

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MINNESOTA

Civil Action, File Number 12-306 JNE/JJG

Mohamed Guled Abdi, trustee for the
Heirs and next-of-kin of
Ahmed Mohamed Guled, Decedent,

Plaintiff,

COMPLAINT

vs.

Officer Christopher Garbisch,
Officer Jeffrey Newman,
Officer Shawn Powell,
Officer Chad Conner,
Officer Brandon Bartholomew,
Officer Chris Tucker, and
The City of Minneapolis,

JURY TRIAL DEMANDED

Defendants.

Plaintiff, as trustee for the heirs and next-of-kin of Ahmed Mohamed Guled, for his
complaint and causes of action against the above-named Defendants, alleges and states as
follows:

INTRODUCTION

1. This is an action for damages arising out of an incident which occurred on or about
February 6, 2009, on Morgan Avenue North located in the City of Minneapolis, County
of Hennepin, State of Minnesota, where Defendant City of Minneapolis police officers
Christopher Garbisch, Jeffrey Newman, Shawn Powell, Chad Conner, Brandon



Bartholomew, and Chris Tucker, acting in the course and scope of their official capacity and under color of state law, without reasonable justification, used excessive force and deadly force in an attempt to stop, detain and arrest Decedent Ahmed Mohamed Guled. The Defendants, without justification, intentionally and brutally assaulted, battered, tortured, inflicted emotional distress and killed Decedent, when he posed no objective risk of substantial bodily harm or death to any individual. As a direct a proximate result of the use of unreasonable, excessive and deadly force, Decedent was shot multiple times and killed from the gunshot wounds. Decedent and his family suffered death, the deprivation of constitutional rights and pecuniary losses.

2. That Decedent's father, Mohamed Guled Abdi, was duly appointed as trustee for the purposes of commencing the above-entitled action on January 24, 2011, approved by the court in Hennepin County District Court for the State of Minnesota, found by civil filing 27-CV-11-24117.
3. That the plaintiff, Trustee herein, alleges claims under 24 U.S.C 1983 against the Defendants for violating Decedent's constitutional rights, including, but limited to, the right to not be subject to unreasonable, excessive and deadly force by peace officers, and Decedent's rights to due process under the 14th Amendment. Plaintiff's claims are based upon defendant police officers' use of excessive force and deadly force against the Decedent.
4. Plaintiff also alleges state tort claims against the Defendants for wrongful death under Minn. Stat. 573.02. The trustee seeks compensatory and punitive damages on behalf of all the heirs and next-of-kin of Decedent.

5. Plaintiff alleges claims against the City of Minneapolis under state law for vicarious liability and direct liability for negligently hiring, training, supervising, controlling and retaining the individually named Defendants. Plaintiff, as trustee, seeks compensatory damages, punitive damages and statutory damages from the City of Minneapolis.
6. Plaintiff alleges claims against the City of Minneapolis, their employees and agents, for knowingly allowing Decedent to be intentionally assaulted, beaten, tortured and killed in the area of Morgan Avenue North, City of Minneapolis, County of Hennepin, State of Minnesota.
7. Plaintiff demands a jury trial.

II. PARTIES

8. That said Decedent was born on January 1, 1985, in Somalia and died on February 6, 2009 as the result of homicide. At the time of his death, Decedent resided at 1247 Saint Anthony Avenue, Apartment 820, Saint Paul, Minnesota.
9. That Decedent is survived by the following heirs and next-of-kin:
 - a. Mohamed Guled Abdi; Born 1-3-62; Father; 1247 Saint Anthony Avenue, Apt. 820, Saint Paul, Minnesota.
 - b. Wile Mohamed Guled; Born 1-1-88; Brother; Seattle, WA
 - c. Sulekh Mohamed Guled; Born 1-1-91; Sister; 1247 Saint Anthony Avenue, Apartment 820, Saint Paul, Minnesota.
 - d. Ardo Osman; Birthday unknown; Mother; Ethiopia, Address Unknown.
10. That as set forth above, Decedent's father Mohamed Guled Abdi, has been appointed by the Hennepin County District Court as Trustee for the purposes of commencing this

instant cause of action. For all times material herein, the Trustee resides at 1247 Saint Anthony Avenue, Apt. 820, Saint Paul, Minnesota.

11. That defendant police officers Christopher Garbisch, Jeffrey Newman, Shawn Powell, Chad Conner, Brandon Bartholomew, and Chris Tucker, for all times material herein, were employees, agents and/or servants of the City of Minneapolis. That for all times material herein and relevant to this action, the Defendants were acting in such capacity and within the course and scope of their official employment duties and under color of state law. Each individual named defendant is sued individually and in their official capacity.
12. That defendant City of Minneapolis is a statutory municipality and is the employer of the individually named defendant police officers, and is responsible for their hiring, training, retention, control and supervision. That Defendant City of Minneapolis is jointly and vicariously liable for the actions of its employees, agent and servants.
13. That the Defendants are not entitled to the defense of qualified immunity.

III. FACTS

14. That on or about February 6, 2009, Decedent operated a vehicle in the area of Morgan Avenue North in the City of Minneapolis, and at that time one or more of the individually named Defendants were following behind Decedent in one or more squad cars to conduct a traffic stop of Decedent. At the time Decedent was operating the vehicle on Morgan Avenue North, one or more of the individually named Defendants were also positioned ahead of Decedent on Morgan Avenue North for the purpose of an unrelated police call not involving Decedent, when suddenly and without warning several of the individually named Defendants, opened fire with their weapons, directing gunfire toward Decedent.

Decedent was shot multiple times by the Defendants and died on the scene from multiple gunshot wounds.

15. That as a direct and proximate result of the Defendants' actions and Decedent's death, the heirs and next of kin of Decedent have suffered extreme emotional distress, pecuniary loss, the loss of Decedent's aid, comfort, society, companionship, guidance and protection and have otherwise suffered damages all to their detriment in a sum well in excess of Fifty Thousand Dollars and no/100 (\$50,000.00).
16. That the Defendants herein acted both negligently and intentionally in committing all the above-described acts and causing the wrongful death of Decedent; that the Defendants acted deliberately, intentionally and with malice in shooting and killing Decedent.
17. That the Defendants acted in bad faith and with clear reckless disregard to Decedent's rights and showed willful indifference to his civil rights and safety.

FEDERAL CLAIMS FOR RELIEF AGAINST INDIVIDUAL DEFENDANTS

FIRST CLAIM: VIOLATIONS OF 42 U.S.C. SECTION 1983

COUNT I

18. Plaintiff hereby re-alleges and incorporates by reference all the facts and allegations contained in paragraphs 1 through 17 of this Complaint.
19. Defendants, acting under color of state law, deprived Plaintiff of his rights, privileges and immunities secured by the Constitution and laws, in violations of 42 U.S.C 1983, and by committing acts in violation of the Fourth and Fourteenth Amendment's protection against unreasonable stops, detentions, searches, seizures, and arrests and the Fourteenth Amendment guarantees of life, liberty and property, by using excessive, unreasonable

and deadly/lethal force against Decedent; and, for killing Decedent; and for allowing Decedent to be gunned down and killed by the Defendants acting in the course and scope of their official capacity and while under color of state law. The actions of the defendant officers committed against Decedent while stopping, seizing, detaining, arresting and searching him constituted greater force than would have appeared to a reasonable person under like circumstances to be necessary. Furthermore, one or more of the named Defendants intentionally disregarded the rights and safety of Decedent, intentionally disregarded settled police procedure and policies and state law, and allowed other named Defendants to shoot Decedent numerous times and be killed by fellow officers.

20. That as a direct result of the Defendants' conduct, the heirs and next-of-kin of Decedent suffered the damages set forth in Paragraph 15.

**FEDERAL CLAIMS AGAINST THE CITY OF MINNEAPOLIS:
FAILURE TO ADEQUATELY HIRE, TRAIN AND SUPERVISE POLICE
OFFICERS AND EMPLOYEES**

COUNT II

21. Plaintiff hereby re-alleges and incorporates by reference all the facts and allegations contained in paragraphs 1 through 20 on this Complaint.
22. Defendant City of Minneapolis was negligent in hiring, supervising, training, controlling and retaining Defendants Christopher Garbisch, Jeffrey Newman, Shawn Powell, Chad Conner, Brandon Bartholomew, and Chris Tucker in a manner amounting to deliberate indifference to the constitutional rights of the Decedent and his heirs and next-of-kin.

23. By failing to adequately hire, train and supervise Defendants Christopher Garbisch, Jeffrey Newman, Shawn Powell, Chad Conner, Brandon Bartholomew, and Chris Tucker, Defendant City of Minneapolis encouraged and implicitly authorized Defendants to use unreasonable, excessive and deadly/lethal force against Decedent thereby depriving him, and his heirs and next-of-kin, of their rights under the U.S. Constitution and 42 U.S.C. 1983. That the City of Minneapolis had improper municipal policies, procedures and guidelines amounting to the deprivation of civil rights to individuals and Plaintiff and Decedent herein. That one or more the individually named Defendants negligently and intentionally failed to supervise the others to prevent them from using excessive, deadly and lethal force against the Decedent.
24. As a result of Defendant City of Minneapolis' negligence in the hiring, supervising and retaining of Defendants Christopher Garbisch, Jeffrey Newman, Shawn Powell, Chad Conner, Brandon Bartholomew, and Chris Tucker and the City's negligence in failing to adequately train and supervise Defendants Christopher Garbisch, Jeffrey Newman, Shawn Powell, Chad Conner, Brandon Bartholomew, and Chris Tucker in the City's promulgation and implementation of certain policies, guidelines and procedures, Decedent and his heirs and next of kin suffered the damages described in paragraph 15 of this Complaint.

INTENTIONAL TORTS

COUNT III

25. Plaintiff hereby re-alleges and incorporates by reference all the facts and allegations contained in paragraphs 1 through 24 of this Complaint.

26. Defendant Christopher Garbisch, Jeffrey Newman, Shawn Powell, Chad Conner, Brandon Bartholomew, and Chris Tucker's use of deadly/lethal force against Decedent, which was extreme and outrageous, constituted assault, battery and intentional infliction of emotional distress; and constituted homicide, wrongful death and unjustified killing of Decedent.
27. As a direct and proximate result of the assault, battery and intentional infliction of emotional distress; and constituted homicide, wrongful death and unjustified killing of Decedent, Decedent's heirs and next-of-kin suffered damages as set forth in paragraph 15 of this Complaint.

STATE CLAIMS AGAINST THE CITY OF MINNEAPOLIS

COUNTY IV

28. Plaintiff hereby re-alleges and incorporates by reference all the facts and allegations contained in paragraphs 1 through 27 of this Complaint.
29. Defendant City of Minneapolis was negligent in the hiring, supervision, control and retention of Defendants Christopher Garbisch, Jeffrey Newman, Shawn Powell, Chad Conner, Brandon Bartholomew, and Chris Tucker.
30. As a result of the City of Minneapolis' negligence, Decedent and his heirs and next-of-kin suffered the damages described in paragraph 15 of this Complaint.

**STATE CLAIMS AGAINST DEFENDANTS CHRISTOPHER GARBISCH,
JEFFREY NEWMAN, SHAWN POWELL, CHAD CONNER, BRANDON
BARTHOLOMEW AND CHRIS TUCKER**

COUNT V

31. Plaintiff hereby re-alleges and incorporates by reference all the facts and allegations contained in paragraphs 1 through 30 of this Complaint.
32. That Defendants Christopher Garbisch, Jeffrey Newman, Shawn Powell, Chad Conner, Brandon Bartholomew, and Chris Tucker, individually and as to the other named Defendants, were negligent and further guilty of malfeasance for failing to properly supervise and control the others' actions and for failing to intervene and for allowing Decedent to be shot and killed.
33. As a result of the negligence of Christopher Garbisch, Jeffrey Newman, Shawn Powell, Chad Conner, Brandon Bartholomew, and Chris Tucker, Decedent and his heirs and next-of-kin suffered the damages described in paragraph 15 of this Complaint.

VICARIOUS LIABILITY OF DEFENDANT CITY OF MINNEAPOLIS

COUNT VI

34. Plaintiff hereby re-alleges and incorporates by reference all the facts and allegations contained in paragraphs 1 through 33 of this Complaint.
35. That Defendant City of Minneapolis is vicariously and supervisorally liable for the actions of their police officers, Defendants herein, and the damages flowing therefrom, pursuant to the doctrines of Respondeat Superior and Master Servant. Defendant City of

Minneapolis is also required to indemnify their employees, agents and servants pursuant to Minn. Stat. 466.07 and other settled law.

WHEREFORE, Plaintiff prays for judgment against the Defendants as follows:

RELIEF REQUESTED

1. Awarding judgment in favor of Plaintiff, as trustee for the heirs and next-of-kin of Decedent, against the Defendants, jointly and severally, in an amount in excess of Fifty Thousand and no/100 (\$50,000.00) Dollars as and for compensatory damages.
2. Awarding judgment in favor of Plaintiff, as trustee for the heirs and next-of-kin of Decedent, against the Defendants, jointly and severally, in an amount in excess of Fifty Thousand and no/100 (\$50,000.00) Dollars as and for punitive damages.
3. Awarding Plaintiff, as trustee for the heirs and next-of-kin of Decedent, his costs and disbursements incurred herein.
4. For such other relief as the Court deems just and proper.

Dated: 2-6-2012

M. A.
Mohamed Guled Abdi
1247 Saint Anthony Avenue, Apt. 820
Saint Paul, Minnesota
(612) 423-7590

ACKNOWLEDGMENT

The undersigned hereby acknowledges that costs, disbursements, and reasonable attorney and witness fees may be awarded pursuant to Minn. Stat. § 549.211, Subd. 2 and Fed. R. Civ. Pro. 11 to the party against whom the allegations in this pleadings are asserted.

Dated: 2-6-2012

M. A.
Mohamed Guled Abdi

JS 44 (Rev. 09/11)

CIVIL COVER SHEET

The JS 44 civil coversheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Mohamed Culed Abdi trustee for the Heirs
and next of kin of Ahmed Mohamed Culed
(b) County of Residence of First Listed Plaintiff Ramsey

(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

Officer Christopher Carbisich
Officer Jeffrey Newman
Officer Chad Conner - see attached
County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE:

IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

RECEIVED

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- (For Diversity Cases Only)
CLERK PTF DEF
U.S. DISTRICT COURT 1 1
MINNEAPOLIS, MINNESOTA
Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business In Another State ☐ 5 ☐ 5
Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

Ahmed Mohamed Guleed
See above mentioned subject on
first page-

- officer Brandon Bartholomeus
- officer Chris Tucker, and the City
- of Minneapolis