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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

19
20 Diamond Warren in her capacity as
21 guardian and next friend to KTW, and in her
22 capacity as Special Administrator of the
23 Estate of Akeem Terrell; and Robert Yates,

24 Plaintiffs,

25 v.

26 Sheriff Paul Penzone, in his capacity as the
27 elected Sheriff of Maricopa County;
28 Maricopa County, a political subdivision of
the State of Arizona; City of Phoenix, a
municipality; Nathan Buldis, an individual;
Gustavo Corrales, an individual; James

No. _____

COMPLAINT

(Tort-Civil Rights-42 U.S.C. § 1983)

(Jury Trial Demanded)

1 Jessen, an individual; Alexander Kubes, an
2 individual; Andrew Locascio, an individual;
3 Airrion Moses, an individual; Isaac Perez, an
4 individual; Danny Rubio, an individual; and
5 Michael Wood, an individual,

6 Defendants.

7 Plaintiffs allege as follows:

8 **PARTIES**

9 1. At the time of his death, Akeem Terrell was a resident of Maricopa County,
10 Arizona.

11 2. Plaintiff KTW is the minor child of Akeem Terrell and is a statutory
12 beneficiary pursuant to A.R.S. § 12-611, *et seq.* KTW resides in the State of Michigan.

13 3. Plaintiff Diamond Warren is the mother of KTW and brings this action as
14 KTW’s guardian and next friend and as the Special Administrator of the Estate of Akeem
15 Terrell. Ms. Warren is a resident of the State of Michigan.

16 4. Plaintiff Robert Yates is the surviving father of Akeem Terrell and is a
17 statutory beneficiary pursuant to A.R.S. § 12-611, *et seq.* Mr. Yates resides in the State of
18 Michigan.

19 5. Defendant Sheriff Paul Penzone is the elected Sheriff of Maricopa County,
20 Arizona. Defendant Penzone is responsible for the acts and omissions of his employees
21 acting within the scope and course of their employment, including employees of the
22 Maricopa County Sheriff’s Office (“MCSO”) and the Maricopa County Jail.

23 6. Defendant Maricopa County is a political subdivision of the State of Arizona.
24 Maricopa County is responsible for the acts and omissions of its employees acting within
25 the scope and course of their employment, including employees of Correctional Health
26 Services.

27 7. Defendant City of Phoenix is a municipality organized under the laws of the
28 State of Arizona. The City of Phoenix is responsible for the acts and omissions of its

1 employees acting within the scope and course of their employment, including Officers of
2 the Phoenix Police Department.

3 8. At all relevant times, all Defendants were Police Officers, Sheriff’s Deputies,
4 Detention Officers, or municipal entities who were acting under color of state law.

5 9. Nathan Bulldis is an individual and a citizen of Arizona.

6 10. At all times alleged in the Complaint, Nathan Bulldis was a detention officer
7 employed by the Maricopa County Sheriff’s Office acting within the course and scope of his
8 employment, and under color of state law. He is a “state actor” as that term is used under the
9 jurisprudence of 42 U.S.C. § 1983.

10 11. Gustavo Corrales is an individual and a citizen of Arizona.

11 12. At all times alleged in the Complaint, Gustavo Corrales was a police officer
12 employed by the City of Phoenix acting within the course and scope of his employment, and
13 under color of state law. He is a “state actor” as that term is used under the jurisprudence of
14 42 U.S.C. § 1983.

15 13. James Jessen is an individual and a citizen of Arizona.

16 14. At all times alleged in the Complaint, James Jessen was a police officer
17 employed by the City of Phoenix acting within the course and scope of his employment, and
18 under color of state law. He is a “state actor” as that term is used under the jurisprudence of
19 42 U.S.C. § 1983.

20 15. Alexander Kubes is an individual and a citizen of Arizona.

21 16. At all times alleged in the Complaint, Alexander Kubes was a police officer
22 employed by the City of Phoenix acting within the course and scope of his employment, and
23 under color of state law. He is a “state actor” as that term is used under the jurisprudence of
24 42 U.S.C. § 1983.

25 17. Andrew Locascio is an individual and a citizen of Arizona.

26 18. At all times alleged in the Complaint, Andrew Locascio was a police officer
27 employed by the City of Phoenix acting within the course and scope of his employment, and
28

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1 under color of state law. He is a “state actor” as that term is used under the jurisprudence of
2 42 U.S.C. § 1983.

3 19. Airrion Moses is an individual and a citizen of Arizona.

4 20. At all times alleged in the Complaint, Airrion Moses was a detention officer
5 employed by the Maricopa County Sheriff’s Office acting within the course and scope of his
6 employment, and under color of state law. He is a “state actor” as that term is used under the
7 jurisprudence of 42 U.S.C. § 1983.

8 21. Isaac Perez is an individual and a citizen of Arizona.

9 22. At all times alleged in the Complaint, Isaac Perez was a sergeant employed by
10 the Maricopa County Sheriff’s Office acting within the course and scope of his employment,
11 and under color of state law. He is a “state actor” as that term is used under the jurisprudence
12 of 42 U.S.C. § 1983.

13 23. Danny Rubio is an individual and a citizen of Arizona.

14 24. At all times alleged in the Complaint, Danny Rubio was a police officer
15 employed by the City of Phoenix acting within the course and scope of his employment, and
16 under color of state law. He is a “state actor” as that term is used under the jurisprudence of
17 42 U.S.C. § 1983.

18 25. Michael Wood is an individual and a citizen of Arizona.

19 26. At all times alleged in the Complaint, Michael Wood was a police officer
20 employed by the City of Phoenix acting within the course and scope of his employment, and
21 under color of state law. He is a “state actor” as that term is used under the jurisprudence of
22 42 U.S.C. § 1983.

23 27. In this Complaint, Defendants Buldis, Corrales, Jessen, Kubes, Locascio,
24 Moses, Perez, Rubio, and Wood are referred to collectively as “the Officer Defendants.”

25 **JURISDICTION AND VENUE**

26 28. This Court has jurisdiction over Plaintiff’s federal civil rights claims under 28
27 U.S.C. § 1331 and 28 U.S.C. § 1343.

28

1 29. The events giving rise to this action occurred in Maricopa County, Arizona.
2 Defendant City of Phoenix is a political subdivision of the State of Arizona. Maricopa
3 County is a political subdivision of the State of Arizona. On information and belief, Paul
4 Penzone, the duly elected Sheriff of Maricopa County, and the Officer Defendants all reside
5 within Maricopa County, Arizona. Thus, venue is proper in the District of Arizona under 28
6 U.S.C. § 1391(b).

7 30. The events that form the basis of this Complaint occurred on or about January
8 1, 2021, in Maricopa County.

9 **JURY DEMAND**

10 31. Plaintiffs hereby demand a jury trial.

11 **FACTUAL ALLEGATIONS**

12 **Phoenix Officers Arrest Akeem Terrell after he begins**
13 **behaving oddly and refuses to leave a party.**

14 32. On January 1, 2021, Akeem Terrell died while in the custody of Phoenix
15 Police Officers and Maricopa County Sheriff’s Officers.

16 33. Akeem Terrell was an African American man.

17 34. Akeem had a history of mental illness.

18 35. Phoenix Police arrested Akeem on January 1, 2021, after he began behaving
19 bizarrely at a party.

20 36. Witnesses stated that Akeem was expressing paranoid thoughts and making
21 statements that did not make sense.

22 37. When Phoenix Police Officers arrived at the scene, they spoke with Akeem.

23 38. Based on Akeem’s bizarre statements, the Phoenix Officers recognized that he
24 was mentally ill or mentally disturbed.

25 39. The Phoenix Officers advised Akeem that they would not arrest him if he
26 would leave the location.

27 40. When Akeem did not leave, Officers placed him under arrest.

28 41. When Officers attempted to handcuff Akeem, Akeem pulled his hands away.

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1 42. All of Akeem’s behavior was consistent with his mental illness.

2 43. Akeem was tall and overweight—approximately 6’2” and 433 lbs. Because of
3 his size, Officers handcuffed his arms behind his back with two sets of handcuffs linked
4 together. The handcuffs forced Akeem’s hands behind his back in a strange, painful, and
5 unnatural way.

6 44. Akeem was uncooperative during his arrest.

7 45. According to Officers at the scene, Akeem was not armed, did not attempt to
8 escape, and did not strike or kick them at the time of his arrest, but he engaged in passive
9 resistance by becoming “dead weight” or “going limp.”

10 46. Akeem was arrested for trespassing and for passively resisting arrest.

11 47. The Officers placed Akeem in the back of a police SUV. According to the
12 Officers, Akeem was in a face-down position in the back of the SUV, but then moved to lie
13 on his side.

14 48. The Officers then transported Akeem to the Maricopa County Jail.

15 49. Before arriving at the Jail, Phoenix Officers notified the Jail that they were
16 bringing in a “combative prisoner.”

17 50. They did not notify the Jail that they had a mentally ill man in the midst of a
18 mental health crisis.

19 **Akeem’s Arrival at the Maricopa County Jail**

20 51. On arrival at the Jail, Akeem continued to act in a manner that made clear that
21 he was mentally ill.

22 52. Phoenix and MCSO Officers then pulled Akeem out of the Phoenix SUV and
23 carried him into the Jail.

24 53. Akeem repeatedly expressed confusion about his location, stating at various
25 times that he believed he was either in Tucson, Pinal County, or a different location other
26 than the Maricopa County Jail.

27 54. Akeem repeatedly yelled, “They’re trying to kill me, they’re trying to kill me.”

28 55. Akeem also stated, “This is just a game. This is just a show.”

1 56. Akeem’s statements were consistent with his mental illness.

2 57. The Officers recognized that Akeem was “out of it.” He appeared to have
3 difficulty standing on his own and maintaining his equilibrium.

4 58. After dragging Akeem into the Jail, Officers deposited him on a padded
5 surface near the intake search area.

6 59. As the Officers dragged him into the Jail, Akeem’s pants fell down exposing
7 his underwear.

8 60. Officers searched Akeem as he sat on the ground.

9 61. Officers then lifted Akeem to a standing position and pulled up his pants as he
10 continued to assert that Officers were going to kill him.

11 **Officers Move Akeem to An Isolation Cell**

12 62. After Akeem was searched, MCSO Sergeant Perez and Officer Moses grabbed
13 and held Akeem by the arms and shoulders and forcefully pushed him through the search
14 area, down a hallway, and into an isolation “ISO” cell.



27 63. As shown in the photo above, Sergeant Perez and Deputy Moses intentionally
28 pulled upward on Akeem’s handcuffed arms as they pushed him toward the ISO cell.

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1 64. While Perez and Moses moved Akeem in this fashion, Phoenix Officers Rubio
2 and Jessen followed.

3 65. As Perez and Moses pushed Akeem to the ISO cell, they did not give Akeem
4 any commands or orders.

5 66. Perez and Moses did not explain where they were taking Akeem or why. Nor
6 did they tell him what to do when he got there.

7 **In the ISO Cell, Multiple Officers Assault Akeem over a Three Minute Period**

8 67. When Perez and Moses entered the ISO cell, they quickly pushed Akeem
9 toward the wall without warning or explanation.

10 68. Then, without warning or explanation, Perez, Moses, and Phoenix Officer
11 Rubio pulled Akeem’s ankles and swept his legs out from under him causing him to fall into
12 the wall and then the ground.



25 69. Because Akeem’s hands were cuffed behind his back, his fall into the hard
26 concrete was broken by his face and head.

27 70. Upon striking the wall, Akeem slid down it as the Officers pulled his legs out
28 from under him.

1 71. When his body struck the ground, Akeem landed on his side, but Sgt. Perez,
2 Deputy Moses, Officer Rubio and Officer Jessen forced Akeem onto his stomach. As they
3 did this, Officer Kubes and Officer Corrales stood by and watched.

4 72. Placing handcuffed people in a prone position creates an immediate risk of
5 death or serious bodily injury. This is especially true for heavysset, obese, or barrel-chested
6 people. This position is known to cause positional asphyxia.

7 73. The Officer Defendants claim that the purpose of using this force on Akeem,
8 and all the force that followed, was to replace the two sets of handcuffs that already
9 restrained Akeem with two sets of handcuffs that were in all respects identical to the
10 handcuffs they were replacing. The sole difference between the two sets of handcuffs is that
11 the replacement set were allegedly the property of Maricopa County rather than the City of
12 Phoenix.

13 74. It should be noted that at no time before his death did the Officer Defendants
14 ever actually uncuff Akeem. The Officers applied the second set of handcuffs before
15 removing the substantially identical Phoenix handcuffs.

16 75. With Akeem on his stomach, Officer Rubio and Officer Jessen crossed
17 Akeem’s feet at the ankles. They then forcibly bent Akeem’s legs backwards at the knee so
18 that Akeem’s heels were facing Akeem’s buttocks.

19 76. Officer Rubio then placed his bodyweight on Akeem’s back bent legs.

20 77. Placing weight on a prone restrained subject increases the risk of positional
21 asphyxia.

22 78. Even though Akeem’s legs were not bound, by holding Akeem’s legs in this
23 fashion and then placing his own weight on Akeem’s legs, Officer Rubio was placing Akeem
24 in a “hogtie” position that is known to compromise an individual’s ability to breathe and to
25 cause death and serious bodily injury.

26 79. While Officer Rubio had his bodyweight on Akeem’s bent-back legs, Deputy
27 Moses bent Akeem’s handcuffed left hand backward and pulled it towards Akeem’s head to
28 inflict pain.

1 80. Sgt. Perez placed his knee on Akeem’s lower back or right buttock forcing
2 Akeem prone and interfering with his ability to breathe.

3 81. At the same time, Phoenix Officer Jessen had his knee on the left side of
4 Akeem’s body, applying his bodyweight to hold Akeem prone. This also interfered with
5 Akeem’s ability to breathe.

6 82. The Officer Defendants forced Akeem’s head into the wall, placing pressure
7 on his neck and bending it into a position that made it difficult for him to breathe.

8 83. The below photo, zoomed in at 03:03:10, shows the position of Akeem’s head
9 and neck as Sgt. Perez and Officer Jessen drive their knees into Akeem, Officer Rubio sits
10 on Akeem’s back-bent legs, and Officer Jessen works to switch out the handcuffs. At this
11 time, Officer Moses is bending Akeem’s handcuffed hand backward and pulling it towards
12 Akeem’s head.



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1 84. While Perez, Moses, Jessen, and Rubio applied unnecessary force to Akeem
2 and held him in a prone hogtie position, Phoenix Officers Corrales, Kubes, and Locascio
3 looked on, failing to intercede or summon medical care to protect Akeem.



16 85. MCSO Officer Buldis and Phoenix Officer Locascio were also watching from
17 outside the door. They observed the excessive force being used on Akeem, and the fact that
18 he was being forced down prone on the floor while Officers applied their weight to his back
19 and held him in a hogtie position. Neither did anything to intervene or intercede.

20 86. In an interview after Akeem’s death, Officer Buldis admitted that at this time,
21 he recognized that Akeem was likely in or near a medical emergency.

22 87. As of 3:04:44, Sgt. Perez and Officers Moses, Jessen, and Rubio had been
23 forcing Akeem prone on the floor with his feet forced back toward his butt for approximately
24 1 minute and 40 seconds.

25 88. At 3:04:44 Akeem, struggling to breathe and to stay alive, moved in a manner
26 that Officer Rubio described as “bucking.” The video shows Officer Rubio move briefly off
27 of Akeem’s legs. Rubio does not fall and was not injured by this movement.

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1 89. Up until about 03:04:44, Akeem was speaking almost constantly in a manner
2 that was obviously consistent with mental illness. One Officer describes his speech pattern
3 as a repeating loop. Akeem repeats the names of several unknown individuals, he makes
4 references to “Facebook,” and “Facebook Live,” he expresses confusion about where he is,
5 he asks what he did wrong, and he repeatedly says, “they’re trying to kill me.”

6 90. At approximately the same time as the movement, Akeem says words that
7 sound like, “stay off, stay off of me.” He then says words that sound like, “killing me, killing
8 me.”

9 91. In response to Akeem’s movement, which was nothing more than Akeem
10 struggling to stay alive with the weight of multiple Officers holding him prone in a forced
11 hogtie posture, Phoenix Officers Corrales and Kubes joined in the assault while Locascio
12 looked on.



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25 92. In the above still frame, zoomed in at 3:04:53 on the video, MCSO Officers
26 Perez and Moses (in tan) are shown being pressed into the wall by the pressure of the
27 Phoenix Officers pressing on Akeem’s body.

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93. In the above still frame, Officers Rubio, Corrales, and Kubes are applying their bodyweight to force Akeem’s feet into his buttocks. Locascio stands looking on, his black gloved hands on the back of Officer Corrales.

94. The unnecessary and unreasonable force that the Officer Defendants applied to Akeem’s body and legs, forced Akeem’s head and neck into the wall, further compromising Akeem’s ability to breathe.

95. At this time, Akeem was grunting and moaning in pain.

96. Akeem’s final words were “killing me, killing me.”

97. Eventually, he stopped moving and the only sound he made was the sound of shallow labored breathing, an obvious sign of a medical emergency and an immediate medical need.

98. The Officer Defendants ignored Akeem’s lack of movement and labored shallow breathing and continued to hold Akeem down in the forced hogtie position.

99. While the Officers in the ISO cell applied excessive force to Akeem’s body, the other Officer Defendants watched calmly through the open doorway, doing nothing to intervene.

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1 100. All of the Officer Defendants knew that their actions or their failures to act
2 could kill or seriously injure Akeem. They ignored that risk, either by continuing to apply
3 force, or by standing by and watching, indifferent to Akeem’s life.

4 101. When Akeem struggled to move and to breathe, the Officer Defendants used
5 more force on him.

6 102. When Akeem’s body spasmed, the Officer Defendants took this as a sign of
7 “non-compliance” and applied additional pressure and bodyweight.

8 103. Eventually, Akeem stopped moving at all. He said nothing.

9 104. The Officer Defendants should have recognized that Akeem was not moving
10 because he was in serious need of immediate medical attention as a result of the force they
11 had used.

12 105. But the Officer Defendants ignored his serious medical need.

13 **The Officer Defendants ignore Akeem’s Obvious Medical Needs and Leave Him**
14 **Handcuffed and Prone in the ISO Cell**

15 106. At 3:06:23 a.m., the Phoenix handcuffs had been replaced with the
16 substantially identical Maricopa County handcuffs and the Officer Defendants backed out
17 the door and left Akeem alone and motionless in the ISO cell.



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1 107. As the still image above shows, the Officer Defendants left Akeem prone and
2 unmoving in obvious need of immediate medical attention.

3 108. Sgt. Perez was the last Officer out the door.

4 109. The Officer Defendants knew, or should have known, that leaving a
5 handcuffed person prone and face-down creates a serious risk of death or serious bodily
6 injury, including positional asphyxia.

7 110. The Officer Defendants left Akeem alone in his cell with his hands cuffed
8 tightly behind his back, his head pressed into the wall and his neck bent at a strange and
9 unnatural angle for approximately six minutes.

10 111. Akeem was in obvious medical distress, and in obvious need of immediate
11 medical care. The Officer Defendants did not provide it.

12 112. The Officer Defendants did not summon medical care.

13 113. The Officer Defendants did not check Akeem’s pulse.

14 114. Before they left Akeem in the ISO cell, the Officer Defendants did not move
15 Akeem to the “recovery position” (on his side) to lessen the risks of serious bodily injury or
16 death that are created by being left in the prone position.

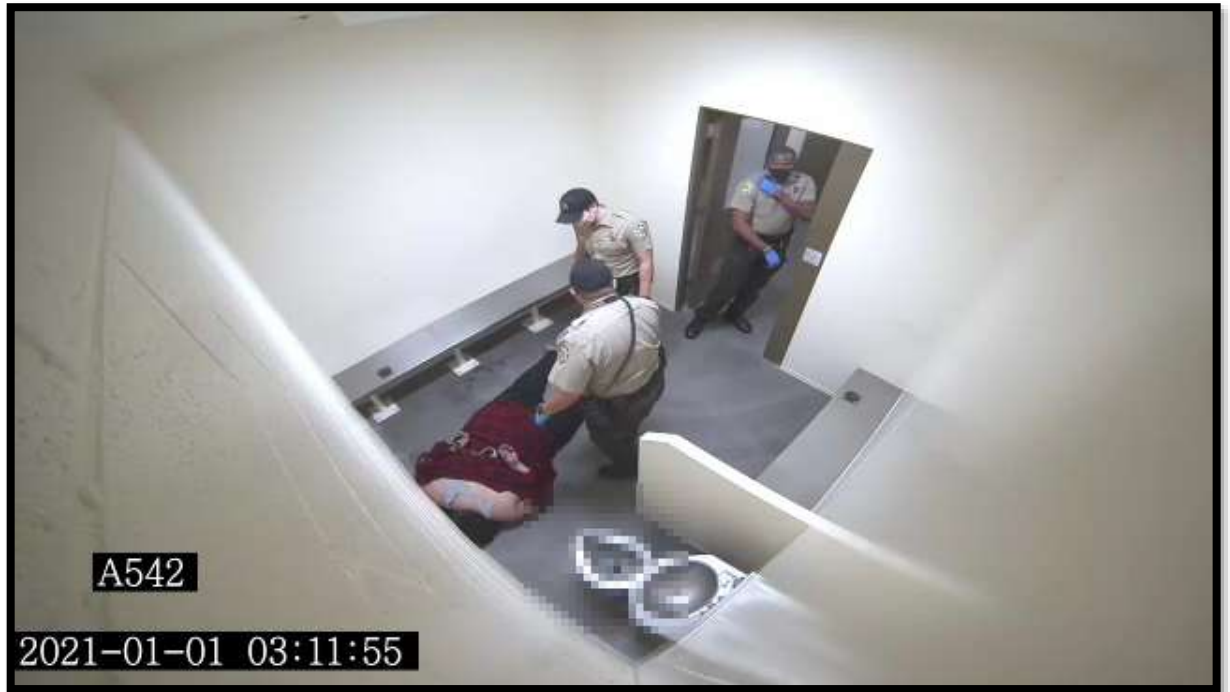
17 115. Akeem was handcuffed and face-down on the floor of the ISO cell for a total
18 of more than nine minutes (from 3:03:12 until 3:12:39).

19 116. For the first three of those nine minutes (3:03:12 until 3:06:16), Officers were
20 applying their bodyweight to his back and pushing his feet into his buttocks.

21 117. For the final six of those nine minutes (from 3:06:16 until 3:12:39), Akeem
22 was alone and unmoving.

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1 118. At about 3:11:55 (below), Officer Moses and two other MCSO Officers
2 reentered the ISO cell after one Officer observed that Akeem did not seem to be moving.



14 119. The Officers were then joined by Phoenix Officer McKim. At this point,
15 Akeem is still face-down and motionless with his head and neck forced into the wall.

16 120. Officer McKim and the MCSO Officers then pulled Akeem away from the
17 wall by his legs:



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1 21. At 3:12:39, Officer Moses and two other MCSO Officers, aided by Phoenix
2 Officer McKim moved Akeem onto his side:



14 22. With Akeem on his side, Officer Moses determined that Akeem had no pulse
15 and summoned medical care.
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1 123. At 3:13:17, Officers returned Akeem to the face-down position so that the
2 Maricopa County handcuffs could be removed.



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15 124. Officers then rolled Akeem onto his back and handcuffed his hands in front of
16 his body even though he had no pulse and had not moved in some time:



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1 125. Only after they finished handcuffing Akeem’s hands in front of his body, did
2 the Officer Defendants begin performing CPR or other lifesaving measures.

3 126. Akeem was removed from the ISO cell on a gurney at approximately 3:41:17
4 a.m. by Phoenix Fire Department personnel.

5 127. Akeem was transported to Banner University Medical Center where he was
6 pronounced deceased on January 1, 2021.

7 128. The Officer Defendants caused Akeem’s death through their use of excessive
8 and unnecessary force and their deliberate indifference to Akeem’s obvious and serious
9 medical needs, their failure to provide or summon medical care, and their unnecessary and
10 unreasonable delay in summoning medical care.

11 129. Akeem was never “booked into” or admitted to the Maricopa County Jail.

12 130. At all relevant times, Akeem was either an “arrestee” protected by the Fourth
13 Amendment, or a “pretrial detainee” protected by the Fourteenth Amendment.

14 **Maricopa County and Sheriff Penzone’s Policy, Customs and Procedures and Their**
15 **Ratification of Akeem Terrell’s Death**

16 131. Defendants Maricopa County and Sheriff Penzone are responsible for training
17 and supervising Officers regarding the reasonable use of force.

18 132. The Sheriff and the County have failed to properly train and supervise their
19 Officers regarding the reasonable use of force.

20 133. The Sheriff and the County have a policy, custom, or practice of training and
21 allowing Officers to use certain submission techniques, including prone positioning, which
22 poses a significant risk of asphyxiation and death, resulting in unreasonable uses of force.

23 134. The Sheriff and the County’s policy, custom, or practice of training and
24 allowing Officers to utilize submission techniques such as prone positioning increases the
25 incidence of uses of unreasonable force.

26 135. The Sheriff and the County are responsible for training and supervising
27 Officers regarding interaction with mentally ill or emotionally disturbed citizens.
28

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1 136. The Sheriff and the County have failed to properly train and supervise its
2 Officers regarding Officer interaction with the mentally ill or emotionally disturbed citizens.

3 137. The Sheriff and the County have failed to properly train and supervise its
4 Officers regarding the dangers of positional asphyxia and the danger signs of positional
5 asphyxia.

6 138. Sheriff and County policy requires a professional standards investigation after
7 any death of a person in custody to determine whether its Officers have violated any County
8 policy.

9 139. On information and belief, almost two years after Akeem’s death, the County
10 and the Sheriff have not completed an internal affairs or professional standards investigation
11 into Akeem’s death.

12 140. On information and belief, the County and the Sheriff have not disciplined,
13 terminated, or retrained any of the employees who caused Akeem Terrell’s death.

14 141. The County’s and the Sheriff’s failures to investigate, discipline, or retrain the
15 Officers who caused Akeem’s death indicates that the Officers’ actions were standard
16 operating procedure and amount to the official policy of Maricopa County.

17 **Defendant City of Phoenix’s Policies, Customs, and Procedures and Their**
18 **Ratification of Akeem Terrell’s Death**

19 142. Defendant City of Phoenix is responsible for training and supervising Phoenix
20 Police Officers regarding the reasonable use of force.

21 143. Defendant City of Phoenix has failed to properly train and supervise its
22 Officers regarding the reasonable use of force.

23 144. The City of Phoenix has a policy, custom, or practice of training and allowing
24 Officers to use certain submission techniques, including prone positioning, which poses a
25 significant risk of asphyxiation and death, resulting in unreasonable uses of force.

26 145. The City of Phoenix’s policy, custom, or practice of training and allowing
27 Officers to utilize submission techniques such as prone positioning increases the incidence
28 of uses of unreasonable force.

1 146. Defendant City of Phoenix is responsible for training and supervising Phoenix
2 Officers regarding interaction with mentally ill or emotionally disturbed citizens.

3 147. Defendant City of Phoenix has failed to properly train and supervise its
4 Officers regarding Police Officer interaction with the mentally ill or emotionally disturbed
5 citizens.

6 148. Defendant City of Phoenix has failed to properly train and supervise its
7 Officers regarding the dangers of positional asphyxia and the danger signs of positional
8 asphyxia.

9 149. The City of Phoenix has created a culture of impunity that permits Officers to
10 use excessive and unnecessary force without fear of discipline or oversight.

11 150. The City of Phoenix has created this culture of impunity by among other
12 things:

13 • Failing to track Officer uses of force to identify Officers who use force
14 more than other Officers and to initiate an early warning system regarding
15 such Officers.

16 • Adopting a policy, custom, or practice of delaying and slowing down
17 the release of information relating to incidents involving Officer uses of force
18 in order to prevent the public and the victims of police violence from learning
19 about the real facts involved in police uses of force.

20 • Adopting a policy, custom, or practice of “purging” Officer discipline
21 records so that Officers who are the subject of repeated complaints and
22 investigations cannot be identified and the victims of police violence will have
23 difficulty demonstrating the City of Phoenix’s custom, pattern, and practice of
24 using excessive force.

25 • Adopting a policy, custom and practice of failing to fully investigate
26 incidents involving Officer uses of force and in-custody deaths.

27 • Adopting a policy, custom and practice of failing to discipline,
28 terminate, and/or retrain Officers who use excessive force.

1 151. The City of Phoenix adopted the policies, customs, and practices set forth in
2 the paragraph above in order to prevent the public from learning about the extent of police
3 excessive force incidents and to prevent adverse publicity.

4 152. City of Phoenix policy requires a professional standards investigation after any
5 death of a person in custody to determine whether Officers have violated City policy.

6 153. On information and belief, almost two years after Akeem’s death, the City has
7 not completed an internal affairs investigation.

8 154. On information and belief, the City has not disciplined, terminated, or
9 retrained any of its employees involved in the death of Akeem Terrell.

10 155. The City’s failure to investigate, discipline, or retrain the Officers who caused
11 Akeem’s death indicates that the Officers’ actions were standard operating procedure and
12 amount to the official policy of the City of Phoenix.

13 **Defendant City of Phoenix’s Long History of Death by Prone Restraint**

14 156. Defendant City of Phoenix has known for years that placing a handcuffed
15 individual face-down for any period of time poses a serious risk of sudden death.

16 157. Defendant City of Phoenix has a long history of causing deaths in this fashion,
17 including, but not limited to, the following:

- 18 • On August 4, 2020, multiple Phoenix Officers killed Ramon Timothy
19 Lopez when they handcuffed and RIPP restrained him and held him face-down
20 on the street.
- 21 • On February 6, 2019, a naked Casey Wells died after being RIPP
22 restrained and placed face-down with Phoenix Police Officers on his back and
23 his neck.
- 24 • On January 4, 2017, Muhammad Muhaymin died in the custody of
25 Phoenix Police Officers with at least three Officers on his legs and back, with
26 another applying a knee to his head and neck while he cried out, “I can’t
27 breathe.”

28

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• On December 25, 2014, Edgardo Figueroa died after he was handcuffed and left face-down in the back of a Phoenix police vehicle.

• In December 2011, Ernest “Marty” Atencio died after he was handcuffed and held face-down by Phoenix Police and Maricopa County Sheriff’s Officers.

158. Despite this history and its knowledge of the risks, Defendant City of Phoenix continues to train its Officers that they can place handcuffed citizens face-down even though it knows that doing so creates a significant risk of injury and death.

159. Despite this history and its knowledge of the risks, Defendant City of Phoenix continues to train its Officers that they can apply pressure or bodyweight to prone face-down citizens, including the mentally ill, who are already handcuffed or otherwise restrained.

160. Defendant City of Phoenix has repeatedly received notice that these practices and customs result in unnecessary deaths, but has failed to change its policies, customs, and practices to prevent such deaths.

161. In repeated incidents where City of Phoenix personnel have caused deaths by prone restraint, Defendant City of Phoenix has failed to investigate or discipline its employees, and has thereby ratified and adopted death by prone restraint as an official custom and practice.

COUNT ONE – 42 U.S.C. § 1983

**The Estate’s claim for violation of Akeem Terrell’s
Fourth Amendment right to be free from excessive force
(As to the Officer Defendants)**

162. The foregoing paragraphs are incorporated as if fully set forth herein.

163. Akeem Terrell had a Fourth Amendment right to be free from excessive force.

164. The Officer Defendants violated Akeem’s Fourth Amendment rights when, acting in concert with one another, they used force and bodyweight to hold him in a prone position, forced his feet towards his buttocks in a hogtie position, forced his head and neck against the wall, and caused pain and suffering and death.

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165. The Officer Defendants violated Akeem’s Fourth Amendment rights when they failed to intervene, de-escalate, or disengage the other Officers from their use of unreasonable and excessive force.

166. The Officer Defendants violated Akeem’s Fourth Amendment rights when they failed to check to see if he was breathing or had a pulse before leaving him alone in the ISO cell.

167. The Officer Defendants violated Akeem’s Fourth Amendment rights when they failed to summon medical care to address Akeem’s obvious medical needs.

168. The Fourth Amendment violations of each of the Officer Defendants were independent moving forces of Akeem Terrell’s death.

169. Because the Officer Defendants’ actions were done knowingly, intentionally, maliciously, and/or recklessly, Plaintiff is entitled to recover compensatory and punitive damages.

COUNT TWO – 42 U.S.C. § 1983

The Estate’s claim for excessive force, failure to protect, and deliberate indifference to obvious medical needs in violation of the Fourteenth Amendment (As to the Officer Defendants)

170. The foregoing paragraphs are incorporated as if fully set forth herein.

171. This count is pled in the alternative to Count One, in the event that Akeem Terrell is determined to have been a pretrial detainee at the times when force was used.

172. Akeem Terrell had a Fourteenth Amendment right to be free from excessive force.

173. The Officer Defendants violated Akeem’s Fourteenth Amendment rights when, acting in concert with one another, they used force and bodyweight to hold him in a prone position, forced his feet into his buttocks in a hogtie position, forced his head and neck against the wall, and caused pain and suffering and death.

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1 174. The Officer Defendants violated Akeem’s Fourteenth Amendment rights
 2 when they failed to intervene, de-escalate, or disengage the other Officers from their use of
 3 unreasonable and excessive force.

4 175. The Officer Defendants violated Akeem’s Fourteenth Amendment rights
 5 when they failed to check to see if he was breathing or had a pulse before leaving him alone
 6 in the cell.

7 176. The Officer Defendants violated Akeem’s Fourteenth Amendment Rrghts
 8 when they failed to summon medical care to address Akeem’s obvious medical needs.

9 177. The Fourteenth Amendment violations of each of the Officer Defendants were
 10 independent moving forces of Akeem Terrell’s death.

11 178. Because the Officer Defendants’ actions were done knowingly, intentionally,
 12 maliciously, and/or recklessly, Plaintiff is entitled to recover compensatory and punitive
 13 damages.

14 **COUNT THREE – 42 U.S.C. § 1983**
 15 **KTW’s claim for violation of Fourteenth**
 16 **Amendment right to familial society and companionship**
 17 **(As to the Officer Defendants)**

17 179. The foregoing paragraphs are incorporated as if fully set forth herein.

18 180. The reckless, intentional, and deliberate acts and omissions of the Officer
 19 Defendants were the direct legal cause of the deprivation of KTW’s constitutionally
 20 protected rights under the Fourteenth Amendment to the care, companionship, and familial
 21 society of Akeem Terrell.

22 181. The acts and omissions of the Officer Defendants shock the conscience. The
 23 circumstances were such that actual deliberation was practical, and the Officer Defendants
 24 were deliberately indifferent.

25 182. In the alternative, the Officer Defendants acted with a purpose to cause harm
 26 unrelated to any legitimate law enforcement objective.

27 183. Plaintiff KTW was damaged as the result of the loss of her constitutionally
 28 protected right to the care, companionship, and familial society of her father, Akeem Terrell.

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COUNT FOUR – 42 U.S.C. § 1983
Robert Yates’ claim for violation of Fourteenth
Amendment right to familial society and companionship
(As to the Officer Defendants)

187. The foregoing paragraphs are incorporated as if fully set forth herein.

188. The reckless, intentional, and deliberate acts and omissions of the Officer Defendants were the direct legal cause of the deprivation of Robert Yates’ constitutionally protected rights under the Fourteenth Amendment to the care, companionship, and familial society of Akeem Terrell.

189. The acts and omissions of the Officer Defendants shock the conscience. The circumstances were such that actual deliberation was practical, and the Officer Defendants were deliberately indifferent.

190. In the alternative, the Officer Defendants acted with a purpose to cause harm unrelated to any legitimate law enforcement objective.

191. Plaintiff Robert Yates was damaged as the result of the loss of his constitutionally protected right to the care, companionship, and familial society of his son, Akeem Terrell.

COUNT FIVE – 42 U.S.C. § 1983
Plaintiffs’ *Monell* claims for violation of Fourth
and Fourteenth Amendment rights
(As to Defendant City of Phoenix)

192. The foregoing paragraphs are incorporated as if fully set forth herein.

193. The City of Phoenix was deliberately indifferent to the Fourth and Fourteenth Amendment rights of members of the public, including Akeem Terrell, KTW, and Robert Yates.

194. The City of Phoenix’s unconstitutional policies, customs, procedures, and training were a moving force that caused the death of Akeem Terrell and the violations of his rights under the Fourth and Fourteenth Amendments.

195. The City of Phoenix’s unconstitutional policies, customs, procedures, and training were a moving force that caused the deprivations of Akeem Terrell’s, KTW’s, and

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1 Roberts Yates’ rights under the Fourth and Fourteenth Amendments to the United States
2 Constitution.

3 196. The City of Phoenix’s unconstitutional policies, customs, procedures, and
4 training caused the deprivations of KTW’s and Robert Yates’ rights to familial society and
5 companionship under the Fourteenth Amendment to the United States Constitution.

6 197. The City of Phoenix is liable for all damages arising from the constitutional
7 violations it caused.

8 **COUNT FIVE – 42 U.S.C. § 1983**
9 ***Monell* Claims for violation of Fourth**
10 **and Fourteenth Amendment rights**
11 **(As to Defendants Paul Penzone and Maricopa County)**

12 198. The foregoing paragraphs are incorporated as if fully set forth herein.

13 199. Sheriff Penzone and Maricopa County were deliberately indifferent to the
14 Fourth and Fourteenth Amendment rights of members of the public, including Akeem
15 Terrell, KTW, and Robert Yates.

16 200. Sheriff Penzone and Maricopa County’s unconstitutional policies, customs,
17 procedures, and training were a moving force that caused Akeem Terrell’s death and the
18 violations of his rights under the Fourth and Fourteenth Amendments..

19 201. Sheriff Penzone and Maricopa County’s unconstitutional policies, customs,
20 procedures, and training were a moving force that caused the deprivations of Akeem
21 Terrell’s, KTW’s, and Robert Yates’ rights under the Fourth and Fourteenth Amendments
22 to the United States Constitution.

23 202. Sheriff Penzone and Maricopa County’s unconstitutional policies, customs,
24 procedures, and training caused the deprivation of KTW’s and Robert Yates’ rights to
25 familial society and companionship under the Fourteenth Amendment to the United States
26 Constitution.

27 203. Sheriff Penzone and Maricopa County are liable for all damages arising from
28 the constitutional violations they caused.

WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

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1 A. For general damages, including but not limited to the loss of love, affection,
2 companionship, and guidance resulting from the death of Akeem Terrell, pain, grief, sorrow,
3 anguish, stress, shock, and mental suffering already experienced and reasonably probable
4 to be experienced in the future, and economic losses and loss of income, hedonic damages,
5 and Akeem Terrell’s pre-death pain and suffering and loss of life;

6 B. For special damages, including but not limited to the expenses of medical
7 treatment, burial, and funeral;

8 C. For punitive damages against the Officer Defendants to the extent permitted
9 by law;

10 D. For pre- and post-judgment interest to the extent permitted by law;

11 E. For attorneys’ fees and taxable costs under 42 U.S.C. § 1988 to the extent
12 permitted by law; and

13 F. Such other relief as the Court deems just and proper.

14 RESPECTFULLY SUBMITTED: December 30, 2022

15 **ROBBINS & CURTIN, p.l.l.c.**

16 By: /s/ Jesse M. Showalter
17 Joel B. Robbins
18 Jesse M. Showalter
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21 Phoenix, Arizona 85012
22 Attorneys for Plaintiff