

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

NATASHA KAY,
Individually and as the Personal
Representative of the Estate of Deon
Dwayne Kay
761 Columbia Road, NW
Washington, DC 20001
Plaintiff,

Case No. 2021 CA 001767 B

v.

**ALEXANDER ALVAREZ
PETER NEWSHAM,
SERVE: Office of the Attorney
General for the District of Columbia**
400 6th Street, NW
Washington, DC 20001

Defendants.

COMPLAINT FOR WRONGFUL DEATH

Plaintiff, Natasha Kay, in her capacity as the personal representative of the Estate of Deon Dwayne Kay and his next of kin, files this action under the Survival Act of the District of Columbia codified as D.C. Code §12-101 for claims of wrongful death, negligence and related claims for incidents arising out of the September 2, 2020 shooting death of her son, Deon Dwayne Kay.

JURISDICTION

1. This Court has jurisdiction over this action pursuant to **D.C. Code § 1-204.3(a)** which vests the Court with “jurisdiction of any civil action or other matter (at law or in equity) brought in the District”.
2. Plaintiff has satisfied the requirements of D.C. Code 12-309 by filing notice on or about May 24, 2021 via first-class mail, May 25, 2021 via the District of Columbia’s Office of Risk Management’s e-filing service, and via certified mail on May 26, 2021.
3. Plaintiff, Natasha Kay, at all times relevant to the complaint resided in the District of Columbia.

PARTIES

4. Plaintiff, Natasha Kay, is the biological mother of decedent Deon Dwayne Kay and the Personal Representative of his estate.¹
5. Defendant Alexander Alvarez is a sworn officer employed by the Metropolitan Police Department. At all times during the events at issue he was acting under the color of law and within the scope of his employment. He is sued in his individual capacity.
6. Defendant Peter Newsham, at all times relevant to this complaint, was a sworn officer acting under the color of law and within the scope of his employment as the Chief of Police for the Metropolitan Police Department. He is sued in his individual capacity.

FACTS

¹ Case number pending.

7. On September 2, 2020, at approximately 1550 hours, Deon Kay ("Deon") was sitting in a parked vehicle in a rear parking lot of River Hill Apartments located at 225 Orange Street, SE.
8. At this time, Officer Alvarez and several members of the MPD Seventh District Crime Suppression Team (CST) were monitoring an Instagram Live feed from the account of "Babyfifty1."
9. The account was used by Marcyelle Smith, a rapper who releases music videos as "Baby Fifty."
10. During the live broadcast, Mr. Smith, Deon Kay, Deonte Brown, and an unidentified male were in a distinctive vehicle, at times displaying two handguns.
11. As a result of what the officers observed on Instagram, the CST team, led by Sergeant Terrence Welsh, Jr., began looking for Mr. Smith, Mr. Kay and the other men.
12. Officer Alvarez and two other CST team members were in an unmarked MPD vehicle driven by Sergeant Welsh.
13. As Sergeant Welsh's vehicle approached the driveway alongside 225 Orange Street, the MPD members observed a black 2011 Dodge Caliber backed into a parking spot with the motor running.
14. The vehicle and location matched what the MPD members had seen on the Instagram Live feed.
15. As soon as Sergeant Welsh's vehicle turned into the driveway of the parking lot, the unidentified man who had been in the rear passenger seat opened the door and sprinted away from the car.

16. Almost simultaneously, the MPD members in the cruiser got out of their vehicle.
17. Officer Alvarez was the first officer out of the cruiser. He, without any discussion with his colleagues and with no plan in place, decided on his own to run past the Dodge that contained Deon and his friends.
18. Deon exited the vehicle and began running from the vehicle to get away from the police.
19. Officer Alvarez drew his Glock 17 service pistol and ran past the Dodge to cut off Deon's path of escape, yelling "Don't move, don't move!"
20. At 15:49:30 Deon, while running away from the police, had a gun in his right hand that was pointed down towards the ground as he was preparing to throw it over the three-foot tall fence that was on his right and located on the 2nd Street side of the building.
21. Deon was in the process of running *from* the police but Alvarez placed himself in front of Deon—a fact he would later use to create a narrative that Deon was running towards him. But this is patently false.
22. It defies logic that a fleeing suspect would run *towards* an officer to get away.
23. Alvarez stopped directly in front of Deon with his gun pointed at him. Deon immediately released the gun from his right hand and threw it under-handed over the short black fence to his right.
24. The fence over which Deon threw the gun is no more than 3 feet tall.
25. Deon immediately raised both hands in the air to show the officer that he was unarmed.
26. The gun hit the ground and another officer shouted "it's over there."

27. After the gun hit the ground, Alvarez opened fire on Deon. He fired once hitting Deon in his chest.
28. The body worn camera footage (“BWC”) shows the officer lowering his gun before the cartridge case was ejected.
29. It is extremely unusual for an officer to fire a shot and lower the pistol to eject the cartridge case at the same time, especially while standing completely still.
30. Indeed, Officer Alvarez likely realized that Deon threw the weapon before he fired and began lowering his weapon as a result. However, he killed Deon nonetheless.
31. While Alvarez has created a narrative that he feared for his life, Officer Alvarez knew or should have known that Deon was a fleeing suspect who was trying to get away from Alvarez and the other officers.
32. Indeed, Deon’s friend, an unidentified male, escaped the vehicle and fled before officers could catch him. Deon was following suit. But it was Alvarez who ran in front of Deon to cut off his path, putting himself and Deon in danger—not the other way around.
33. Defendant Alvarez is liable for recklessly and negligently killing Deon.
34. The BWC footage shows that Deon did not throw the gun towards any officer and he did not throw the gun overhanded or with his hand in a raised position as if he was pointing it or about to point it at Officer Alvarez.

35. To be sure, before Officer Alvarez fired at Deon, Deon was unarmed and raised both hands in the air to show Alvarez that he was unarmed.
36. Despite the fact that Deon was unarmed and showed a clear sign of surrender, Alvarez shot Deon in his chest. Deon's body immediately fell to the ground. The footage shows that Deon was not holding a gun at the time that he was shot and even asked another officer before he took his last breath, "why'd he shoot me?"
37. Deon was transported to George Washington University Hospital where he was pulseless on arrival. The medical records note that he was in PEA arrest.
38. Deon was ultimately pronounced dead from a gunshot wound to the chest.
39. Deon is survived by his mother, Natasha Kay and six siblings. He also had seven nieces and nephews who adored him.
40. A funeral was held in his honor and cost his mother approximately \$18,000.00.
41. After the shooting occurred, MPD police chief Peter Newsham falsely published statements on or about September 3, 2020, at a press conference held by the Mayor of the District of Columbia, that Deon was "a validated gang member from the area."
42. Chief Newsham published these false statements intentionally and recklessly when he knew or should have known that Deon was not a gang member.
43. To be sure, when Chief Newsham made these statements, MPD had no evidence that Deon was in a gang of any kind.

44. Chief Newsham made these statements to cast Deon in a false light in a desperate attempt to create a self-serving narrative that Deon was a notorious criminal who would have killed a police officer if he had the chance. None of this is true.
45. In the midst of the protests and rallies against police brutality held in the District of Columbia in honor of Deon and others slain by the police nationwide, Chief Newsham made these provocative comments to make Alvarez's actions seem justifiable.
46. Natasha Kay and her family are deeply grieved by Deon's death because the officer has not been held accountable for his reckless and dangerous behavior.
47. Deon was close with his six siblings, especially his two younger siblings, Jhar (age 10) and Kenai (age 14), whom he assisted with virtual learning during the pandemic.
48. Deon had just turned 18 years old right before his death.

COUNT I

(Survival Act)

49. Plaintiff incorporates by reference paragraphs 1 through 48 as if fully set forth below.
50. Pursuant to the Survival Act, D.C. Code §12-101, Deon Kay's cause of action for wrongful and negligent conduct against Defendants survives in favor of the Plaintiff—the mother of decedent.
51. Plaintiff demands all damages recoverable under the Act including substantial damages for the loss of future wages, any and all medical expenses and costs, conscious pain and suffering, and any and all other damages recoverable under the Act.

COUNT II

(Wrongful Death against Officer Alvarez)

52. Plaintiff incorporates by reference paragraphs 1 through 51 as if fully set forth below.
53. Plaintiff's claims under common law negligence are actionable under the Wrongful Death Act, D.C. Code 16-2701.
54. As a direct result of the wrongful acts committed by Officer Alvarez, Plaintiff incurred \$18,000 in burial expenses, loss of pecuniary value of services expected to be performed by Deon, and other damages recoverable under the Act.
55. As a result of Deon's death, Plaintiff has been deprived of his care, love, attention, companionship, guidance, and comfort which he would have provided had he not been shot and killed by Officer Alvarez.

COUNT III

(Battery against Officer Alvarez)

56. Plaintiff incorporates by reference paragraphs 1 through 55 as if fully set forth below.
57. As described herein, Defendant Alvarez intentionally battered Deon by shooting him without provocation or a valid basis to do so, which resulted in Deon's death.
58. Defendant Alvarez shot Deon, which wounded him. Deon was harmed as a result of those wounds and succumbed to those wounds, which resulted in his death.
59. Defendant Alvarez' actions as pleaded constitute battery in violation of D.C. law.

60. At all times relevant to this Complaint, Defendant Alvarez was acting under the color of law, custom or usage of the District of Columbia.

61. Defendant Alvarez committed this unlawful conduct towards Deon Kay while acting as a police officer employed by the Metropolitan Police Department, and acting on behalf of the District of Columbia.

COUNT IV

(Negligence against Officer Alvarez)

62. Plaintiff incorporates by reference paragraphs 1 through 61 as if fully set forth below.

63. Defendant Alvarez had a duty to exercise minimum ordinary care and use of the minimal amount of force necessary to accomplish the objective of apprehending and arresting Deon.

64. Defendant Alvarez had a duty to employ only reasonable measures in his encounter and interaction with Deon.

65. Notwithstanding those duties, Defendant Alvarez negligently took police action in using unlawful, excessive and unreasonable against Deon although such action was completely avoidable and unnecessary.

66. Had Defendant Alvarez acted within the policies and procedures of the Metropolitan Police Department and with any degree of situational awareness, he would not have used force against Deon.

67. Defendant Alvarez breached the duty to exercise ordinary care because he acted carelessly, and using excessive, unnecessary and gratuitous force, shot Deon in the chest which resulted in his death.
68. Defendant Alvarez' actions created the situation which led to the shooting death of Deon Kay when he ran in front of Kay with his gun drawn and pointed at Kay as Kay was attempting to flee the police.
69. As a result of the Defendant Alvarez' failure to use ordinary care and the minimum amount of force necessary to accomplish his objective, Deon Kay suffered the ultimate seizure of being shot and killed

COUNT V
(False Light against Chief Newsham)

70. Plaintiff incorporates by reference paragraphs 1 through 69 as if fully set forth below.
71. It is undisputed that Chief Newsham publicly stated during a press conference held by the Mayor of the District of Columbia that Deon Kay was "a validated gang member from the area." This statement was widely circulated through various news outlets and on social media.
72. Plaintiff specifically refuted these representations during an interview with WUSA9 in March 2021.

73. Defendant Newsham's representations cast Deon Kay in a false light as a young criminal with violent tendencies who was a threat to the police and to the community at large.
74. MPD had no evidence to substantiate the statement that Deon Kay was a known gang member.
75. This comment, which Newsham knew or should have known was untrue, is offensive to a reasonable person.
76. This comment created a negative perception about Deon's culpability in the shooting. Moreover, since the remark was made by the highest officer in the Metropolitan Police Department it carried much weight in prematurely exonerating Defendant Alvarez from any wrongdoing, when Alvarez, in fact, recklessly shot and killed Deon Kay.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff requests that this Court:

- (a) ENTER JUDGMENT awarding Plaintiff compensatory damages against all Defendants in an amount of \$10,000,000.00;
- (c) ENTER JUDGMENT awarding punitive damages against the Defendant officers in an amount of \$5,000,000.00;
- (d) ENTER JUDGMENT awarding costs and reasonable attorney's fees in this action and
- (e) GRANT the Plaintiff any such other relief as this Court may deem just and proper.

JURY DEMAND

Plaintiffs respectfully demand a jury trial in the aforementioned matter.

Respectfully submitted,

s/ Yaida Ford

Yaida Ford [497013]
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Counsel for Plaintiff



SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION Civil Actions Branch
500 Indiana Avenue, N.W., Suite 5000, Washington, D.C. 20001
Telephone: (202) 879-1133 • Website: www.dccourts.gov

NATASHA KAY

Vs.

C.A. No. 2021 CA 001767 B

ALEXANDER ALVAREZ et al

INITIAL ORDER AND ADDENDUM

Pursuant to D.C. Code § 11-906 and District of Columbia Superior Court Rule of Civil Procedure

("Super. Ct. Civ. R.") 40-1, it is hereby ORDERED as follows:

(1) This case is assigned to the judge and calendar designated below. All future filings in this case shall bear the calendar number and the judge's name beneath the case number in the caption.

(2) Within 60 days of the filing of the complaint, plaintiff must file proof of service on each defendant of copies of (a) the summons, (b) the complaint, and (c) this Initial Order and Addendum. The court will dismiss the claims against any defendant for whom such proof of service has not been filed by this deadline, unless the court extended the time for service under Rule 4(m).

(3) Within 21 days of service (unless otherwise provided in Rule 12), each defendant must respond to the complaint by filing an answer or other responsive pleading. The court may enter a default and a default judgment against any defendant who does not meet this deadline, unless the court extended the deadline under Rule 55(a).

(4) At the time stated below, all counsel and unrepresented parties shall participate in a remote hearing to establish a schedule and discuss the possibilities of settlement. Counsel shall discuss with their clients **before** the hearing whether the clients are agreeable to binding or non-binding arbitration. **This order is the only notice that parties and counsel will receive concerning this hearing.**

(5) If the date or time is inconvenient for any party or counsel, the Civil Actions Branch may continue the Conference **once**, with the consent of all parties, to either of the two succeeding Fridays. To reschedule the hearing, a party or lawyer may call the Branch at (202) 879-1133. Any such request must be made at least seven business days before the scheduled date.

No other continuance of the conference will be granted except upon motion for good cause shown.

(6) Parties are responsible for obtaining and complying with all requirements of the General Order for Civil cases, each judge's Supplement to the General Order and the General Mediation Order. Copies of these orders are available in the Courtroom and on the Court's website <http://www.dccourts.gov/>.

Chief Judge Anita M. Josey-Herring

Case Assigned to: Judge WILLIAM M JACKSON

Date: May 31, 2021

Initial Conference: **REMOTE HEARING - DO NOT COME TO COURTHOUSE
SEE REMOTE HEARING INSTRUCTIONS ATTACHED TO INITIAL ORDER**

9:30 am, Friday, August 27, 2021

Location: Courtroom 219

500 Indiana Avenue N.W.

WASHINGTON, DC 20001

ADDENDUM TO INITIAL ORDER AFFECTING ALL MEDICAL MALPRACTICE CASES

D.C. Code § 16-2821, which part of the Medical Malpractice Proceedings Act of 2006, provides, "[a]fter action is filed in the court against a healthcare provider alleging medical malpractice, the court shall require the parties to enter into mediation, without discovery or, if all parties agree[,] with only limited discovery that will not interfere with the completion of mediation within 30 days of the Initial Scheduling and Settlement Conference ('ISSC'), prior to any further litigation in an effort to reach a settlement agreement. The early mediation schedule shall be included in the Scheduling Order following the ISSC. Unless all parties agree, the stay of discovery shall not be more than 30 days after the ISSC."

To ensure compliance with this legislation, on or before the date of the ISSC, the Court will notify all attorneys and *pro se* parties of the date and time of the early mediation session and the name of the assigned mediator. Information about the early mediation date also is available over the internet at <https://www.dccourts.gov/pa/>. To facilitate this process, all counsel and *pro se* parties in every medical malpractice case are required to confer, jointly complete and sign an EARLY MEDIATION FORM, which must be filed no later than ten (10) calendar days prior to the ISSC. D.C. Code § 16-2825 Two separate Early Mediation Forms are available. Both forms may be obtained at www.dccourts.gov/medmalmediation. One form is to be used for early mediation with a mediator from the multi-door medical malpractice mediator roster; the second form is to be used for early mediation with a private mediator. Plaintiff's counsel is responsible for eFiling the form and is required to e-mail a courtesy copy to earlymedmal@dcsc.gov. Unrepresented plaintiffs who elect not to eFile must either mail the form to the Multi-Door Dispute Resolution Office at, Suite 2900, 410 E Street, N.W., Washington, DC 20001, or deliver if in person if the Office is open for in-person visits.

A roster of medical malpractice mediators available through the Court's Multi-Door Dispute Resolution Division, with biographical information about each mediator, can be found at www.dccourts.gov/medmalmediation/mediatorprofiles. All individuals on the roster are judges or lawyers with at least 10 years of significant experience in medical malpractice litigation. D.C. Code § 16-2823(a). If the parties cannot agree on a mediator, the Court will appoint one. D.C. Code § 16-2823(b).

The following people are required by D.C. Code § 16-2824 to attend personally the Early Mediation Conference: (1) all parties; (2) for parties that are not individuals, a representative with settlement authority; (3) in cases involving an insurance company, a representative of the company with settlement authority; and (4) attorneys representing each party with primary responsibility for the case.

No later than ten (10) days after the early mediation session has terminated, Plaintiff must eFile with the Court a report prepared by the mediator, including a private mediator, regarding: (1) attendance; (2) whether a settlement was reached; or, (3) if a settlement was not reached, any agreements to narrow the scope of the dispute, limit discovery, facilitate future settlement, hold another mediation session, or otherwise reduce the cost and time of trial preparation. D.C. Code § 16-2826. Any Plaintiff who is unrepresented may mail the form to the Civil Actions Branch at [address] or deliver it in person if the Branch is open for in-person visits. The forms to be used for early mediation reports are available at www.dccourts.gov/medmalmediation.

Chief Judge Anita M. Josey-Herring

Civil Remote Hearing Instructions for Participants

The following instructions are for participants who are scheduled to have cases heard before a Civil Judge in a **Remote Courtroom**

Option 1: (AUDIO ONLY/Dial-in by Phone):

Toll 1 (844) 992-4762 or (202) 860-2110, enter the Meeting ID from the attachment followed by #, press again to enter session.

- *Please call in no sooner than 5 minutes before your scheduled hearing time. Once you have joined the session, please place your phone on mute until directed otherwise. If you should happen to get disconnected from the call, please call back in using the phone number and access number provided and the courtroom clerk will mute your call until the appropriate time.*

If you select **Option 2** or **Option 3** use the **Audio Alternative**

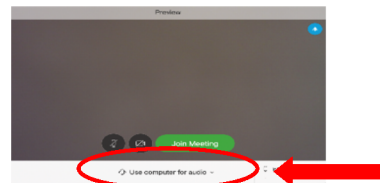
Option 2: (LAPTOP/ DESKTOP USERS 1):

Open Web Browser in Google Chrome and copy and paste following address from the next page:
<https://dccourts.webex.com/meet/XXXXXXXXXX>

Option 3: (LAPTOP/ DESKTOP USERS 2):

Open Web Browser in Google Chrome and copy and paste following address
<https://dccourts.webex.com> Select **Join**, enter the Meeting ID from the next page

AUDIO ALTERNATIVE: Instead of automatically using **USE COMPUTER FOR AUDIO**, select **CALL-IN** and follow the **CALL-IN** prompt window. Use a cell phone or desk phone. You will be heard clearer if you **do not** place your phone on **SPEAKER**. It is very important that you enter the **ACCESS ID #** so that your audio is matched with your video.



Option 4: (Ipad/SMART PHONE/TABLET):

- Go to App Store, Download WebEx App (Cisco WebEx Meetings)
- Sign into the App with your Name and Email Address
- Select Join Meeting
- Enter address from the next page: <https://dccourts.webex.com/meet/XXXXXXXXXX>
- Click join and make sure your microphone is muted and your video is unmuted (if you need to be seen). If you only need to speak and do not need to be seen, use the audio only option.
- When you are ready click "Join Meeting". If the host has not yet started the meeting, you will be placed in the lobby until the meeting begins.

For Technical Questions or issues Call: (202) 879-1928, Option #2

Superior Court of the District of Columbia
Public Access for Remote Court Hearings
(Effective August 24, 2020)

The current telephone numbers for all remote hearings are: 202-860-2110 (local) or 844-992-4726 (toll free). After dialing the number, enter the WebEx Meeting ID as shown below for the courtroom. Please click a WebEx Direct URL link below to join the hearing online.

Audio and video recording; taking pictures of remote hearings; and sharing the live or recorded remote hearing by rebroadcasting, live-streaming or otherwise are not allowed

Division	Courtroom	Types of Hearings Scheduled in Courtroom	Public Access via WebEx	
			WebEx Direct URL	WebEx Meeting ID
Auditor Master	206	Auditor Master Hearings	https://dccourts.webex.com/meet/ctbaudmaster	129 648 5606
Civil	100	Civil 2 Scheduling Conferences; Status, Motion and Evidentiary Hearings including Bench Trials	https://dccourts.webex.com/meet/ctb100	129 846 4145
	205	Foreclosure Matters	https://dccourts.webex.com/meet/ctb205	129 814 7399
	212	Civil 2 Scheduling Conferences; Status, Motion and Evidentiary Hearings including Bench Trials	https://dccourts.webex.com/meet/ctb212	129 440 9070
	214	Title 47 Tax Liens; and Foreclosure Hearings	https://dccourts.webex.com/meet/ctb214	129 942 2620
	219	Civil 2 Scheduling Conferences; Status, Motion and Evidentiary Hearings including Bench Trials	https://dccourts.webex.com/meet/ctb219	129 315 2924
	221	Civil 1 Scheduling Conferences; Status, Motion and Evidentiary Hearings including Bench Trials	https://dccourts.webex.com/meet/ctb221	129 493 5162
	318	Civil 2 Scheduling Conferences; Status, Motion and Evidentiary Hearings including Bench Trials	https://dccourts.webex.com/meet/ctb318	129 801 7169
	320	Civil 2 Scheduling Conferences; Status, Motion and Evidentiary Hearings including Bench Trials	https://dccourts.webex.com/meet/ctb320	129 226 9879

400	Judge in Chambers Matters including Temporary Restraining Orders, Preliminary Injunctions and Name Changes	https://dccourts.webex.com/meet/ctb400	129 339 7379
415	Civil 2 Scheduling Conferences; Status, Motion and Evidentiary Hearings including Bench Trials	https://dccourts.webex.com/meet/ctb415	129 314 3475
516		https://dccourts.webex.com/meet/ctb516	129 776 4396
517		https://dccourts.webex.com/meet/ctb517	129 911 6415
518		https://dccourts.webex.com/meet/ctb518	129 685 3445
519		https://dccourts.webex.com/meet/ctb519	129 705 0412
JM-4		https://dccourts.webex.com/meet/ctbjm4	129 797 7557
A-47	Housing Conditions Matters	https://dccourts.webex.com/meet/ctba47	129 906 2065
B-52	Debt Collection and Landlord and Tenant Trials	https://dccourts.webex.com/meet/ctbb52	129 793 4102
B-53	Landlord and Tenant Matters including Lease Violation Hearings and Post Judgment Motions	https://dccourts.webex.com/meet/ctbb53	129 913 3728
B-109	Landlord and Tenant Matters	https://dccourts.webex.com/meet/ctbb109	129 127 9276
B-119	Small Claims Hearings and Trials	https://dccourts.webex.com/meet/ctbb119	129 230 4882