

2. Contrary to Defense argument, Bivens does apply because we argue there was an **unreasonable search with no probable cause** by law enforcement in violation of Fourth Amendment rights,
3. The next of kin asserts the conduct and actions of the officers and witness during and after Brandon Richard Laducer's death have caused hardship for his child and mother. This includes social media posts, contacting Go Fund Me and making a "false" fraud claim that delayed payment to next of kin for expenses for at least 3 months, and officers and witness making "false and misleading statements to community members and business owners regarding the events leading up to and after Brandon Richard Laducer's death. We intend to prove that a narrative was set by the Federal Bureau of Investigation and the Bureau of Indian Affairs that are not aligned with the North Dakota Bureau of Criminal Investigation (NDBCI) Summary. These misleading statements have caused irreparable harm to Brandon Richard Laducer's reputation and to his next of kin as his mother has faced financial hardship throughout this ordeal. His mother had an officer from another tribe place their right hand on their gun as to intimidate her in a Starbucks parking lot. This occurred in Indio CA and a formal complaint was filed. This officer is the Director of Public Safety and was recently arrested for kidnapping, torture, and assault of his wife/girlfriend. This officer might know one of the officers named in this suit or has spoken to Bureau of Indian officers in Belcourt. Either way, he was hostile towards Brandon Richard Laducer's mother for no reason.
4. The next of kin asserts there were Freedom of Information requests presented to the Bureau of Indian Affairs, Department of Justice, and Bottineau County with no response or compliance. If it were not for the limited assistance of an attorney, we would not have received the NDBCI Summary. The government's intent was to bury the report and any/all evidence. As of now we still do not have access to video, interview reports, pictures, etc. The date we received the NDBCI Summary was May 2022, the deadline for filing the Civil Torte on behalf of Brandon Richard Laducer was August 23, 2022.
5. The next of kin to Brandon Richard Laducer believe the officers and witness involved are officially and individually responsible and should not be afforded protection per Qualified Immunity because we believe they violated his Fourth Amendment rights. Illegal search and seizure on Tribal Lands violates the Indian Civil Rights Act of 1968 as well. The only reason the Bureau of Indian Affairs officers were at the Laducer homestead is because they used the "guise" of a warrant they knew was not Brandon Lee Laducer and acted anyway. Brandon Lee Laducer is a Caucasian male who has a different body type and build and whose residence is listed as Dunseith North Dakota. At the time of the incident, McGirt V Oklahoma had not been decided by the Supreme Court and Bureau of Indian Affairs officers did not have authority to detain a non-Indian on tribal lands. Certain areas of Dunseith are not tribal land so they would have had to engage Rolette County Sheriff's department to pursue Brandon Lee Laducer at his homestead.
6. Brandon Richard Laducer was a resident of West Fargo North Dakota and was gainfully

employed at All Finish Construction until his death. He only went to Belcourt that night on the advice of his father. **The Turtle Mountain Tribal Court only has authority regarding members living within the boundaries of the Turtle Mountain Indian Reservation, if a person is a contracted employee of the Turtle Mountain Band of Chippewa or if Brandon Richard Laducer was filing suit against the tribe for employment relief or medical malpractice. The tribe does not have authority over this case as it was handed over to the FBI per DOJ guidelines and therefore is according to federal jurisdictional law, to be heard in federal court.**

7. The defense states that the individual capacity filings are misguided and fail to meet practical law. We intend to prove that the officers failed to follow and adhere to policies and procedures set forth by the Department of Justice/Bureau of Indian Affairs employee handbook. Their blatant disregard of following prescribed policies disqualifies them to be protected by Qualified Immunity.
8. Officers employed by the State of North Dakota did not have probable cause to be at the Richard Laducer residence and did not obtain proper warrant or permission to be at the Richard Laducer homestead. The Rolette County Sheriffs office failed to fully investigate the circumstances in Bottineau County before calling for assistance per NDBCI Summary.
9. The Plaintiff did not state Brandon Richard Laducer was in possession of a firearm, the plaintiff was only reciting what was stated in NDBCI Summary.

LAW AND ARGUMENT

1. In response to the three motions to dismiss, we are aware that Qualified Immunity shields executive officials and or/officers from civil liability when "their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known. *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982).
2. However, we believe that on the facts alleged, there was a "disproportionate relationship between the need for the use of the force and the amount of force used.
3. The FOIA process was violated because we never received any information from the Bureau of Indian Affairs, Department of Justice, or Bottineau County after documented submittals. This could provide for the possibility of sanctions against an individual agency employee under limited circumstances. Specifically, if a district court assesses attorney fees against the federal government *and* finds that the agency acted "arbitrarily or capriciously" in improperly withholding records, the U.S. Office of Special Counsel must "initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding." 5 U.S.C. § 552(a)(4)(F).
4. Per the Bureau of Indian Affairs (BIA) and Office of Justice Services (OJS), Third Edition, 2015, in an officer involved shooting, the commanding officer must notify next of kin. This did not occur, neither Renee K Martin nor Gene Richard Laducer were contacted.

5. The investigating officer per BIA/OJS policy must wait a minimum of 24 hours to interview any witnesses so they can take care of personal effects or obtain counseling or assistance. This did not occur according to NDBCI Summary, the only report the next of kin possesses. Instead, the investigating officer, Mr. Messman, took the family to the Sky Dancer Casino within 6-8 hours of the shooting and conducted the interviews in a public forum. According to BIA/OJS policy, those interviews are required to be recorded and conducted with each individual witness. We should have access to those recordings as well as the statements. Brandon Richard Laducer's paternal grandfather is employed at the casino and was hurt and shocked this happened at his workplace. The police officers were demonstrating in public how they were shooting Brandon. The next of kin had to lodge thirty miles away from where the wake and funeral were held and were treated badly. Mr. Messman told members of Brandon Richard Laducer's maternal family in Bismarck ND on February 17, 2021, that the reason the police officers were at the Richard Laducer homestead was due to Ms. Annette Laducer having a "mental health" crisis. We contend Mr. Messman's misleading statements and his conduct violated how interviews with witnesses are to be conducted and this makes him accountable in an official and individual capacity. What he stated in front of an Assistant US Attorney did not align with the NDBCI Summary which the State of North Dakota maintains is what transpired on August 23, 2020.

We intend to prove there are other cases involving homicides on the Turtle Mountain Band of Chippewa reservation in which Mr. Messman acted in a comparable manner.

6. Chief of Police Earl Charbonneau violated BIA/OJS handbook policies to include not properly obtaining warrant to enter the Richard Laducer homestead. According to the handbook, a warrant request must include name, date of birth, and other distinguishing marks/characteristics as well as what tribal jurisdictional law Brandon Richard Laducer violated on tribal lands. A warrant cannot be issued without that information. And if Ms. Laducer was having a mental health crisis per FBI agent Messman's statement to next of kin, then the number of patrols and force was unwarranted. Brandon Richard Laducer would have had to commit a "felonious" crime on tribal lands for BIA officers to request assistance from Border Patrol and other participating agencies. Bottineau County is not part of the multi-jurisdictional agreement Turtle Mountain has with the State of North Dakota. Mr. Charbonneau should have known that there was not enough cause to or enter the homestead without warning, lights, or permission. Also, whoever entered the homestead needed to record through a recording device, the homestead owner's approval to enter the residence. Is there a recording of Richard Laducer stating the officers could enter the premises to address Ms. Laducer's mental health crisis or search for Brandon Lee Laducer? Mr. Charbonneau on Sunday, August 23, 2020, while Mr. Messman was setting the "tone" at the casino, took it upon himself to share a different narrative from the NDBCI Summary, with store workers and owners at Ace Hardware in Dunseith,

North Dakota. Mr. Charbonneau was not aware that the individuals that he was speaking to were Brandon Richard Laducer's maternal grandmother's nieces. One of the individuals relayed what was said by Mr. Charbonneau to Darlene Enno on August 26, 2020. Mr. Charbonneau stated that Brandon Richard Laducer was shooting at officers. The handbook clearly states that any/all information pertaining to an officer involved shooting must be kept confidential and only the FBI can share with the media or other "interested" parties any information pertaining to the investigation. I do not believe store workers fit the interested party's category and this business is located off tribal lands and is owned by non-Indians. Since the Chief of Police violated this very premise, he should be held accountable in both an official and individual capacity.

7. Officer Parisien not only acted with brutality, but he also bragged about it and even posted about the experience while he was on leave. As demonstrated, he stated he felt exhilarated while in Denver, Co during his suspension. Per the BIA/OJS handbook, he was not to post anything on social media and he is not even supposed to identify as an officer on social media. Mr. Parisien has also been accused of excessive force in his past and his recent social media posts regarding vigilantism which is a violation of policy per the BIA/OJS handbook. Mr. Parisien also contacted the Bottineau business on August 23, 2020, and stated they did not have to worry about Brandon Richard Laducer anymore. This action is also negligent because it is the commanding officer who was to contact next of kin or any other interested parties. Mr. Parisien should have been immediately relieved of his duties after the shooting and removed from the property instead of calling business owners off tribal lands. This violates Brandon Richard Laducer's civil and constitutional rights as he has a right to confidentiality and due process. Bottineau County Sheriff's County Department would have to have issued a warrant for Brandon Richard Laducer's arrest. Bottineau County Sheriff's County would have had to request assistance through Bureau of Indian Affairs commanding officer. They would have been in communication with one another if there was an active pursuit. That would have changed once the FBI arrived on the scene. We believe Mr. Parisien has displayed no remorse, acted in an illegal and unconstitutional manner as it pertains to excessive force. And his social media posts imply a vigilante approach to policing.
8. Ms. Annette Laducer contacted GoFundMe complaint line and claimed fraud. This Go Fund Me was started by Brandon Richard Laducer's maternal cousin Amanda DeCoteau and had nothing to do with Ms. Laducer. This "meanness" delayed payment for expenses for months. This was clearly a violation of policy as Ms. Laducer was a witness for the government and she was to refrain from any action that could be construed as harassing the victim's family. This includes text messages, social media messages that malign Renee K Martin's character. Renee K Martin and Gene Richard Laducer were never married nor would be eligible to be considered common law per Turtle Mountain Tribal Code. Their relationship ended on September 28, 1990. Therefore, neither Ms. Annette Laducer, nor

any of Mr. Laducer's family or wives, girlfriends etc., have a right or authority in Ms. Martin's personal or professional life. Because Ms., Annette Laducer harassed and threatened members of the victim's family and violated BIA/OJS policy as well as Tribal Code pertaining to assault and terroristic threats, she should not be protected by Qualified Immunity in either an official or individual capacity.

9. Lastly, the government itself violated the law and their prescribed BIA/OJS policies and procedures pertaining to Conduct, Investigations, Warrantless Searches, Officer Leave Pending Investigation, Refusal to comply or even answer FOIA requests, Indian Civil Rights of 1968, and other various polices that are included. The Rolette County Officers failed to recognize Brandon Richard Laducer's sovereign rights by failing to obtain probable cause and permission from the homestead owner Richard Laducer before entering the property. The officers used a warrant for another Brandon Laducer not realizing they were in violation of Tribal and Federal Jurisdictional law because Brandon Lee Laducer is Caucasian and lives off reservation in Dunseith North Dakota. They did not obtain proper permission to be on the premises nor did they have probable cause. Brandon Richard Laducer was afforded rights as a Turtle Mountain Band member to be safe at his grandfather's homestead for that evening. If the Tribal, Federal, or State authorities had just cause to be at the residence, then they should have followed prescribed laws and not entered the homestead illegally or under false pretense. All the officers listed participated and did nothing to question, stop or document the violations of policies per their Code of Conduct. How can the defense state the Plaintiff is deeply misguided and fails to meet basic law principle, when it is they who has denied Brandon Richard Laducer and his next of kin their basic constitutional right receive all materials and documents relating to this tragedy. It is the United States of America that we believe attempted to cover up the truth of what transpired on August 23, 2020, because it would prove that Brandon Richard Laducer's Fourth Amendment rights were violated. As well as the Indian Civil Rights Act of 1968 as there was no just cause on tribal lands to be at the Richard Laducer residence with such force.

CONCLUSION


In conclusion, we believe the motion to dismiss in all capacities by all defendants is grossly unjust and should be denied for the reasons described above and per the documentation that is attached. Just the fact that information regarding the facts of what transpired has been requested and after three years, still not produced should be reason enough to move forward with these cases so the family and the community can know the truth of what happened on August 23, 2020.

We had a lawyer who ethically should have assisted the family but wanted more money than we could have afforded at such a late time. We have tried our best to communicate the laws and why we feel Brandon Richard Laducer's case be heard in court.

Till this day, no one knows what happened that night and per the administrative handbook and laws, the family should have received evidence and other documents by now. Without evidence, how can there be a crime. And if they do not have evidence of a crime, why were the officers there in the first place.

We pray the court denies the **motions to dismiss**.

Dated this 10 day of July 2023.

A handwritten signature in black ink, appearing to read "Renee K Martin", written over a horizontal line.

Signature

Renee K Martin

Printed Name

1111 W Columbia Way Apt 201

Address

Vancouver WA 98660

City, State, Zip Code

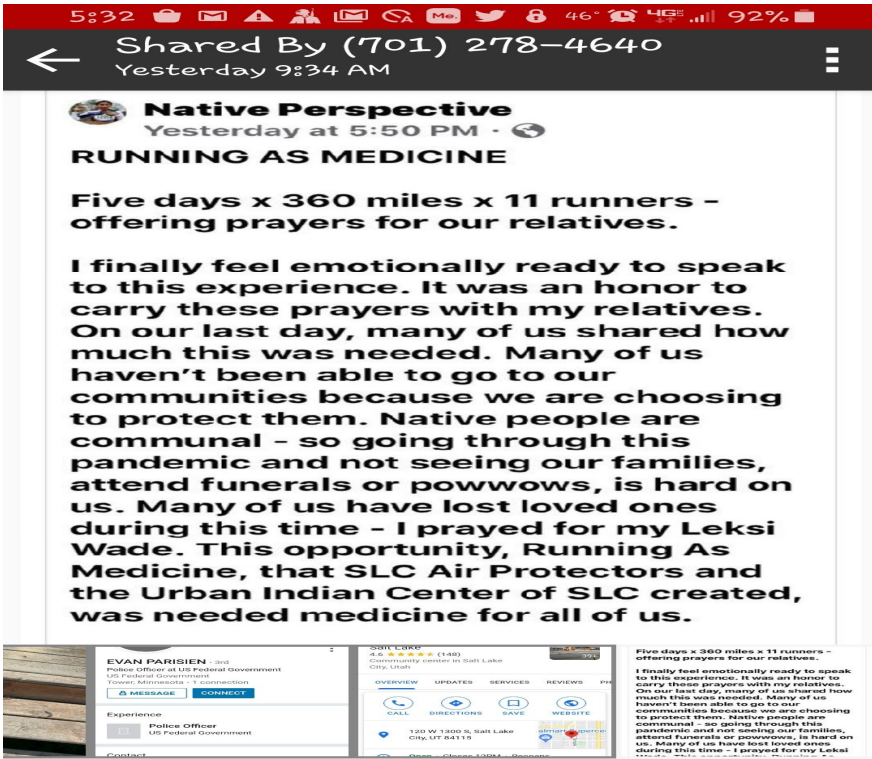
701-729-4474

Telephone Number

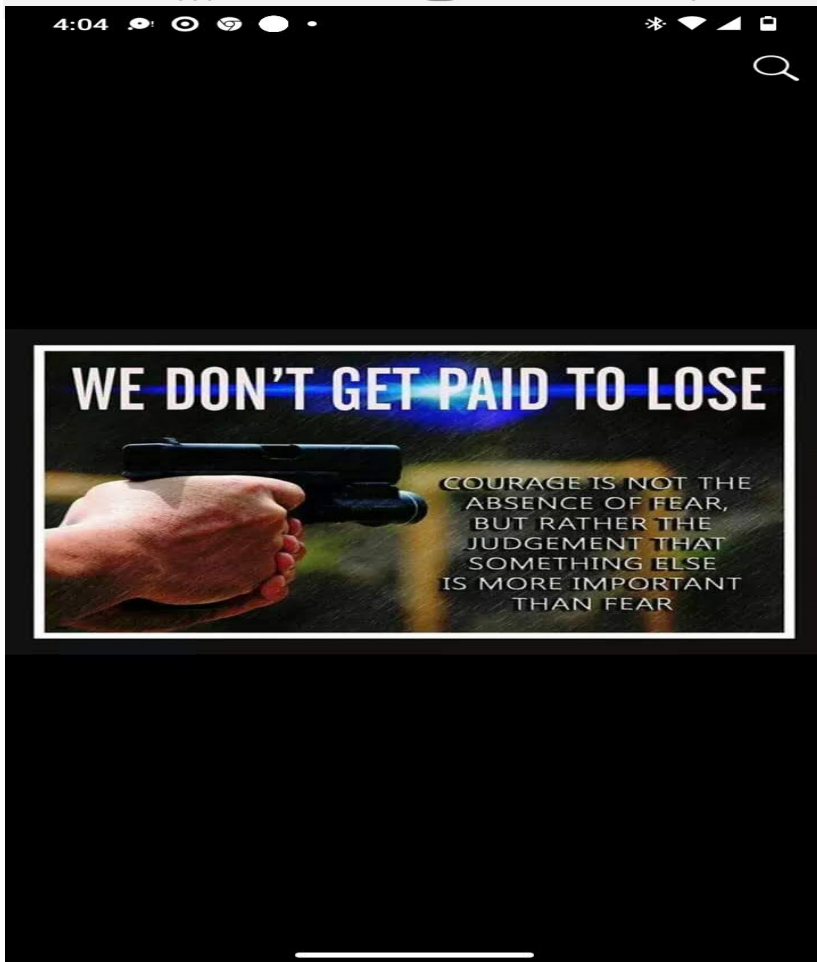
shenae3110@gmail.com

Email Address

Evan Parisien while on leave 2020



Evan Parisien Post on his FB Page



INFORMATION FOR **Brandon R Laducer** **Status: Terminated as of 08/19/2020**

Personal

Address & Contact

Additional Info

Payroll Info

Employment Info

Employment

Leave of Absence

Termination

EMPLOYMENT DATES

HIRE DATE 07/21/2020

ORIGINAL HIRE DATE 08/30/2011

ADJUSTED SERVICE DATE

RELEASE DATE (LAST DATE ON PAYROLL) 08/19/2020

Deceased

Brandon R Laducer
 624 6th Street East
 Apt #1
 West Fargo, ND 58078

Employee Pay Stub	Check number: ACH	Pay Period: 08/17/2020 - 08/23/2020	Pay Date: 08/28/2020	
Employee		SSN		
Brandon R Laducer, 624 6th Street East, Apt #1, West Fargo, ND 58078		***-**-8811		
Earnings and Hours				
	Qty	Rate	Current	YTD Amount
ND Hourly	29:11	18.00	525.30	2,441.40
MN Hourly				213.60
ND OT Pay				234.00
	29:11		525.30	2,889.00
Taxes				
			Current	YTD Amount
Medicare Employee Addl Tax			0.00	0.00
Federal W/H			-17.00	-155.00
Social Security Employee			-32.57	-179.12
Medicare Employee			-7.62	-41.89
ND - Withholding			-4.00	-24.00
			-81.19	-400.01
Adjustments to Net Pay				
			Current	YTD Amount
Per Diem - Not Job Specific			25.00	25.00
Net Pay			489.11	2,513.99