the primary beneficiary of the Estate of Jeffrey Smith.

14. That Officer Smith would have been able to maintain a civil cause of action against Kaufman and recover damages had he lived.

15. The actions of the Defendants in carrying out the assault were intentional wanton, malicious, depraved, and were made with a black heart.

COUNT I

ASSAULT & BATTERY

16. All facts and allegations contained hereinabove are incorporated herein by reference.

17. The physical contact initiated by Kaufman constituted an intentional and unlawful, harmful or offensive, touching or use of deadly force upon the physical person of Officer Smith.

18. As a result of this intentional and unlawful battery, Officer Smith sustained physical pain, injury and illness. Specifically, Officer Smith suffered severe and permanent injuries to his head (concussion), and neck; he suffered great pain and mental anguish and mental distress; and he was otherwise damaged.

19. As a direct result of the unlawful assault and battery, Officer Smith came under the

care of medical doctors; he lost time from his normal duties, employment and activities, all to his financial detriment.

20. As a direct result of the unlawful assault by the Defendant, Officer Smith died on January 15, 2021.

21. In accordance with DC Code §12-101, et. seq, Erin Smith (as personal representative of Officer Smith's estate) is entitled to bring this action.

WHEREFORE, plaintiff Erin Smith, Personal Representative of the Estate of Jeffrey Smith, brings this action and demands judgment against Defendant David Kaufman in the sum of Two Million (\$2,000,000.00) Dollars, plus punitive damages in the amount of Five Million (\$5,000,000.00) Dollars, plus costs and interest.

COUNT II

WRONGFUL DEATH

22. That all facts and allegations contained hereinabove without being fully repeated herein.

23. This claim is being brought by Erin Smith as the surviving widow of Jeffrey Smith.

24. As a direct and proximate result of the intentional assault by Defendants that, in turn, caused Officer Smith's death, Erin Smith sustained pecuniary loss, mental anguish, emotional pain and suffering, loss of society, loss of companionship, loss of comfort of protection, loss of marital care, loss of filial care, loss of attention, loss of advice, loss of counsel, loss of training, loss of guidance and loss of consortium.

25. Pursuant to the Declaration of Jonathan Arden, MD, the former Chief Medical Examiner of the District of Columbia, attached hereto as Exhibit A, the direct and proximate cause of Officer Smith's death is post-concussive syndrome. The effects of post-concussive syndrome, in

turn, includes health maladies such as severe depression and suicide. In other words, but for the concussion of Officer Smith at the hands of these Defendants, Officer Smith would be alive today. He was killed in the line of duty by the Defendants.

26. This Complaint is timely filed within two (2) years after the death of Jeffrey Smith.

27. In accordance with DC Code §16-2701, et. seq, Erin Smith (as personal representative of Officer Smith's estate) is entitled to bring this action.

WHEREFORE, plaintiff Erin Smith, surviving widow of Jeffrey Smith, brings this action and demands judgment against Defendant David Kaufman in the amount of Two Million (\$2,000,000.00) Dollars in compensatory damages, plus punitive damages in the amount of Five Million (\$5,000,000.00) Dollars, plus costs and interest.

COUNT III

AIDING AND ABETTING

28. That all facts and allegations contained hereinabove without being fully repeated herein.

29. John Doe was part of the insurrectionist mob inside the US Capitol and was being escorted out of the building by MPD officers.

30. Co-Defendant John Doe handed a cane, crowbar (or similar object) to Kaufman. Kaufman, in turn, violently swung the cane and struck Officer Smith in the face/head. Officer Smith was in a particularly vulnerable situation because his face shield was up (leaving his face and eyes exposed).

31. John Doe possessed actual knowledge of the wrongful intentions of Kaufman. Indeed, there could be no other reason to supply Kaufman with a weapon other than to use it as a cudgel against MPD Officers, like Officer Smith, as the police officers were escorting the mob out

of the Capitol building.

32. John Doe directly aided, abetted and encouraged Kaufman's wrongful and tortious conduct, and knowingly supplied substantial assistance, aid and encouragement in the commission of such conduct.

33. As a result of this intentional and unlawful battery, Officer Smith sustained physical pain, injury and illness. Specifically, Officer Smith suffered severe and permanent injuries to his head (concussion), and neck; he suffered great pain and mental anguish and mental distress; and he was otherwise damaged. Pursuant to the Declaration of Jonathan Arden, MD, the former Chief Medical Examiner of the District of Columbia, attached hereto as Exhibit A, the direct and proximate cause of Officer Smith's death is post-concussive syndrome. The effects of post-concussive syndrome, in turn, includes health maladies such as severe depression and suicide. In other words, but for the concussion of Officer Smith at the hands of the defendants, Officer Smith would be alive today. He was killed in the line of duty by these defendants.

34. As a direct result of the unlawful assault and battery, Officer Smith came under the care of medical doctors; he lost time from his normal duties, employment and activities, all to his financial detriment.

35. As a direct result of the unlawful assault, Officer Smith died on January 15, 2021.

36. As a direct and proximate result of the intentional assault which was aided by Defendant Joe Doe and which, in turn, caused Smith's death, Erin Smith sustained pecuniary loss, mental anguish, emotional pain and suffering, loss of society, loss of companionship, loss of comfort of protection, loss of marital care, loss of filial care, loss of attention, loss of advice, loss of counsel, loss of training, loss of guidance and loss of consortium.

WHEREFORE, plaintiff Erin Smith, both individually as surviving widow of Jeffrey Smith,

and as Personal Representative, brings this action against Defendant John Doe and demands judgment in the amount of Two Million (\$2,000,000.00) Dollars in compensatory damages, plus punitive damages in the amount of Five Million (\$5,000,000.00) Dollars, plus costs and interest.

/s/ David P. Weber
DAVID P. WEBER, CFE, #468260
Brian Mahany, Of Counsel, *pro hac vice* to be filed

Counsel for Plaintiff
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DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial on all issues raised herein.

/s/ David P. Weber
DAVID P. WEBER