

Ex-Marine's Widow Sues Over Shooting

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Elaine Hale, widow of former Marine Sgt. Derek J. Hale, made a visit Friday to the scene of her husband's shooting by police in Wilmington, Del. (By Carla Varisco -- Associated Press)

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Sgt. Derek J. Hale survived two tours of war. But as the 25-year-old Manassas former Marine sat on a porch in Wilmington, Del., last November, a band of police officers tasered him three times before shooting him dead, according to a federal lawsuit filed last week.

"Derek was ultimately tortured and killed by the (Delaware State Police) and the (Wilmington Police Department), thereby depriving him of his Fourth Amendment guarantee to be free from unreasonable seizures," reads the wrongful death suit.

The lawsuit names more than 30 defendants, including the state and city police departments and individual officers.

Both departments released statements saying they could not comment because of the ongoing court proceedings but expressing confidence in the officers involved in the incident.

According to the suit, the path to Hale's death started when the police departments decided to work together to target the Pagan Motorcycle Club, of which Hale was a member. The club was sponsoring a Toys for Tots biker run in Wilmington that week, which is why Hale was there, according to the suit.

The Monday after the event, on Nov. 6, Hale was house-sitting for a fellow member when that member's ex-wife showed up with two children, ages 11 and 6. They were nearby when "suddenly and without warning" three unmarked police vehicles arrived and officers swarmed the house, which had been under surveillance, according to the suit. From eight to a dozen armed officers were wearing dark clothing that did not indicate they were police, the suit says.

"As they rushed and surrounded Derek, at least eight heavily armed individuals shouted in a loud cacophony of voices, 'Put your hands up or we're going to taser you.' But no one ever said, 'Police! Put your hands up or we're going to taser you,' the suit says.

Hale was soon tasered, not once, but three times.

"As the electrical current rushed through him, his muscles locked up and he began to shake and convulse uncontrollably," the suit reads. "Due to the electrical current passing through his body, it was physically impossible for Derek to comply with any command to raise his hands above his head."

Hale is quoted as saying, "Not in front of the kids, get the kids out of here."

At one point, after the second taser, he vomited into a flower bed next to him, the suit said. A contractor across the street is quoted as yelling, "That's not necessary, that's overkill, that's overkill!"

After the third tasing, Hale is quoted as saying, "I'm trying to get my hands out."

Wilmington police lieutenant William Brown allegedly then pointed his gun at Hale and fired "three rounds at point-blank range into his stunned and powerless body," the suit reads.

Hale's widow, Elaine Hale, this week said that she would like to see a murder conviction against that officer.

"After everything that I know that has happened, it's the right thing to do because it wasn't self defense or anything else," she said.

The two had married in October 2005 and made a home together in Manassas. They had begun writing each other earlier that year, when Derek Hale was serving in Iraq and immediately fell in love, Elaine Hale said. She keeps a three-inch binder filled with their letters, many in the form of e-mails and instant messages.

"He was a beautiful person, inside and out," she said, adding that no one can understand what she lost. "It was my life. I looked forward to having a long and happy marriage. You have a friend, you have a confidant. You have everything. Everything was taken from you."

Part of the lawsuit claims that police unlawfully searched the couple's Manassas home after Hale was killed. According to the search warrant filed in Prince William County, police say they were investigating the possible distribution of cocaine.

The lawsuit says that Delaware state police lied to Virginia state police, saying an arrest warrant had been issued for Hale when one never was. They then searched the Manassas home where they knew "his wife resides and that she would be in grief upon learning of the death of her husband."

Elaine Hale, who has filed the suit along with Derek Hale's parents, said she is glad the case is moving forward but that it is also like pulling at "a scab." She said he was taken from her, but also from her son, 14, and daughter, 11.

"I want everybody to quit focusing on the fact that he was a Pagan. Because he was a Marine, he was a husband, he was a father, he was a son," she said.

According to the suit, Derek Hale was unarmed and not wanted for any crime at the time of the shooting. His autopsy also showed he was not under the influence of drugs or alcohol.

The lawsuit seeks unspecified compensatory and punitive damages for the family, a written apology for his death, and a mandatory injunction that would force the state and city police departments to properly train their officers in the use of tasers and deadly force.

"It's a shame that a man does two tours of duty in Iraq and comes home and is shot for having his hands in his pockets," one of Elaine Hale's attorneys, Stephen J. Neuberger, said. "You don't shoot someone because of who they associate with."

Elaine Hale also is being represented by the Washington firm Arnold & Porter and the Rutherford Institute, a Virginia-based human rights and civil liberties organization.