

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FRANCIS A.L. ENGLEBRIGHT, and	)	
ROSELLA ENGLEBRIGHT, individually and	)	
as co-special administrators of the estate	)	
of FRANCIS A.L. ENGLEBRIGHT, JR.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No.: 24-CV-552-CDL
	)	Attorneys' Lien Claimed
SHANNON BUHL, KODY FISHER, ERIN	)	Jury Trial Demanded
FAULKENBERRY, BRYAN SMITH, special	)	
administrator of the estate of BRIAN	)	
CATCHER, deceased, and UNITED	)	
STATES OF AMERICA,	)	
	)	
Defendants.	)	

**AMENDED COMPLAINT**

COME NOW Plaintiffs and for their claims and causes of action against Defendants and each of them state and allege:

1. Plaintiffs invoke federal jurisdiction under 28 U.S.C. § 1331, in that they claim the individual Defendants have violated Plaintiffs' constitutional rights, and under 28 U.S.C. § 1446(b), in that they claim liability of the United States of America by virtue of the FTCA, 28 U.S.C. §§ 2671 *et seq.*
2. Plaintiffs, Francis Lloyd Englebright and Rosella Englebright, are residents of Mayes County, Oklahoma, and are the duly appointed, qualified and acting co-special administrators of the estate of Francis A.L. Englebright, Jr., deceased.
3. Defendants Shannon Buhl, Kody Fisher, and Erin Faulkenberry are citizens of the State of Oklahoma.

4. Bryan Smith is a citizen of Oklahoma and is the duly appointed, qualified and acting special administrator of the estate of Brian Catcher, deceased.
5. Timely notices under the FTCA were given to Defendant USA, which has denied them, and this action timely commences. All conditions precedent to this action have been met.
6. On or about the 29<sup>th</sup> day November, 2022, Defendants, and each of them, violated the Fourth, Fifth and Fourteenth Amendments to the U.S. Constitution by directing and conducting unreasonable searches and seizures upon Plaintiffs and their decedent and further exercised excessive force in directing and conducting the shooting and killing of Francis A.L. Englebright, Jr., who was unarmed and not dangerous, and in destruction of Plaintiffs' real and personal property.
7. Upon information and belief, Defendant Shannon Buhl at the time was the marshal of the Cherokee Nation and was the head of a group of law enforcement officers, both tribal and state/state subdivision, who went to the property of Plaintiffs and who directed all law enforcement activity at the scene.
8. Upon information and belief, Defendant Kody Fisher was the assistant marshal of the Cherokee Nation and was second in charge at the scene.
9. Upon information and belief, Defendant Erin Faulkenberry was, at the time, a member of the Cherokee Nation Attorney General's office and was at the scene to direct the arrest of decedent.
10. Upon information and belief, Defendants Buhl, Fisher and Faulkenberry acted

as a triumvirate at the scene in jointly directing all activity there.

11. Upon information and belief, the persons identified in paragraphs 7-10 above from the beginning of the encounter recklessly and intentionally escalated the situation by threatening decedent with arms when he was giving up, even though he was unarmed and not dangerous.
12. Upon information and belief, Bryan Catcher and/or others were the sharpshooters for the Cherokee Nation Marshal Service and are the persons who, at the direction of the triumvirate, shot the decedent, which shooting was reckless and intentionally without right, as Defendants escalated the situation and decedent was unarmed and not dangerous.
13. Upon information and belief, each of the Defendants acted in agreement and consultation as to the activity that took place at the scene, which resulted in decedent's death. Such activity included not only the shooting and killing of decedent, but also the warrantless seizure and handcuffing of Plaintiff Francis Lloyd Englebright, the warrantless and without right removal from her property of Plaintiff Rosella Englebright, and post-killing warrantless entry into Plaintiffs' house and destruction of their real and personal property.
14. Defendant USA is liable for the actions of members of the Cherokee Nation Marshal Service by virtue of 25 CFR and their contract under the Indian Self-Determination and Education Assistance Act. 25 CFR §§ 900.180 *et seq.*; 25 CFR §§ 1000.270 *et seq.*
15. As a result, the survivors of the decedent, including his parents and children, have suffered grief, loss of companionship, pecuniary loss, and incurred

funeral expenses.

16. As a further result, the Plaintiffs individually have suffered a needless destruction of their property, warrantless seizures, and personal injuries from their seizures.
17. Plaintiffs' allegations herein based on information and belief include the results of their investigation into the matter, by interviewing witnesses, asking governmental entities for information, and reasonable deductions from the facts as they have witnessed or found them.

WHEREFORE, premises considered, Plaintiffs and each of them pray for judgment against Defendants and each of them in the sum of \$7,300,000.00 for damages from the wrongful acts against decedent, and further \$175,000.00 individually for damages to them and their property.

Respectfully submitted,

FRASIER, FRASIER & HICKMAN, LLP

By: **/s/Steven R. Hickman**  
Steven R. Hickman, OBA #4172  
1700 Southwest Blvd.  
Tulsa, OK 74107  
Phone: (918) 584-4724  
Fax: (918) 583-5637  
E-mail: [info@frasierlaw.com](mailto:info@frasierlaw.com)  
Attorney for Plaintiffs