Team 7000

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
LAKEVILLE DIVISION

SHERYL JORDAN, as Personal Representative of the Estate of DAVID JORDAN, JR.,

Plaintiff,

v.

SHERIFF DEREK MICHAELS in his Official Capacity as Sheriff of Midland County, and ERIC WATSON, an individual,

Defendants.

CASE NO. 2:20cv15994

PLAINTIFF JORDAN'S MEMORANDUM

IN SUPPORT OF PLAINTIFF'S MOTION TO STRIKE
AND
IN OPPOSITION TO DEFENDANT WATSON'S MOTION IN LIMINE

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Constitutions:

Statutes:

Rules:

United States Supreme Court Cases:

United States Courts of Appeals Cases:

United States District Court Cases:

INTRODUCTION

Plaintiff, Sheryl Jordan, as Personal Representative of the Estate of David Jordan, Jr., submits this Memorandum of Law to address both motions scheduled for hearing on October 9, 2020: (1) Plaintiff's Motion to Strike Defendant Watson's Affirmative Defense of Qualified Immunity, and (2) Defendant Watson's First Motion in Limine as to the Plaintiff's expert, Frank Edwards, Ph.D.

In support of the Plaintiff's Motion to Strike, the Defendant's affirmative defense of qualified immunity lacks sufficient evidentiary support, and the undisputed facts of this case will not allow the Defendant to prevail with this defense at trial. Because the affirmative defense may be dismissed as a matter of law, Plaintiff requests that the Court grant the Plaintiff's Motion to Strike.

In opposition to Defendant Watson's First Motion in Limine, the Plaintiff's expert testimony proves relevant and necessary under Federal Rules of Evidence 401, 403, and 702. Testimony from Frank Edwards, Ph.D., will help the jury understand the evidence. Thus, the Court should deny the Defendant's Motion in Limine.

STATEMENT OF FACTS

Facts of the Case. David Jordan, Jr., died in his own home in Midland County, Florida, on February 14, 2019. Compl. ¶ 3. Jordan was a single black man in his mid-thirties, the father to two daughters and a son. *Id.* He lived in a one-story

home across the street from Fort Hampton Elementary School. McDonald Aff. ¶ 5. By mid-afternoon that Valentines' Day, he was experiencing the repercussions of heavy drinking, with a blood-alcohol content of at least .32. Roberts Aff. ¶ 15. While drinking and shut inside his home, he listened to loud rap music. Watson Aff. ¶ 19.

Deputy Eric Watson and Deputy Eddie Rivera responded to a noise complaint soon after starting their 3 p.m. shifts at the Midland County Sheriff's Office. Rivera Aff. ¶¶ 7-11. The complaint qualified as a county ordinance violation, not a criminal violation or arrestable offense. *Id.* ¶ 12.

When they arrived at Jordan's home, the deputies could hear the music and knocked loudly on his windowless front door. *Id.* ¶ 21. Deputy Watson walked around to the side door of Jordan's home, and he banged loudly on the door with his police baton as Deputy Rivera stayed at the front door. Watson Aff. ¶¶ 22-23. The deputies did not announce themselves as police officers as they banged on the doors of Jordan's home. Rivera Aff. ¶ 23.

Rivera claims he announced himself as a police officer after Jordan opened the front door, yelling, "Sheriff's Office! Sheriff's Office!" above the music. *Id.* ¶ 24. As Jordan stood inside the doorway, Rivera saw a gun in Jordan's hand and started shouting, "gun, gun, drop the gun!" *Id.* ¶ 24. Deputy Watson came around

from the side door and drew his gun, aiming at Jordan. Watson Aff. ¶ 24. Jordan looked at Deputy Watson and shut his front door. *Id.* ¶ 31.

Watson admitted he was unsure of what was in Jordan's hand, and he did not see the object specifically aimed at anyone. *Id.* ¶ 35. Deputy Rivera drew his weapon, but he did not fire. Rivera Aff. ¶ 35.

Deputy Watson rapidly fired four times at Jordan, aiming higher with every squeeze of the trigger. *Id.* ¶¶ 36-37. Three shots went through Jordan's front door; two bullets hit Jordan's abdomen, a third struck his head. Roberts Aff. ¶ 7.

Jordan died in his foyer, just inside the door to his home. Compl. ¶ 17. An unloaded handgun was discovered in his back pants pocket. *Id.*

Procedural History. Plaintiff Sheryl Jordan, as Personal Representative for the Estate of David Jordan, Jr., sued Defendants for Wrongful Death. Plaintiff sued Deputy Eric Watson under 42 U.S.C. § 1983. She claimed negligence against Sheriff Derek Michaels, as Sheriff of Midland County and Deputy Watson's employer. Plaintiff filed in the Circuit Court of the Thirtieth Judicial Circuit in Midland County, Florida.

Defendants removed the case to the United States District Court, Middle District of Florida, Lakeville Division, and then filed Defendants' Answer and Defenses to Plaintiff's Complaint. On September 1, 2020, this Court set a hearing to consider the motions set out in the above Introduction.

ARGUMENT

The following discussion addresses each motion. First, Plaintiff presents the legal authority to Strike Defendant Watson's Affirmative Defense of Qualified Immunity. Second, Plaintiff opposes Defendant Watson's Motion in Limine as to the Plaintiff's expert, Frank Edwards, Ph.D.

I. This Court Should Grant the Plaintiff's Motion to Strike Defendant Watson's Affirmative Defense of Qualified Immunity.

The shield of qualified immunity does not act as impenetrable armor, and this defense does not protect Defendant Watson against the Plaintiff's claim. The doctrine of qualified immunity balances two vital interests: "the need to hold public officials accountable when they exercise power irresponsibly and the need to shield officials from harassment, distraction, and liability when they perform their duties reasonably." *Pearson v. Callahan,* 555 U.S. 223, 231 (2009). Based on the undisputed facts of this case, the need to hold the Defendant accountable outweighs the Defendant's claim to this shield.

A. The Court Should Strike Defendant Watson's Affirmative Defense of Qualified Immunity Before Trial.

Federal district courts generally have broad discretion to grant motions to strike whenever the pleadings contain allegations or defenses that have no possible relation to the controversy, confuse the issues in the case, or cause unfair prejudice to one of the parties. *Harty v. SRA/Palm Trails Plaza, LLC,* 755 F. Supp. 2d 1215,

1218 (S.D. Fla. 2010). Under Federal Rule of Civil Procedure 12(f), "the court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter."

Qualified immunity is an affirmative defense that must be pleaded and proven by the official asserting it. *Gomez v. Toledo,* 446 U.S. 635, 640 (1980). An affirmative defense will be held insufficient as a matter of law only if it appears that a defendant cannot succeed under any set of facts. *Reyher v. Trans World Airlines. Inc.*, 881 F. Supp. 574, 576 (M.D. Fla. 1995) (citing *Equal Employment Opportunity Comm'n v. First Nat'l Bank*, 614 F.2d 1004, 1008 (5th Cir. 1980)). Here, even when any disputed facts are construed in the light most favorable to Defendant, the evidence shows that the qualified immunity defense cannot prevail. As there are no genuine issues of material fact for the jury to decide, this Court should strike the affirmative defense of qualified immunity as a matter of law.

B. The Qualified Immunity Doctrine Does Not Protect Defendant Watson from the Consequences of His Conduct.

Under the qualified immunity doctrine, an official only is protected "insofar as 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). To determine when to deny qualified immunity to an official, courts apply a two-part analysis: "(1) whether the facts alleged or shown by the plaintiff make out a violation of a constitutional right, and (2) if so, whether

that right was 'clearly established' at the time of the defendant's alleged misconduct." *Pearson*, 555 U.S. at 224. Here, the defense of qualified immunity is insufficient to protect the Defendant's unreasonable use of excessive force in violation of the Plaintiff's clearly established constitutional rights.

1. Defendant Used Excessive Force and Violated Jordan's Fourth and Fourteenth Amendment Rights.

Defendant used excessive force during a seizure of Jordan's person in violation of Jordan's rights under the Fourth and Fourteenth Amendments. Compl. ¶ 23. Apprehension using deadly force constitutes a "seizure" subject to the reasonableness requirement of the Fourth Amendment. *Tennessee v. Garner*, 471 U.S. 1, 7 (1985). Here, when Defendant shot and killed Jordan in his home, the conduct violated Jordan's rights to be secure from unreasonable seizure.

The Fourth Amendment's "objective reasonableness standard" should guide all claims that law enforcement officials have used excessive force during a "seizure." *Graham v. Connor,* 490 U.S. 386, 388 (1989). The "objective reasonableness" standard depends on the perspective of a reasonable officer on the scene, rather than "the 20/20 vision of hindsight." *Id.*at 396. In other words, the test only considers the information the officer had at the time the conduct occurred. *Cty. of L.A. v. Mendez,* 137 S. Ct. 1539, 1542 (2017).

Graham provides a non-exhaustive list of factors for evaluating on-the-scene reasonability: (1) the severity of the crime at issue, (2) whether the suspect posed

an immediate threat to the safety of the officers or others, and (3) whether the suspect actively resisted arrest or attempted to escape. *Graham*, 490 U.S. at 396.

As to the first *Graham* factor: the severity of the crime was a mere county ordinance violation, not a criminal offense. *Id.* On February 14, 2019, around 3:15 p.m., Defendant Watson responded to a noise disturbance at Jordan's home. Watson Aff. ¶ 15.

Both Defendant and Deputy Rivera knocked loudly on the front and side doors to Jordan's home, but did not announce themselves as police officers. Rivera Aff. ¶ 23. The officers knew the neighborhood in Fort Hampton had high crime with drugs, gangs, and violence. *Id.* ¶ 23.

As the solid front door opened, Rivera yelled, "Sheriff's Office, Sheriff's Office" above the loud music. *Id.* ¶ 24. According to Rivera, Jordan held a gun when he opened the door. *Id.* ¶ 24. Defendant saw a small dark object in Jordan's hand. Watson Aff. ¶ 31.

Construing the facts in the light most favorable to the Defendant, this analysis of Defendant's reasonableness will presume Jordan held a gun. Rivera Aff. ¶ 26. The Defendant admits he could not say for sure if it were a gun, but he thought it was a gun. Watson Aff. ¶ 32. Florida law specifically permits "a person possessing arms at his or her home or place of business." Fla. Stat. Ann. § 790.25. Jordan committed no criminal offense in openly holding a gun within his

residence. As Jordan had not committed even a minor criminal offense, the Defendant could not legally arrest or seize him. *See Atwater v. City of Lago Vista*, 532 U.S. 318, 354 (2001). Up to this point in the encounter, both officers acted reasonably.

At this moment, the Defendant heard Rivera say, "gun, drop the gun." Watson Aff. ¶ 27. Jordan glanced at the police officers and quickly shut his door. *Id.* ¶ 31. Although Defendant saw Jordan's right hand with a black object raise to his hip, he did not see the object specifically aimed at anyone. *Id.* ¶ 35. Watson said, "hey," but did not give a warning or command. Rivera Aff. ¶ 28.

Under the second *Graham* factor, the analysis of the threat of harm is not merely subjective but objective. *Graham*, 490 U.S. at 396. A police officer may only use deadly force to prevent the escape of a suspect if the officer has a good-faith belief that the suspect poses a significant threat of death or serious physical injury to the officer or others. *Tennessee v. Garner*, 471 U.S. at 3. Considering that the Defendant did not see Jordan aim the object or even raise it above his hip, Jordan did not pose a significant threat of death or serious harm.

Considering Jordan never aimed at the officers or others, a reasonable officer in the Defendant's position would not believe Jordan posed an immediate significant threat of severe physical injury. Defendant Watson was unreasonable to feel threatened in this situation.

Despite the lack of significant and immediate threat, the Defendant intentionally fired his weapon, using unnecessary and unreasonable deadly force, through the front door as it was closing. Watson Aff. ¶ 36. A schoolteacher across the street, Lee McDonald, confirms, "I saw the older, heavier white man firing his gun as the front door closed." McDonald Aff. ¶ 15.

The final factor in the *Graham* analysis is whether the suspect actively resisted arrest or attempted to escape. Here, Jordan neither committed—nor was suspected of—a criminal, arrestable offense before beginning to close the door. Watson Aff. ¶ 31. In Defendant's own words, "the situation changed from loud music to a potentially armed suspect threatening a police officer." *Id.* Even so, when the door shut, the situation changed again, and any serious threat from Jordan ceased.

Jordan closed a solid door obstructing the officers from his view. A reasonable officer could not view Jordan as a significant threat of death or serious physical injury as the door closed. Not only was the Defendant unreasonable for feeling threatened when the Defendant moved his right hand toward his hip, but also the Defendant was unreasonable to shoot a closed door.

Defendant fired his gun four times "in a vertical trajectory from bottom to top." Watson Aff. ¶ 37. Taylor Roberts, MD, testifies with medical certainty that Jordan was shot three times, with a fatal shot to the skull. Roberts Aff. ¶ 6. The

evidence is undisputed that the fatal bullet was the third or fourth bullet fired by the Defendant through the door. *Id.* ¶ 11.

The threat ended before the Defendant fired the fatal bullet. *Id.* With the door closed, Jordan posed no immediate significant threat to Watson or any other person. Jordan did not threaten the police officers and did not fire his gun. When the Defendant used deadly force to fire three bullets through a closed door, no credible threat existed.

Even if Defendant was reasonable to fire the first bullet, the Defendant was unreasonable to keep firing his gun at Jordan's closed door, and he was not justified to use deadly force against Jordan. As a result, the Defendant acted with excessive force when he shot and killed Jordan through the door.

2. Defendant Violated at Least One "Clearly Established" Constitutional Right by Using Deadly Force Against Jordan.

Qualified immunity does not protect officials who knowingly violate a clearly established constitutional right. *Mullenix v. Luna*, 136 S. Ct. 305, 308 (2015). To qualify as a "clearly established" constitutional right, "the contours of the right must be sufficiently clear that a reasonable official would understand that what he is doing violates that right." *Anderson v. Creighton*, 483 U.S. 635, 635 (1987). In other words, an officer's use of force may be so obviously unreasonable for the circumstances, that no similarly situated reasonable officer would require notice that the conduct is unlawful. *Stephens v. DeGiovanni*, 852 F.3d 1298, 1317

(11th Cir. 2017); *Raiche v. Pietroski*, 623 F.3d 30, 39-40 (1st Cir. 2010); *Rice v. Burks*, 999 F.2d 1172, 1174 (7th Cir. 1993).

Prior Supreme Court precedent is not required to "clearly establish" a right. *United States v. Lanier*, 520 U.S. 259, 263 (1997). Though the facts of the Defendant's situation may not be identical to other cases, "officials can still be on notice that their conduct violates established law even in novel factual circumstances." *Hope v. Pelzer*, 536 U.S. 730, 741 (2002).

As discussed, the Defendant unreasonably used deadly force to seize Jordan, and he deprived Jordan of his life without due process of law. The Fourth Amendment protects "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. Const. amend. IV. The Fourteenth Amendment assures, "nor shall any State deprive any person of life, liberty, or property, without due process of law." U.S. Const. amend. XIV § 1. Defendant violated these clearly established constitutional rights in the Fourth and Fourteenth Amendments when he unreasonably used excessive force to kill Jordan.

The Defendant erroneously justified his use of deadly force by explaining, "I do not believe I violated Mr. Jordan's 4th Amendment rights on February 14, 2019 because he committed a crime that day – the crime of aggravated assault against a

police officer." Watson Aff. ¶ 59. But a suspect accused of aggravated assault does not *per se* justify deadly force by an officer.

As established by the Supreme Court, "Where the suspect poses no immediate threat to the officer and no threat to others, the harm resulting from failing to apprehend him does not justify the use of deadly force to do so." *Garner*, 471 U.S. at 11-12. By this standard, police officers may not kill a suspected felon if he does not pose an immediate threat. Yet the Defendant unjustifiably used deadly force after Jordan closed the door and posed no immediate threat. Defendant Watson's conduct was an unreasonable violation of Jordan's clearly established constitutional right to life and security in his person.

II. Dr. Edwards's Testimony Satisfies the Legal Admissibility Standards Challenged by Defendant Watson's Motion in Limine.

The Plaintiff's expert, Dr. Frank Edwards, will provide critical testimony at trial to help the jury understand the evidence in this case. Plaintiff agrees with Defendant's Motion in that "expert testimony is subject to the Federal Rules of Evidence 401, 403, and 702." Def.'s Mot. Lim. ¶ 3. As the following analysis reveals, Dr. Edwards's expert testimony satisfies each of these established admissibility standards. *E.g.*, Fed. R. Evid. 401, 403, 702. Therefore, this Court should deny Defendant Watson's First Motion in Limine.

A. Dr. Edwards's Evidence Meets the Relevance Threshold of Rule 401.

Dr. Edwards's testimony is relevant and will aid the jury's ability to understand essential facts relevant to the Plaintiff's claims or Defendants' affirmative defenses. Evidence is relevant if it has "any tendency to make a fact more or less probable than it would be without the evidence; and the fact is of consequence in determining the action." Fed. R. Evid. 401.

In this case, Edwards provides an opinion relevant to both the Plaintiff's claims and the Defendants' asserted defenses. As a part of her 42 U.S.C. § 1983 claim, Plaintiff alleges Defendant acted "recklessly, maliciously, or deliberately indifferent toward Jordan when he deprived him of his Constitutional rights." Compl. ¶ 26. Based on Edwards's research, racial bias plays a statistically significant role in decisions made by Midland County Sheriff's officers. Edwards Aff. ¶ 8. Edwards's knowledge about how racial bias affects officers' decisions in similar situations with black suspects will tend to make the Plaintiff's claim of a constitutional violation more or less likely.

Additionally, the Defendants claim their actions were: "without malice" and "with such force as was reasonable and necessary." Defs.' Answer ¶ 3. Edwards's opinion on the prevalence of racial bias among the Midland County Sheriff's officers will tend to affect whether the Defendants acted reasonably and without malice. Therefore, this testimony is relevant under Rule 401 for both the Plaintiff's

claims and the Defendants' defenses, and it should be admitted to the jury for fact-finding.

B. As Significant Relevant Evidence, Dr. Edwards Testimony Does Not Qualify for Exclusion Under Rule 403.

Federal Rule of Evidence 403 provides the Court with a means to exclude relevant evidence; however, Dr. Edwards's testimony does not meet the qualifications for exclusion. Defendant Watson asserts, "any probative value associated with the testimony of Frank Edwards, Ph.D., would be outweighed by its prejudicial effect." Def.'s Mot. In Lim. ¶ 6. Even if the Defendant's allegations were valid, that would not suffice to exclude Edwards's testimony. The Rules of Evidence demand a more critical evaluation before relevant evidence may be excluded: "the court may exclude relevant evidence if its probative value is *substantially outweighed* by a danger of one or more of the following: unfair prejudice, …" Fed. R. Evid. 403 (emphasis added). The Court should permit Dr. Edwards's testimony and deny Defendant's Motion in Limine.

As explained above, Dr. Edwards's opinions on racial bias at the Midland County Sheriff's Office is relevant under Rule 401 to both the Plaintiff's claims and the Defendants' defenses. Dr. Edwards provides knowledge on racial discrimination present in Defendant Sheriff Michaels's Office, and the effect of racial bias on Defendant Watson's actions. As this testimony relates to several pertinent jury considerations, this evidence holds a high probative value. In a Rule

403 evaluation, this amount of probative value is not substantially outweighed by a risk of unfair prejudice.

Rule 403 protects against the danger of "unfair prejudice," not mere prejudice against the opponent's case. "'Unfair prejudice' within its context means an undue tendency to suggest decision on an improper basis, commonly, though not necessarily, an emotional one." *Old Chief v. United States*, 519 U.S. 172, 180 (1997) (citing Fed. R. Evid. 403 advisory committee's note). In other words, "unfair prejudice" is not "equated with testimony simply adverse to opposing party." *Dollar v. Long Mfg., N. C., Inc.*, 561 F.2d 613, 618 (5th Cir. 1977). Dr. Edwards's only provides the jury with observations, statistics, and opinions relevant to the facts of the case, and helps the jury understand the evidence without suggesting an improper basis for decision-making.

Weighing the relevant evidence in Dr. Edwards's testimony against the potential danger, the probative value is not substantially outweighed by the danger of unfair prejudice. In a 403 analysis, there is a strong presumption to admit relevant evidence; consequently, highly probative evidence is exceptionally difficult to exclude. *See, e.g., United States v. Krenzelok*, 874 F.2d 480, 482 (7th Cir. 1989); *Coleman v. Home Depot, Inc.*, 306 F.3d 1333, 1343-44 (3d Cir. 2002). When in doubt, a court should allow the factfinder to determine the weight of the evidence.

C. As an Expert Witness, Dr. Edwards May Testify Under Rule 702.

The Court should admit Dr. Edwards's expert testimony, as it satisfies the admissibility standards for experts established in the Federal Rules of Evidence and judicial precedent. *E.g.*, Fed. R. Evid. 702; *Daubert v. Merrell Dow Pharm., Inc*., 509 U.S. 579 (1993). The Federal Rules of Evidence and the Supreme Court designate district courts with the responsibility to act as gatekeepers of expert testimony through preliminary hearings outside the presence of the jury. This role allows Courts to hold pretrial hearings, under Rule 104(a), and prohibit expert testimony lacking "scientific knowledge that will assist the trier of fact to understand or determine a fact in issue." *Daubert,* 509 U.S. at 592. After *Daubert*, the Court expanded courts' gatekeeping function to apply to all expert testimony, not just expert testimony based on scientific knowledge. *Kumho Tire Co. v. Carmichael*, 526 U.S. 137, 142 (1999). In 2000, amendments to the Federal Rules of Evidence incorporated the principles of *Daubert* and *Kumho* into the expert witness requirements outlined in Rule 702.

As a qualified expert witness, Dr. Edwards may testify about his opinion, or otherwise, if his testimony meets the criteria for admissibility. Under Rule 702, "a witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify" if the testimony meets the requirements enumerated in the rule. All parties agree that Dr. Edwards is qualified to be tendered as an expert

witness. Def.'s Mot. Lim. ¶ 4. With his qualifications as an expert undisputed, Edwards should testify to assist the jury under Rule 702.

1. Dr. Edwards's Testimony Provides Relevant Information to Assist the Jury.

Similar to the relevance requirement of Rule 401, Rule 702(a) requires that the expert's specialized knowledge "help the trier of fact to understand the evidence or to determine a fact in issue." The Supreme Court explained that expert testimony not related to an issue in the case is not relevant, and so is not helpful. *Daubert*, 509 U.S. at 591. In this "helpfulness" evaluation under Rule 702, any doubts should be resolved in favor of admissibility. *In re "Agent Orange" Prod. Liab. Litig.*, 611 F. Supp. 1223, 1242 (E.D.N.Y. 1985).

Here, Dr. Edwards's testimony has probative value, which helps the jury with significant facts of consequence. Defendant Watson affirmatively states Dr. Edwards will not assist the trier of fact and will confuse the jury. Def.'s Mot. Lim. ¶ 5. However, as the Plaintiff's Notice of Expert Witness explains, Dr. Edwards will use his knowledge to testify to the "racial bias present in the Midland County Sheriff's office and the impact that racial bias had on the actions of Defendant Deputy Eric Watson…" The disputed fact of racial bias will be a critical issue in the Plaintiff's claims and the Defendants' asserted defenses as it factors into the possible reasons that Defendant Watson fired a lethal shot into Jordan's home.

The Plaintiff sues Defendant Watson under 42 U.S.C. § 1983 and Defendant Sheriff Derek Michaels, as Watson's employer, for negligence. Compl. ¶ 23, 32. The Plaintiff alleges Defendant Watson's act "constituted an unreasonable seizure and excessive use of deadly force." *Id.* ¶ 24. The evaluation of the "reasonableness" of firing the gun reoccurs in the Plaintiff's claim against the Defendants. *Id.* ¶ 30-31. Whether racial bias affected Defendant's decision to shoot Jordan is a fact with a tendency to affect the likelihood of Defendant's reasonableness.

The Defendants' Answer asserts defenses with a tendency to be made more or less probable if Watson acted with racial bias. The Defendants' third defense claims Defendants acted with "such force as was reasonable and necessary under the circumstances." Defs.' Answer. The Defendants' fourth defense claims the force was justifiable. *Id.* Whether a racial bias influenced Defendant Watson's actions tends to make more or less probable these critical considerations in the case. As such, Dr. Edwards's testimony proves to be both relevant and helpful to the jury with these determinations.

2. Dr. Edwards's Expert Opinion Will Help the Jury Understand and Apply Reliable Knowledge Within His Field of Expertise.

Here, Dr. Edwards's expert opinion is reliable and will not confuse the jury. Dr. Edwards has a Doctorate in Sociology and focused research on "how systems of social control produce and reinforce inequality." Edwards Aff. ¶ 3. Dr. Edwards performed a thorough investigation of the Midland County Sheriff's Department to form his opinions for this case.

Under Rule 702(b), the expert's testimony must be "based on sufficient facts or data." Edwards reviewed three years of stops conducted by the Midland County Sheriff's department spanning February 2016 to February 2019. *Id.* ¶ 6-7. He required the stops to be for non-traffic misdemeanors and ordinance violations limited to when a Sheriff's officer drew a weapon during the stop. *Id.* ¶ 5. By constraining the data to these situations, the stops he reviewed were substantially similar to the noise ordinance violation that initiated the events on February 14, 2019. Watson Aff. ¶ 14-15. He then randomly selected and reviewed 380 case files from the 650 stops. *Id.* ¶ 7. Considering the quantities of data, as well as the similarities in his research to the facts of this case, Dr. Edwards's investigation used more than a sufficient amount of facts or data to form his opinion.

Additionally, Dr. Edwards's testimony is the product of reliable principles and methods, reliably applied to the facts of the case. Fed. R. Evid. 702. Here, Edwards used his extensive experience to analyze not only national data, but also

data from the local sheriff's department involved in this case. *See* Edwards Aff. The parties agree that the Midland County Sheriff's Office employed Defendant Watson at the material times. Compl. ¶ 28; Def.'s Answer ¶ 7. Through his analysis and research, Edwards determined "77% of Caucasian Midland County Sheriff's Officers (such as Watson) drew their weapon on African American men, ages 18-35 (such as Jordan); as compared to 33% of Caucasian Midland County Sheriff's officers who drew their weapon on Caucasian men, ages 18-35." Edwards Aff. ¶ 9. From this statistical data, he formed his opinion for the case that "racial bias plays a statistically significant role in whether Midland County Sheriff's officers decide to draw their weapon during a stop." *Id.* ¶ 8.

Considering the extent of Dr. Edwards's investigation and the statistical data on which he bases testimony and opinions on racial bias, his testimony proves both relevant and reliable. Allowing him to testify will be helpful to the jury in analyzing the facts in issue for this case. Given the importance of Dr. Edwards's testimony, the Court should deny Defendant Watson's Motion in Limine and permit this evidence to be considered by the jury.

CONCLUSION

This Court should grant Plaintiff's Motion to Strike Defendant Watson's Defense of Qualified Immunity, because Defendant Watson acted unreasonably in this situation and violated a clearly established constitutional right.

Dr. Frank Edwards's testimony provides an admissible expert opinion to help the jury evaluate relevant evidence. The Plaintiff's expert testimony is relevant under Rule 401, admissible under Rule 702, and not subject to exclusion under Rule 403. As a result, the Court should deny the Defendant's Motion in Limine.

Respectfully submitted,

/s/ *Team 7000*
Team 7000
Attorneys for Plaintiff