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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA  
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PATRICIA JACKSON, individually and )  
as Special Administrator of the Estate )  
of David C Collopy, )  
Plaintiff, )  
vs. )  
UNITED STATES, et al, )  
Defendants. )  
\_\_\_\_\_ )

2:09-CV-00223-PMP-GWF

**ORDER**

Before the Court for consideration is Defendants' fully briefed Motion for Summary Judgment (Doc. #40), filed on May 5, 2010. On September 1, 2010, the Court conducted a hearing regarding Defendants' motion.

In this action, Plaintiff Patricia Jackson, individually and as Special Administrator of the Estate of David C. Collopy, seeks to hold Defendants, the United States and Officer James Coates, liable for the shooting death of David Collopy on February 9, 2007 within the Desert National Wildlife Refuge.

The only surviving witness to the events leading to the shooting death of Collopy is Defendant Coates. As forcefully argued in Defendants' motion for summary judgment, most of the circumstantial evidence in this case is consistent with Defendant Coates version of what occurred. Moreover, Defendant's cite to the opinion of Las Vegas Metropolitan Police Department Homicide Detective Jason

1 McCarthy that everything at the scene of the shooting coincided with Coates' version  
2 of events. Plaintiff has, however, offered the testimony of Police Practices Expert  
3 D.P. Van Blaricom who opines that physical evidence at the scene of the shooting,  
4 including the location of shell casings, and the inability of Coates to recall certain  
5 aspects of the incident are not consistent with Coates' version of the events.

6 This Court cannot on summary judgment evaluate the credibility of  
7 witnesses such as Defendant Coates. Although the Court finds Defendants'  
8 proffered version of the events of February 7, 2007 to be more plausible than that  
9 posited by Plaintiff, the Court finds that genuine issues of material fact exist which  
10 can only be resolved by the trial jury assessing the credibility of Defendant Coates  
11 and other witnesses that testify at trial.

12 **IT IS THEREFORE ORDERED** that Defendants' Motion for Summary  
13 Judgment (Doc. #40) is **DENIED**.

14 **IT IS FURTHER ORDERED** that the parties shall file a Joint Pretrial  
15 Order on or before **October 8, 2010**.

16  
17 DATED: September 7, 2010.

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19  
20 PHILIP M. PRO  
United States District Judge