

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

WESTERN DIVISION

ANITA BRAVE HEART,)
)
 Administrator of the Estate of)
)
 JAMIE BRAVE HEART)
)
 Plaintiff,)
)
 vs.)
)
 UNITED STATES OF AMERICA,)
)
 Defendant.)

Civ No. 18-5054

COMPLAINT

COMES NOW the Plaintiff, through her undersigned attorney, and for her complaint against the Defendant states and alleges as follows:

1. Plaintiff is the duly appointed and acting representative of the estate of Jamie Brave Heart, deceased.
2. Plaintiff resides in Kyle, South Dakota. At the time of his death, decedent resided in Kyle, South Dakota. The incident occurred in Oglala Lakota County, South Dakota.
3. This action is brought and the Court has jurisdiction in this matter pursuant to 28 U.S.C. Section 1346(b) and the Federal Tort Claims Act, 28 U.S.C. Section 2671, et seq., as amended and Pub. L. No. 103-138, Tit 111, § 308, Nov. 11, 1993, 107 Stat. 1416.
4. At all relevant times herein mentioned, defendant, by and through its Department of Interior, Bureau of Indian Affairs, contracted with the Oglala Sioux Tribe, Department of Public Safety and its Police Department pursuant to 25 U.S.C. 450f, et seq., Indian Self Determination Act, to provide law enforcement and related services on the Pine Ridge Indian

Reservation.

5. At all time relevant, the Oglala Sioux Tribe and its Department of Public Safety, operated a Police Department on the Pine Ridge Indian Reservation and employed numerous employees. In doing and in omitting to do all things alleged herein, the Oglala Sioux Tribe, its Police Department and all of its employees, including Officer Charles Hunter, were performing functions under the contract entered into pursuant to 25 U.S.C. 450f, et seq.

6. On or about June 03, 2016, Jamie Brave Heart was taken to the Pine Ridge Indian Health Hospital in Pine Ridge, South Dakota by Officer Hunter of the Oglala Sioux Tribe Police Department.

7. Jamie Brave Heart was at the Pine Ridge Hospital to complete an evaluation and was being escorted by Officer Hunter.

8. While in or near the emergency department of the Pine Ridge Indian Health Hospital, Officer Hunter shot Jamie Brave Heart numerous times, causing the death of Brave Heart.

9. The defendant, and the Department of Interior and Bureau of Indian Affairs, an agency of the United States, acting by and through Officer Hunter, a servant and employee of the Oglala Sioux Tribe Police Department, deemed to be an employee and agency of the United States, acting within the course and scope of employment, were negligent, including but not limited to the following;

- (a) Using excessive force;
- (b) Failure to use restraint rather than deadly force;
- (c) Failure to summons other persons to assist in restraint of subject;
- (d) Failure to abide by policies in use of deadly force;

- (e) Using deadly force when reasonable alternatives were available;
- (f) Overreacting to a perceived threat;
- (g) Failing to disarm subject prior to or at time taken into custody; and
- (h) Such other reasons as revealed by discovery.

11. As a proximate cause and cause in fact of the negligence of the defendant, Jamie Brave Heart suffered pain and suffering as a result of his injuries leading to his death.

12. At the time of his death, Jamie Brave Heart was 28 years old and had a life expectancy of at least 45 years. He suffered pain and suffering prior to his death. His estate has been deprived of his instruction, moral training, superintendence, counsel, guidance, aid, loss of advice, assistance, companionship, society, and protection.

13. If defendant were a private person it would be liable to Plaintiff in accordance with the laws of the State of South Dakota and the Oglala Sioux Tribe.

14. On or about October 16, 2017, Plaintiff timely filed her administrative claims with the appropriate agencies as required by law seeking compensation in the amount of \$2,000,000.00. The claim was denied on February 07, 2018, entitling Plaintiff to commence this action, within six months thereafter.

WHEREFORE, Plaintiff demands judgment against the United States in the sum of \$2,000,000.00 to compensate the estate for the pain and suffering and for the wrongful death of Jamie Brave Heart, plus costs and disbursements, and such other relief as may be deemed just in the premises.

Dated this 30th day of July, 2018.



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