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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
GREAT FALLS DIVISION

CARLA GRANT, Personal Representative of	)	CV-22-62-GF-BMM-JTJ
the Estate of Clayburn Grant,	)	
	)	<b>FIRST AMENDED COMPLAINT</b>
Plaintiff,	)	
	)	
v.	)	
	)	
BRADLEY NORTON, UNITED STATES OF	)	
AMERICA, and DOES 1-10,	)	
	)	
Defendants.	)	

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**INTRODUCTION**

1. Carla Grant is an enrolled tribal member of the Fort Belknap Indian Community and a citizen of the State of Montana. She is a surviving sibling and personal representative of the Estate of Clayburn Grant, who was shot and killed by Defendant Bradley Norton on October 23, 2021.

2. This Court has jurisdiction over this cause of action pursuant to the Federal Tort Claims Act, 28 U.S.C. 2671, *et seq.*, because the claim arises from conduct of

**FIRST AMENDED COMPLAINT** **PAGE 1**

federal government agents and Plaintiff has exhausted administrative remedies.

3. This Court has exclusive jurisdiction over tort claims brought against the United States pursuant to 28 U.S.C. § 1346(b).

4. This Court also has subject matter jurisdiction over claims specified in this Complaint pursuant to 42 USC §1983, 28 USC §1331, 28 USC §1343, and 42 USC §1988. Plaintiff also seeks redress for violations of protections afforded under the Montana Constitution.

5. Plaintiff filed Federal Tort Claim Act claims on December 6, 2021. The government has not acted on the claims, therefore Plaintiff's claims are now ripe for adjudication.

6. Jurisdiction for state law claims against all Defendants pursuant to the law of the State of Montana is conferred upon this Court pursuant to 28 U.S.C. §1367.

7. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(e) and 1402(b), and LR 3.2. Blaine County is located in the Great Falls Division of the United States District Court for the District of Montana. The events giving rise to the claims in this case occurred in this judicial district.

8. Plaintiff Carla Grant is the Personal Representative of the Estate of Clayborn Grant and is a citizen of the State of Montana and a resident of Harlem, Montana.

9. Based on information and belief, Defendant Bradley Norton is a citizen of the State of Montana and a resident of Blaine County, Montana. Defendant Norton was a Ft. Belknap tribal police officer at all times pertinent to this matter. He is sued in both his individual and official capacities. It is unknown to Plaintiff if Defendant Norton holds a Special Law Enforcement Commission from the Bureau of Indian Affairs and whether he is considered an “investigative or law enforcement officer” under 28 USC §2680(h), thus Plaintiff has brought claims here against Defendant Norton individually as well as the United States.

10. Defendants Does 1-10 are individuals whose true identities and capacities are as yet unknown to Plaintiff and her counsel, despite diligent inquiry and investigation, and who acted herein as described more particularly below in connection with the breaches of duties and/or violations of law alleged here and who in some manner or form not currently discovered or known to Plaintiff may have contributed to or be responsible for the injuries alleged here. The true names and capacities of the Doe Defendants will be substituted as they become known.

### **FACTUAL ALLEGATIONS**

11. On October 23, 2021, Fort Belknap BIA police officer Bradley Norton shot and killed Clayburn Grant near Hays, Montana, on the Fort Belknap Indian Reservation.
12. On October 23, 2021, Carla Grant, Clayburn Grant's sister, drove to Clayburn Grant's house. As Ms. Grant turned into Clayburn Grant's driveway, Ms. Grant noticed that Bradley Norton was parked on the road near Clayburn Grant's house observing Clayburn Grant's house and property.
13. Ms. Grant told Clayburn Grant that Bradley Norton was parked and watching Clayburn Grant.
14. Clayburn Grant got in his truck and drove toward the mission in Hays, and Bradley Norton activated his lights and pursued Clayburn Grant. Ms. Grant and Clayburn Grant's minor daughter AG followed Bradley Norton.
15. Clayburn Grant drove to the mission, then returned to his house and spun a donut in front of his house.
16. Clayburn Grant then got out of his truck with a hunting rifle in his left hand with the barrel pointing at the ground.

17. Bradley Norton, who had pursued Clayburn Grant all the way back to Clayburn Grant's house, got out of his vehicle and shot four bullets at Clayburn Grant, one of which struck Clayburn Grant in the chest.

18. Ms. Grant and Clayburn Grant's minor daughter AG, who had followed Bradley Norton the entire time, got out of their vehicle and began to approach Clayburn Grant before Bradley Norton shot Clayburn Grant.

19. As soon as he was shot, Clayburn Grant fell the ground.

20. Bradley Norton rolled Clayburn Grant on his stomach and handcuffed Clayburn Grant and returned to his patrol car.

21. Bradley Norton made no effort to provide any medical assistance to Clayburn Grant, who was alive and breathing after being shot.

22. Another officer arrived about 20 minutes later. This officer also made no effort to provide any medical assistance to Clayburn Grant.

23. Two EMTs arrived in a truck about an hour later, and 30 minutes after that an ambulance arrived.

24. Clayburn Grant's minor children, his domestic partner, and other relatives witnessed the shooting, which took place right in front of Clayburn Grant's house.

25. This suit seeks money damages as compensation for the injuries and death that were caused by the negligent and wrongful acts and omissions of employees

of the United States Government acting within the scope of their office and employment, under circumstances where the United States, if a private person, would be liable in accordance with the laws of the State of Montana, as well as the negligent and wrongful acts of Defendant Norton.

26. The United State is liable for the actions and conduct of its agents, including Defendant Norton, as alleged in this Complaint, as he was acting within the course and scope of his employment as a BIA tribal police officer.

27. Defendant Norton's employer is liable for his actions as alleged in this Complaint, as he was acting in the course and scope of his employment.

28. While acting under the color of state law, agents of Defendants subjected Clayburn Grant to deprivation of rights, privileges, or immunities secured by the United States Constitution.

29. Defendants' agents acted with deliberate indifference to the substantial risk of serious harm to Clayburn Grant.

30. The acts of Defendant Norton and the acts of the agents of Defendant United States shock the conscience and offend the community's sense of fair play and decency, and resulted in harm to Clayburn Grant.

31. At all times pertinent, Defendants were subject to a duty of care under law to protect Clayburn Grant's constitutional, statutory, and common law rights.

Defendants and their agents breached the applicable standards of care, including negligent violation of Clayburn Grant's constitutional, statutory, and common law rights, and negligent performance of official duties.

32. The conduct of Defendant Norton and the conduct of the agents of Defendant United States caused the wrongful death of Clayburn Grant.

**COUNT 1**  
**42 USC § 1983**  
**INDIVIDUAL LIABILITY**  
**(Bradley Norton)**

33. Plaintiff hereby incorporates all previous paragraphs.

34. At all times in which he interacted with Clayburn Grant on or about October 23, 2021, Defendant Norton acted under color of law, statutes, ordinances, rules, regulations, customs, policies, practices, and/or usages of the Ft Belknap Tribal Police.

35. At all times in which he interacted with Clayburn Grant on or about October 23, 2021, Defendant Norton acted within the course and scope of his employment.

36. Defendant Norton, while acting under color of law, deprived Clayburn Grant of his civil rights under the Fourth Amendment to be free from detention and arrest not based on reasonable suspicion or probable cause, and to be free from unreasonable seizures and excessive force.

37. Defendant Norton, while acting under color of law, deprived Clayburn Grant of his civil rights under the Fourteenth Amendment to due process of law.

38. The acts and omissions of Defendant Norton, while carried out under color of law, have no justification or excuse in law, and instead constitute a gross abuse of governmental authority and power, shock the conscience, are fundamentally unfair, arbitrary and oppressive, and unrelated to any activity in which governmental officers may appropriately and legally undertake in the course of protecting persons or property, or ensuring civil order. The above acts and omissions were consciously chosen from among various alternatives.

39. Defendant Norton assaulted and killed Clayburn Grant in violation of rights guaranteed to Clayburn Grant under the United States Constitution.

40. This unnecessary and unwarranted use of force was an unlawful and excessive use of force, in violation of Clayburn Grant's rights.

41. Each of the foregoing acts and/or omissions in this Count directly and proximately caused or contributed to Clayburn Grant's constitutional deprivations, injuries, and damages. Clayburn Grant suffered great mental and physical pain and wrongful death, and he sustained damages in a sum to be determined at trial.



**COUNT 2**  
**42 USC § 1983**  
**ENTITY LIABILITY**  
**(Bradley Norton & Does 1-10)**

42. Plaintiff hereby incorporates all previous paragraphs.

43. The Fort Belknap Tribal Police established policies, customs, and practices that caused the violation of Clayburn Grant's rights under the United States Constitution.

44. The policies, customs, and practices implicitly or explicitly adopted by the Fort Belknap Tribal Police amounted to deliberate indifference to and conscious disregard of Clayburn Grant's constitutional rights and ratification of violation of those rights.

45. Defendant Norton was not properly trained or supervised, and these failures to train and supervise Defendant Norton were the moving force behind these constitutional violations.

46. These constitutional violations were acts of official governmental policies.

47. Each of the foregoing acts and/or omissions in this Count directly and proximately caused or contributed to Clayburn Grant's constitutional deprivations, injuries, and damages. Clayburn Grant suffered great mental and physical pain and wrongful death, and he sustained damages in a sum to be determined at trial.

**COUNT 3**  
**MONTANA CONSTITUTIONAL RIGHTS**  
**(Bradley Norton & Does 1-10)**

48. Plaintiff hereby incorporates all previous paragraphs.

49. Pursuant to the Montana Constitution, *see Dorwart v. Caraway*, 58 P.3d 128 (Mont. 2002), Clayburn Grant had the fundamental, inalienable, and self-executing rights to individual privacy; to be secure in his person, papers, home, and effects from unreasonable searches and seizures; and not to be deprived of life, liberty, or property without due process of law.

50. Defendants' acts and omissions related to the incident involving Clayburn Grant on October 23, 2021, violated Clayburn Grant's constitutional rights.

51. Clayburn Grant had the right to seek recourse against those who violated his constitutional rights, and Plaintiff is pursuing recourse on his behalf.

52. Each of the foregoing acts and/or omissions in this Count directly and proximately caused or contributed to Clayburn Grant's constitutional deprivations, injuries, and damages, and Clayburn Grant is entitled to compensatory damages and attorneys' fees for Defendants' violations of his state constitutional rights.

**COUNT 4**  
**NEGLIGENCE**  
**(United States)**

53. Plaintiff hereby incorporates all previous paragraphs.

54. At all times in which he interacted with Clayburn Grant on or about October 23, 2021, Defendant Norton acted within the course and scope of his employment.

55. At all times pertinent to this Complaint, Defendant Norton was subject to a duty of care under state law in the exercise of the police function to protect Clayburn Grant's constitutional, statutory, and common law rights. The conduct of Defendants as set forth in this Complaint does not comply with the standard of care, and included negligent use of excessive force; negligent training, supervision and discipline of law enforcement officers; negligent enactment, enforcement, and violation of law enforcement policies and procedures; negligent violation of Clayburn Grant's constitutional, statutory, and common law rights; and negligent performance of official duties.

56. As a direct and proximate result of Defendants' negligence, Clayburn Grant suffered injuries.

**COUNT 5  
ASSAULT AND BATTERY  
(United States)**

57. Plaintiff hereby incorporates all previous paragraphs.

58. At all times in which he interacted with Clayburn Grant on or about October 23, 2021, Defendant Norton acted within the course and scope of his employment.

59. Defendant Norton intentionally made harmful or offensive contact with Clayburn Grant by shooting and killing him. Defendant Norton's use of force exceeded that necessary to restrain or detain or arrest Clayburn Grant.

60. Defendant Norton's intentional acts constituted assault and battery upon Clayburn Grant, and directly and proximately caused the death of Clayburn Grant.

### **COMPENSATORY DAMAGES**

61. As a direct result of Defendants' unlawful conduct, Clayburn Grant suffered violations of his constitutional rights as set forth above.

62. As a direct and proximate result of Defendants' unlawful conduct, Clayburn Grant suffered physical and emotional pain and injuries and death.

63. Plaintiff should receive lawful damages under Montana's survival statute, MCA § 27-1-501, and wrongful death statute, MCA § 27-1-513, as follows:

A. For the wrongful death of Clayburn Grant and the loss of economic and family support, expected future earnings, as well as the companionship, affection, society, consortium, comfort, and services

he provided to his family;

B. For Clayburn Grant's mental anguish, pain, and suffering before he died;

C. For Clayburn Grant's funeral and burial costs.

### **ATTORNEYS' FEES**

64. Pursuant to 42 USC § 1988, the Court may allow an award of attorneys' fees to Plaintiff if she prevails on claims asserted under 42 USC § 1983.

65. Plaintiff is entitled to recover reasonable attorneys' fees for violations of state constitutional rights under Montana's private attorney general doctrine.

### **RELIEF**

WHEREFORE, Plaintiff respectfully requests this Court to grant the following relief:

1. For damages in a reasonable amount to compensate Plaintiff fully for deprivation of Clayburn Grant's constitutional rights;
2. For damages in a reasonable amount to compensate Plaintiff fully for Clayburn Grant's injuries and death;
3. For attorneys' fees pursuant to 42 USC § 1988;
4. For reimbursement of costs and expenses of suit; and
5. For such further relief as the Court deems fair and just.

Dated this 29th day of August, 2022.

/s/Timothy M. Bechtold  
BECHTOLD LAW FIRM

Attorneys for Plaintiff