

UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND

EDWARD A. CANIGLIA,  
Plaintiff,

v.

C.A. No. 15-525

ROBERT F. STROM as the Finance Director  
Of the CITY OF CRANSTON, THE CITY  
OF CRANSTON, COL. MICHAEL J. WINQUIST,  
in his individual and in his official capacity as  
Chief of the CRANSTON POLICE DEPARTMENT,  
CAPT. RUSSELL HENRY, JR., in his individual  
and in his official capacity as an officer of the  
CRANSTON POLICE DEPARTMENT; MAJOR  
ROBERT QUIRK, in his individual capacity  
and in his official capacity as an officer of the  
CRANSTON POLICE DEPARTMENT, SGT.  
BRANDON BARTH, in his individual capacity  
and in his official capacity as an officer of the  
CRANSTON POLICE DEPARTMEN, OFFICER  
JOHN MASTRATI, in his individual capacity  
and in his official capacity as an officer of the  
CRANSTON POLICE DEPARTMENT, OFFICER  
WAYNE RUSSELL, in his individual capacity  
and in his official capacity as an officer of the  
CRANSTON POLICE DEPARTMENT, OFFICER  
AUSTIN SMITH, in his individual capacity  
and in his official capacity as an officer of the  
CRANSTON POLICE DEPARTMENT, and JOHN  
And JANE DOES NOS 1-10, in their individual capacities  
and their official capacities as officers of the  
CRANSTON POLICE DEPARTMENT,  
Defendants.

**Defendants Statement of Undisputed Facts**

1. On August 20, 2015, Plaintiff and his wife, Kim Caniglia (“Mrs. Caniglia”) had an argument over a coffee mug at their residence in Cranston, Rhode Island. Exhibit A, Kim Caniglia June 27, 2018, Deposition Transcript at 11.

2. During the argument, Plaintiff told Mrs. Caniglia that her “family wasn’t all that great,” that she “liked [her] brothers better than” Plaintiff and that she should “go live with” them. Exhibit A at 12-13.
3. Mrs. Caniglia asked Plaintiff “what’s wrong? Why aren’t you happy? I can’t make you happy, you have to do that yourself. And that’s when [Plaintiff] walked into the bedroom . . . [and] he came out with a gun, threw it on the table, and said why don’t you just shoot me and get me out of my misery.” Exhibit A at 16.\
4. After Plaintiff told his wife to “shoot” him, Mrs. Caniglia asked him “[w]hat are you thinking?” Exhibit A at 19.
5. Mrs. Caniglia told Plaintiff that she was going to contact 911 because she wanted Plaintiff to know that by bringing out the gun “he brought [the argument] to a different level.” Exhibit A at 19, 23.
6. Mrs. Caniglia thought Plaintiff’s behavior was “shocking.” Exhibit A at 19.
7. Shortly after Mrs. Caniglia informed Plaintiff that she was going to contact 911, Plaintiff left the residence. Mrs. Caniglia, however, did not contact 911. Exhibit A at 19, 23.
8. After Plaintiff left the residence, Mrs. Caniglia put the gun “between the mattress and the box spring” in their bedroom. Exhibit A at 20.
9. At her deposition, Mrs. Caniglia testified that it was at this point she discovered that the magazine was not in the gun. She testified that she took the magazine “out from underneath the bed and . . . hid it in a drawer” in the bedroom. Exhibit A at 20.
10. In an affidavit executed before her deposition, however, Mrs. Caniglia averred that, during the argument, Plaintiff brought an unloaded gun *and a magazine* to her and

implored her to “shoot me now and get it over with.” Exhibit B, Affidavit of Kim Caniglia at ¶ 5.

11. Mrs. Caniglia hid the gun and the magazine because she was worried about Plaintiff’s “state of mind.” Exhibit A at 22.
12. Plaintiff was “depressed”, and Mrs. Caniglia was afraid that Plaintiff “was going to do something with the gun and the magazine” and “hurt himself” or “take[] his own life.” Exhibit A at 22-23; Exhibit C, John Mastrati May 31, 2018 Deposition Transcript at 75, 91; Exhibit D, Cranston Police Department Incident Report at 3, 4.
13. Before Plaintiff returned to the residence, Mrs. Caniglia thought it best to “pack a bag” and “go to a hotel for a night.” Exhibit A at 24.
14. When Plaintiff returned to the residence, he informed Mrs. Caniglia that the argument was “all [her] fault . . . .” After that comment, Mrs. Caniglia left the residence and went to the Econo Lodge on Reservoir Avenue in Cranston. Exhibit A at 25.
15. At some point that evening, Mrs. Caniglia spoke to Plaintiff by telephone. Plaintiff asked Mrs. Caniglia to come home but she refused because she thought they needed time to “chill.” Plaintiff was upset and angry. Exhibit A at 26.
16. At some point the following morning, Mrs. Caniglia contacted the CPD and “requested an officer to do a well call.” Exhibit A at 29.
17. Mrs. Caniglia was “incredibly worried” that Plaintiff was going to harm himself or commit suicide. Exhibit A at 30.
18. During the telephone call to the Cumberland Police Department (“CPD”), Mrs. Caniglia requested an escort to her residence because she was a “little afraid” of Plaintiff. Mrs. Caniglia also informed the CPD that (1) she and Plaintiff had “gotten into a verbal fight;”

(2) Plaintiff took a gun and said “shoot me;” (3) Plaintiff took the gun *and magazine* and threw it on the table; (4) she spent the night in a hotel and was now in the parking lot of Scramblers Restaurant, and (5) she “hid the gun” and put the magazine in a drawer.

Exhibit E; CD of Digitally Recorded Telephone Call From Kim Caniglia to Cranston Police Department August 21, 2015.<sup>1</sup>

19. As a result of Mrs. Caniglia’s telephone call to the CPD, Cranston Police Officers John Mastrati (“Mastrati”), Austin Smith (“Smith”) and Sgt. Brandon Barth (“Sgt. Barth”) were dispatched to Scrambler’s Restaurant. Exhibit C at 65, Exhibit F, Sgt. Brandon Barth July 19, 2018, Deposition Transcript at 29, 31.

20. At Scramblers, Mrs. Caniglia informed a CPD officer “about the gun, about the words [Plaintiff] said and what [she] did with the gun” and magazine. Exhibit A at 35.

21. Mrs. Caniglia informed Officer Mastrati that she had an argument with Plaintiff and that during the argument Plaintiff took out an unloaded firearm and a magazine and asked Mrs. Caniglia to use it on him. Exhibit C at 52-54, Exhibit D at 3; Exhibit F at 30.

22. Mrs. Caniglia stated that she was concerned about what she would find when she returned home, that she was concerned about Plaintiff’s safety; specifically informing Mastrati that she was worried about Plaintiff committing suicide. Exhibit A at 36, Exhibit C at 75-76; Exhibit D at 3-4; Exhibit F at 91.

23. Officer Mastrati contacted Plaintiff by telephone from Scramblers. Plaintiff agreed to speak to Mastrati at Plaintiff’s residence. Exhibit C at 76-77.

24. CPD officers informed Mrs. Caniglia to follow them to the Caniglia residence but to stay in her car when they arrived at the residence. Exhibit A at 37-38.

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<sup>1</sup> Defendants have filed the digital recording of the telephone call under seal because it contains personally identifiable information.

25. Upon arrival at the residence, Officer Mastrati spoke to Plaintiff outside of the house, near or about the porch/deck area of the property. Exhibit C at 77-78. Sgt. Barth and Officer Smith and Officer Wayne Russell were also on scene, in or about the same area. Exhibit F at 35.
26. Plaintiff told Mastrati that he brought the gun out during the argument with Mrs. Caniglia. Exhibit C at 119-120.
27. Plaintiff “pretty much told [Mastrati] the same story that [Mrs. Caniglia] told” him. Exhibit C at 53.
28. Plaintiff corroborated what Mrs. Caniglia had informed Cranston Police Officers about the argument, the gun, and that Mrs. Caniglia should shoot him. Exhibit F at 38, 39.
29. Plaintiff admitted to Mastrati that he and Mrs. Caniglia had had an argument over a coffee mug and he was “sick of the arguments” and he took out his unloaded handgun and told his wife to “just shoot me” because he “couldn’t take it anymore.” Exhibit G Edward A. Caniglia June 29, 2018 Deposition Transcript at 67-68; Exhibit D at 3.
30. Plaintiff also admitted to a Kent Hospital employee that, during the argument with Mrs. Caniglia, he retrieved an unloaded gun and told Mrs. Caniglia that “she should just shoot him and put him out of his misery.” Exhibit G at 54; see also id. at 24 (admitting he said “shoot me now and get it over with”).
31. At some point after Mrs. Caniglia arrived at the residence, an officer approached her car and told her she could come to the residence. Exhibit A at 39-40.
32. When she arrived at the residence, Plaintiff asked her why she contacted the CPD. Exhibit A at 40.
33. Mrs. Caniglia informed Plaintiff that she was worried about him. Exhibit A at 40.

34. Plaintiff was “very upset” because Mrs. Caniglia contacted the CPD so she went back to the car. Exhibit B at ¶ 14.
35. While at the residence, Mrs. Caniglia overheard Plaintiff inform a CPD officer that he had an argument with Mrs. Caniglia about a coffee mug and that he “did bring out a gun and set in on the table and told [Mrs. Caniglia] to just go ahead and shoot him and put him out of his misery.” Exhibit A at 41.
36. Although Plaintiff informed Mastrati that he was not suicidal, Mastrati was not convinced because a “normal person would [not] take out a gun and ask his wife to end his life . . .” Exhibit C at 82.
37. Mastrati believed that Plaintiff was a danger to himself. Exhibit C at 106-107.
38. Sgt. Barth considered Plaintiff’s statement to his wife to shoot him to be a suicidal statement. Exhibit F at 84-85.
39. The CPD seized two guns and ammunition from the Caniglia residence for safekeeping. Exhibit D at 2.
40. Mrs. Caniglia showed police the location of the guns and magazines. The guns and ammunition were seized from the bedroom and the garage. Exhibit A at 51; Exhibit D at 4.
41. Sgt. Barth made the decision to seize the guns, however, that decision was approved by Captain Russell Henry (“Captain Henry”). Exhibit F at 44; Exhibit H Cpt. Russell C. Henry, Jr. June 13, 2018, Deposition Transcript at 119.
42. Captain Henry believed that if the CPD had left Plaintiff “there with the firearms, potentially, he’s in danger, [Mrs. Caniglia] could be in danger, the neighbors could be in danger, any person that comes in contact with Mr. Caniglia could be in danger.” Exhibit H at 79.

43. Plaintiff was eventually transported to Kent County Hospital for a medical evaluation.

Exhibit G at 44; Exhibit B at ¶ 17.

44. Plaintiff was evaluated at the hospital but was not admitted. Amended Complaint Exhibit

B; Exhibit B at ¶ 20.

45. Plaintiff was not charged with any crime with respect to the incident. Answer to ¶ 50 of Amended Complaint.

46. The CPD did not prevent Plaintiff from obtaining any firearms after the August 21, 2015 incident. Answer to ¶ 47 of Amended Complaint.

47. On or about October 1, 2015, Plaintiff's attorney sent Colonel Winqvist a letter requesting the return of his guns. Answer to ¶ 41 of Amended Complaint.

48. Plaintiff's guns were returned to him in late December 2015. Exhibit H at 132.

49. At his deposition Plaintiff testified that he believes that his life is "wonderful and great" and denied any "potential thoughts of suicide in the future." Exhibit G at 58-59.

50. Colonel Michael Winqvist and Major Robert Quirk were not at the scene nor were they consulted by officers at the scene. Exhibit I Colonel Michael Winqvist June 20, 2018 Deposition Transcript at 44; Exhibit J Major Robert Quirk July 13, 2018 Deposition Transcript at 22; Exhibit D.

Defendants,  
By their attorneys,

/s/ Marc DeSisto  
Marc DeSisto, Esq. (#2757)  
Patrick K. Cunningham, Esq. (#4749)  
DeSisto Law LLC  
60 Ship Street  
Providence, RI 02903  
401-272-4442  
[marc@desistolaw.com](mailto:marc@desistolaw.com)  
[patrick@desistolaw.com](mailto:patrick@desistolaw.com)

**CERTIFICATION OF SERVICE**

I hereby certify that the within document has been electronically filed with the Court on this 17th day of December 2018 and is available for viewing and downloading from the ECF system.

Thomas W. Lyons, Esq.  
[tlyons@straussfactor.com](mailto:tlyons@straussfactor.com)

Rhiannon S. Huffman, Esq.  
[rhuffman@straussfactor.com](mailto:rhuffman@straussfactor.com)

*/s/ Marc DeSisto*  
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Marc DeSisto