

COPY

IN THE CIRCUIT COURT FOR HICKMAN COUNTY, TENNESSEE

BONNIE HARMON, JENNY FAGAN,)
EDWARD FAGAN and MATTHEW)
BILBREY , Children and next of Kin of)
PAMELA RUDDER, Deceased)

Plaintiffs,)

v.)

HICKMAN COUNTY, TENNESSEE,)
a County and Governmental entity of the)
State of Tennessee, RANDAL WARD,)
Sheriff of Hickman County, Tennessee)
SONDRA LUNA and FELICIA ROBERSON,)
Deputy Sheriffs and Correctional Officers)
of Hickman County Jail,)

Defendants.)



CIVIL ACTION NO. 12-CV-70
JURY DEMAND

COMPLAINT

Comes now Plaintiffs and for Complaint in this cause would show the Court as follows:

I. PARTIES

1) Plaintiffs Bonnie Harmon, Jenny Fagan, and Matthew Bilbrey are citizens and residents of the State of Tennessee. Plaintiff Edward Fagan is a citizen and resident of the State of Alabama. They are the surviving children and next of kin of Pamela Rudder, deceased.

2) Defendant Hickman County is the governmental entity responsible for the administration of the Hickman County Jail and is liable for the negligence of its employees acting within the scope of their employment as provided by Tenn. Code Ann. § 29-20-205, and is

liable for the misconduct of deputy sheriffs acting under color of office under Tenn. Code Ann. § 8-8-302. Hickman County has a statutory duty to provide adequate medical care to inmates at its jail facility as provided by Tenn. Code Ann. § 41-4-115.

3) Defendant Sheriff Randal Ward is a citizen and resident of Hickman County, Tennessee. At all times material to this cause Defendant Ward was the duly elected sheriff of Hickman County, responsible for the administration of the Hickman County Jail, including the training and supervision of deputy sheriffs and correctional officers at the jail facility and for the promulgation and administration of policies and procedures to ensure adequate medical care as provided to inmates at that facility.

4) Defendant Sondra Luna is a citizen and resident of Hickman County, Tennessee. At all times material to this cause Defendant Luna was employed by Hickman County as a deputy sheriff and correctional officer at the Hickman County Jail. Defendant Luna was acting within the scope of her employment pursuant to Tenn. Code Ann. § 29-20-205 and was acting under color of office pursuant to Tenn. Code Ann. § 8-8-302.

5) Defendant Felicia Roberson is a citizen and resident of Hickman County, Tennessee. At all times material to this cause Defendant Roberson was employed by Hickman County as a deputy sheriff and correctional officer at the Hickman County Jail. Defendant Roberson was acting within the scope of her employment pursuant to Tenn. Code Ann. § 29-20-205 and was acting under color of office pursuant to Tenn. Code Ann. § 8-8-302.

II. FACTS

6) Ms. Rudder was arrested and incarcerated in the Hickman County Jail on December 12, 2011, to await her court date set for January 3, 2012. The arrest occurred after her fiance's vehicle was stopped for a non-functional headlight while on the way to a special dinner after winning a free meal in a drawing. Ms. Rudder was not driving the vehicle; however, she was arrested after a search of her purse showed she had possession of pills and drug paraphernalia. The pills that were in her possession are known to be associated with a high risk of addiction and dependency and included medication legitimately prescribed to either herself or her fiance, Charles McWilliams, who was driving the vehicle and was not arrested. Ms. Rudder was booked, searched and fingerprinted before being assigned to a cell.

7) Ms. Rudder then underwent a "medical screening" by Defendant Luna, and answered medical questions designed to assess potential medical risk of inmates. The medical screening was not taken or subsequently acted upon in compliance with the existing protocol, policy or guidelines of the Hickman County Jail or associated medical entities which also failed to include specific and necessary guidelines addressing withdrawal or detoxification procedures for inmates known to have addiction or dependency to drugs or medication as presented in this case. Ms. Rudder's answers to the medical questions strongly indicated the need for further medical screening as well as an emergency referral for substance abuse or circumstances regarding her mental health or state of mind; however, no such action (required even under exiting jail and associated medical entity's policies and procedures) was taken. At the time of her arrest and intake, she was taking substances known to cause dependency and associated with a high risk of

abuse including medication prescribed by Rose Widener, NP, for several years to treat chronic pain resulting from previous automobile accidents and also for severe psychological conditions. Said medication included oxycodone, morphine and Xanax,¹ and was reflected in Ms. Rudder's answers to the medical questions, subsequent notations by jail and medical personnel, and in her arrest records.

8) Ms. Rudder advised Defendants about her need for medications repeatedly throughout her incarceration and also of her fear of imminent (and ultimately fatal) withdrawal. Ms. Rudder also notified her family (via her limited allowable telephone use) that her medications had been confiscated and were not being administered while expressing urgent concerns over the effects of withdrawal on her health. Plaintiffs, in response to the communications, repeatedly contacted the jail and attempted to voice the concerns over her health.²

9) On December 15, 2011, Ms. Rudder was suffering from severe withdrawal from her prescribed medications which she had not been provided by Defendants. She was assigned to an isolation cell which was video-monitored. At 11:22:03 AM (Dec. 15, 2011), Ms. Rudder apparently fell out of her bed at the isolation cell and sustained a severe blow to the head and neck. Ms. Rudder remained unconscious on the cement floor of her cell for more than 45 minutes before she was discovered by Defendant Roberson, the tower officer responsible for observing Ms. Rudder on video.

¹ "Xanax is a highly addictive medication, which can cause serious withdrawal symptoms like seizures and delirium if discontinued abruptly...Courts have found withdrawal symptoms to qualify as a serious medical need." *French v. Daviess Cnty*, 376 Fed. App'x 519, 522 (6th Cir. 2010).

² Ms. Rudder's family members also made efforts to raise the funds necessary to make bail but were unable to do so in time to save her life.

10) According to the policy of the Hickman County Jail, inmates assigned to isolation cells are to be visually observed by floor officers at least every fifteen minutes. This was not done.

11) Ms. Rudder was found to be not breathing and without a pulse. No CPR was performed to try to resuscitate Ms. Rudder.

12) EMTs were called and took Ms. Rudder to the Hickman County Hospital where she was declared dead.

III. CAUSES OF ACTION

A. Negligence, T.G.T.L.A.

13) Plaintiffs aver that the acts and omissions of Defendant Sheriff Ward and Defendant deputies Luna and Roberson and other jail personnel were negligent in failing to provide adequate medical care to Ms. Rudder who was experiencing severe withdrawal symptoms from prescribed medications that she had not been provided.

14) In addition, Plaintiffs aver that Defendants Hickman County and Sheriff Ward were negligent in failing to promulgate a policy or protocol for the assessment and treatment of inmates suffering from withdrawal from medication because of substance abuse and/or dependency.

15) Plaintiffs further aver that the acts and omissions of Defendants and the lack of adequate protocol were proximate causes of the death of Ms. Rudder on December 16, 2011. Defendant Hickman County is liable to Plaintiffs under Tenn. Code Ann. § 29-20-205.

B. Intentional Misconduct, Tenn. Code Ann. § 8-8-302

16) In the alternative, if the actions and omissions of the Defendant deputy sheriffs described above are found to be intentional and not negligent, Defendant Hickman County is liable to Plaintiffs under Tenn. Code Ann. § 8-8-302.

C. Civil Rights Action

17) The facts alleged in Paragraphs 1-12 are hereby re-alleged and incorporate herein by reference.

18) In the alternative, Plaintiffs aver that the acts and omissions of Defendants Sheriff Ward and deputies Luna and Roberson were deliberately indifferent to Ms. Rudder's serious medical needs and were the proximate cause of her death. Deliberate indifference to serious medical needs of a pre-trial detainee such as Ms. Rudder is a violation of her civil rights under color of law guaranteed under the due process clause of the 14th Amendment to the U.S. Constitution and creates a cause of action under 42 U.S.C. § 1983.

19) Plaintiffs aver that Defendant Hickman County is liable for the deliberate indifference to serious medical needs of Ms. Rudder by virtue of its failure to have a policy, practice, custom or protocol to assess and treat inmates suffering from withdrawal during their incarceration caused by substance abuse or dependency, which failure was the affirmative link or motivating force behind the acts and omissions of the individual Defendants.

IV. DAMAGES

20) Plaintiffs aver that the failure to provide Ms. Rudder proper medical care as provided by Tenn. Code Ann. § 41-4-115 caused her to experience severe pain and suffering, mental distress and ultimately resulted in her death.

21) Plaintiffs are entitled to damages for Ms. Rudder's pain and suffering, mental distress and the economic value of her life, as provided under the Tennessee Wrongful Death Statute.

PRAYER FOR RELIEF

Plaintiffs pray for:

1. A jury of twelve to hear this cause;
2. Compensatory damages, in the amount provided by the Tennessee Government Tort Liability Act; or,
3. In the alternative, compensatory damages for the deprivation of Ms. Rudder's civil rights under the color of law;
4. Prejudgment interest;
5. Punitive damages in an amount to be set by the jury;
6. Reasonable attorney's fees, as provided by 42 U.S.C. § 1998;
7. General relief and the costs of this cause.

RESPECTFULLY SUBMITTED: this 12th day of December, 2012.



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