

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

CHEE WAR, *as Administrator of the Estate of*  
NYAH MWAY,

Plaintiff,

-against-

CITY OF UTICA *and* OFFICER PATRICK  
HUSNAY,

Defendants.

Civil Action No. \_\_\_\_\_

**COMPLAINT AND  
JURY DEMAND**

Chee War, as Administrator of the Estate of Nyah Mway, by and through her attorneys,  
Emery Celli Brinckerhoff Abady Ward & Maazel LLP and Melissa K. Swartz, for her Complaint  
alleges as follows:

**INTRODUCTION**

1. Having just graduated middle school, 13-year-old Nyah Mway was walking home with a friend on Shaw Street in Utica, just down the street from his house, on the evening of June 28, 2024, when three uniformed Utica police department officers stopped him for jaywalking and insisted on searching him.
2. Nyah—whose family fled from the brutal authoritarian military regime in Burma—fearing these armed uniform police officers, began running down the block.
3. Within ten seconds of chasing Nyah, Officer Bryce Patterson grabbed Nyah, threw him to the ground, and repeatedly punched Nyah about the face and body while having him pinned to the ground.

4. While Officer Patterson was still on top of Nyah, punching him, Defendant Officer Patrick Husnay walked over and shot Nyah point-blank in the chest, killing him.

5. This is a civil rights case brought by Nyah Mway's mother, Chee War, as the Administrator of his Estate, against the City of Utica and Utica Police Department Officer Patrick Husnay for unjustifiably shooting and killing 13-year-old Nyah Mway.

### **PARTIES**

6. Plaintiff Chee War was at all relevant times a resident of Utica, New York. She is Nyah Mway's mother. On August 22, 2024, the Oneida County Surrogate's Court issued letters of limited administration, authorizing Ms. War to enforce a right of action on behalf of Nyah Mway. Ms. War brings this suit in her capacity as the Administrator of the Estate of Nyah Mway.

7. Defendant City of Utica ("the City" or "Utica") is a municipality organized and existing under the laws of the State of New York and is located within the confines of the Northern District of New York. The Utica Police Department ("the UPD") is an agency of the City. At all times relevant hereto, the City, acting through the UPD, was responsible for the policy, practice, supervision, implementation, and conduct of all UPD matters and was responsible for the appointment, training, supervision, and conduct of all UPD personnel. In addition, at all relevant times, the City was responsible for enforcing the rules of the UPD and for ensuring that UPD personnel obey the laws of the United States and of the State of New York.

8. Defendant Officer Patrick Husnay at all times relevant hereto was employed by the UPD, acting in the capacity of agent, servant, and employee of the City of

Utica, and within the scope of his employment. He is sued in his individual and official capacities.

### **JURISDICTION AND VENUE**

9. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331. This case arises under the Fourth and Fourteenth Amendments to the United States Constitution.

10. This Court has supplemental jurisdiction over New York State law claims pursuant to 28 U.S.C. § 1367.

11. The acts complained of occurred in the Northern District of New York and venue is lodged in this Court pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events and/or omissions giving rise to the claims occurred in the District.

### **JURY DEMAND**

12. Plaintiff demands a trial by jury in this action.

### **FACTUAL ALLEGATIONS**

#### ***Nyah Mway: August 8, 2010 to June 27, 2024***

13. Nyah Mway was born in the evening of August 8, 2010, in the Umpiem refugee camp in Thailand near the Burmese border, where his family had fled to escape the genocide and ethnic cleansing rampant in Burma.

14. Nyah is the third of four children born to mother Chee War and father Ka Le Wan.

15. Nyah and his family belong to the Karen ethnic minority. Since shortly after Burma obtained independence from British colonialism in 1948, the Burmese ethnic majority has conducted targeted campaigns of violence against the Karen—firing indiscriminately at and burning down Karen villages; destroying food and aid; arresting and

detaining Karen people on the merest suspicions; using widespread sexual and physical violence, including beatings, rape, and summary executions; forcibly relocating entire Karen communities; subjecting Karen people to forced labor and labor camps; using Karen people as human shields; recruiting Karen child soldiers; and laying landmines in Karen civilian areas.<sup>1</sup>

16. From the mid-1980s to ‘90s, many Karen fled the violence in Burma for refugee camps established along the Thai-Burmese border.<sup>2</sup> Although a fragile ceasefire was reached in Burma in the 2010s, Burmese violence against the Karen continued, and so, too, did the flight of refugees.<sup>3</sup> Since 2000, the United Nations High Commission on Refugees has been resettling Karen to other countries.<sup>4</sup>

17. The U.S. State Department resettled many of the Karen refugees in Utica, New York—a community that needed the influx of immigrants to revive the dwindling manufacturing town.<sup>5</sup> Now, one of five Utica residents is a refugee or a child of refugees.<sup>6</sup>

18. Running terrified for their lives from Burma, Nyah and his family spent ten years in the Umpiem refugee camp before coming to Utica in 2015. Since

---

<sup>1</sup> CITY OF SAINT PAUL, *Karen Culture Presentation—Aug. 22, 2016* (YouTube, Sept. 6, 2016), <https://www.youtube.com/watch?v=6JK0b7pI0v8>; Emily Fishbein, Nu Nu Lusan, & Vahpual, *What is the Myanmar military’s “four cuts” strategy?*, AL JAZEERA (Jul. 5, 2021), <https://www.aljazeera.com/news/2021/7/5/what-is-the-myanmar-militarys-four-cuts-strategy>.

<sup>2</sup> CITY OF SAINT PAUL, *supra* n. 1.

<sup>3</sup> *Karen in Myanmar*, MINORITY RIGHTS GROUP (Aug. 2017), <https://minorityrights.org/communities/karen/>; *IDP Camps in Areas Controlled by KNU Need Shelter, Medicine, and Food*, KAREN HUM. RTS. GROUP (June 1, 2022), <https://khr.org/2022/06/idp-camps-areas-controlled-karen-national-union-need-shelter-medicine-and-food>.

<sup>4</sup> CITY OF SAINT PAUL, *supra* n. 1.

<sup>5</sup> Jules Struck, *‘They saved this town’: Refugees poured into Utica and cleared the rust from a dying industrial city*, SYRACUSE.COM (May 27, 2022), <https://www.syracuse.com/living/2022/05/they-saved-this-town-refugees-poured-into-utica-and-cleared-the-rust-from-a-dying-industrial-city.html>.

<sup>6</sup> *Id.*

resettling in Utica, Nyah and his family thrived, building a home and community for themselves, glad to be finally safe from the violence.

19. Nyah attended elementary and middle school in Utica. He wanted to grow up to become a doctor. His eldest brother had suffered a leg injury in the refugee camp when he was three years old, and it had never healed. Nyah loved his siblings and wanted to heal his brother's leg where other doctors had failed.

***Nyah Mway: June 28, 2024, Before 10:18 PM***

20. On June 28, 2024, Nyah had just completed his last day of middle school and was looking forward to becoming a high schooler in the fall.

21. Nyah had no criminal history and no juvenile court adjudications.

22. He and a friend, T.N., were traveling on Shaw Street in Utica, not far from Nyah's house.

23. T.N. was on his bicycle in the roadway and Nyah was walking alongside. There was no traffic along Shaw Street at the time.

***Nyah Mway: June 28, 2024 10:18 PM to 10:46 PM***

24. At 10:00 PM, Officers Husnay, Patterson, and Citriniti were patrolling an area of Utica near Sunset Avenue and Shaw Street, in two separate marked patrol cars.

25. As the officers drove past Nyah and T.N. on Shaw Street, the boys got out of the street and moved to the sidewalk.

26. Officer Patterson stopped and exited his patrol car, as did Defendant Husnay and Officer Citriniti.

27. All three officers approached Nyah and T.N. Nyah was wearing a black hoodie and had his hands in the front pocket.

28. Officer Patterson ordered Nyah to remove his hands from his pockets.

29. Nyah immediately complied, raising his hands shoulder height with his palms facing Patterson.

30. When Nyah's hands drifted downward, Officer Patterson reminded him to keep his hands out of his pockets. Nyah immediately raised his hands back up again.

31. Officer Patterson explained that he stopped them because they were "riding in the roadway."

32. In response, Nyah told the police he and T.N. were going home and gestured with his hands up the street towards his house.

33. At 10:18:51 PM, Officer Patterson told Nyah that he was going to pat him down to make sure he had no weapons on him.

34. Nyah again raised his hands.

35. At 10:18:52 PM, Nyah began running down the street away from the police.

36. "He's running!" Officer Patterson yelled to the other two officers.

37. Officers Patterson, Husnay and Citriniti chased Nyah down the street.

38. At 10:18:58 PM, while running after Nyah, Officer Patterson yelled "Gun!" after seeing a black pellet gun in Nyah's hand.

39. Nyah ran less than a block before falling in the roadway at 10:19:00 PM.

40. He tried to get back up, but, at 10:19:02 PM, Officer Patterson tackled Nyah onto the sidewalk.

41. Officer Patterson was on top of Nyah, using his body and left arm to pin him down on the ground, while forcefully punching Nyah in the face with his right fist. Nyah, being only 5' 5" and 111 pounds, was completely restrained and inert.

42. Less than a second later, at 10:19:03 PM, Defendant Husnay ran up to where Officer Patterson was on top of Nyah.

43. Three seconds later, at 10:19:06 PM, while Officer Patterson was still on top of Nyah punching him, Defendant Husnay without cause or justification fired a single bullet into Nyah's left chest, penetrating his heart and lung—killing him.

44. Twenty seconds after firing the shot that killed Nyah, at 10:19:26 PM, Defendant Husnay recovered the pellet gun in a grassy area several feet from where Nyah laid bleeding out from the gunshot wound.

45. Nyah was taken to a nearby hospital where he was pronounced dead at 10:46 PM.

46. A notice of claim was timely served on the Oneida County Attorney. An examination pursuant to New York General Municipal Law § 50-h was conducted by the County of Oneida on June 6, 2025. At least thirty days have elapsed since the service of the Notice of Claim and adjustment or payment of the claim has been neglected or refused.

47. This action has been commenced within one year and ninety days after the happening of the events on which the claims are based.

### **FIRST CAUSE OF ACTION**

Excessive Force

(42 U.S.C. § 1983, Fourth and Fourteenth Amendments of the U.S. Constitution)

Against Defendant Husnay

48. Plaintiff repeats and realleges the above paragraphs as if the same were fully set forth at length herein.

49. By reason of the foregoing, unjustifiably shooting and killing Nyah Mway, Defendant Husnay deprived him of the rights, remedies, privileges, and immunities guaranteed to every citizen of the United States, in violation of 42 U.S.C. § 1983, including, but not limited to, rights guaranteed by the Fourth and Fourteenth Amendments of the United States Constitution to be free from gratuitous and excessive force.

50. Nyah was already restrained, as Officer Patterson tackled him to the ground and was still punching him, when Defendant Husnay shot and killed Nyah.

51. Defendant Husnay acted under color of state law within the scope of his employment as a police officer for the UPD. His acts were beyond the scope of their jurisdiction, without authority of law, and in abuse of their powers. Defendant Husnay acted willfully, knowingly, and with the specific intent to deprive Nyah of his constitutional rights, secured by 42 U.S.C. § 1983 and the Fourth and Fourteenth Amendments of the United States Constitution.

52. As a direct and proximate result of Defendant Husnay's misconduct and abuse of authority detailed above, Plaintiff sustained the damages herein alleged.

**SECOND CAUSE OF ACTION**  
Excessive Force  
(N.Y. State Constitution, Art. I, § 21)  
Against All Defendants

53. Plaintiff repeats and realleges the above paragraphs as if the same were fully set forth at length herein.

54. Article I, Section 12 of the Constitution of the State of New York protections against unreasonable searches and seizures.



55. Defendant Husnay violated Article I, Section 12 when he used unreasonable and excessive force against Nyah Mway under the circumstances he confronted, and he assaulted and killed Nyah.

56. Nyah was already restrained, as Officer Patterson had tackled him to the ground and was still punching him, when Defendant Husnay shot and killed Nyah.

57. Defendant City of Utica, as employer of Defendant Husnay, is responsible for his wrongdoing under the doctrine of *respondeat superior*.

58. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has sustained the damages herein alleged.

### **THIRD CAUSE OF ACTION**

#### **Common Law Battery Against All Defendants**

59. Plaintiff repeats and realleges the above paragraphs as if the same were fully set forth at length herein.

60. By reason of the foregoing, Defendant Husnay, acting in his capacity as a UPD officer and within the scope of his employment as such, intentionally shot and killed Nyah Mway, which constitutes a willful, unlawful, unwarranted, and intentional battery. The battery was unnecessary and unwarranted in the performance of Defendant Husnay's duties as a UPD officer and constituted an unreasonable and excessive use of force.

61. Defendant City of Utica, as the employer of Defendant Husnay, is liable for his battery under the doctrine of *respondeat superior*.

62. As a direct and proximate result of the misconduct and abuse of authority detailed above, Plaintiff sustained the damages herein alleged.

#### **FOURTH CAUSE OF ACTION**

##### **Common Law Assault Against All Defendants**

63. Plaintiff repeats and realleges the above paragraphs as if the same were fully set forth at length herein.

64. By reason of the foregoing, Defendant Husnay, acting in his capacity as a UPD officer and within the scope of his employment as such, intentionally, willfully, and maliciously assaulted Nyah Mway in that Defendant Husnay had the real or apparent ability to cause imminent harmful and/or offensive bodily contact and intentionally did a violent and/or menacing act which threatened such contact to Nyah, and such acts caused apprehension of such contact in Nyah.

65. Defendant City of Utica, as the employer of Defendant Husnay, is liable for the assault under the doctrine of *respondeat superior*.

66. As a direct and proximate result of the misconduct and abuse of authority detailed above, Plaintiff sustained the damages herein alleged.

#### **FIFTH CAUSE OF ACTION**

##### **Reckless Hiring, Training, Supervision, Discipline, Staffing, and Retention Against Defendant City of Utica**

67. Plaintiff repeats and realleges the above paragraphs as if the same were fully set forth at length herein.

68. Defendant City of Utica failed to exercise due care and acted in a reckless manner in hiring, training, supervising, disciplining, staffing, and retaining Defendant Husnay.

69. Defendant Husnay was unfit for his position and duties.

70. Defendant City of Utica's reckless conduct in this regard proximately caused the death of Nyah Mway alleged above.

71. As a direct and proximate result of the misconduct and abuse of authority detailed above, Plaintiff sustained the damages herein alleged.

\*\*\*

WHEREFORE, Plaintiff respectfully requests judgment against Defendants as follows:

- a) Awarding such damages as will fully compensate Plaintiff for the loss of rights, physical injuries, pain and suffering, hedonic damages, and emotional distress suffered due to Defendants' unlawful conduct;
- b) Awarding punitive damages to Plaintiff;
- c) Awarding Plaintiff reasonable attorneys' fees, costs, and expenses incurred in prosecuting this action under 42 U.S.C. § 1988; and
- d) Granting Plaintiff such other further relief as may be just and proper.

Dated: New York, New York  
June 25, 2025

By: 

Earl S. Ward  
Julia P. Kuan  
Hafsa S. Mansoor  
Emery Celli Brinckerhoff Abady  
Ward & Maazel LLP  
One Rockefeller Plaza, 8<sup>th</sup> Floor  
New York, New York 10020  
(212) 763-5000

Melissa K. Swartz  
Camareri & Brenneck, PLLC  
300 South State Street, 1<sup>st</sup> Floor  
Syracuse, NY 13202  
(315) 424-8326

*Attorneys for Plaintiffs*