



IN THE DISTRICT COURT FOR CLEVELAND COUNTY
STATE OF OKLAHOMA

CYNTHIA WILLIAMS, as Personal Representative)
of the Estate of AUSTIN VANCE, deceased,)
)
)
Plaintiff,)

Case No.: CS 2017-275

v.)

BOARD OF COUNTY COMMISSIONERS FOR)
CLEVELAND COUNTY, JOHN DOE OFFICERS)
OF CLEVELAND COUNTY DETENTION CENTER,)
JOSEPH K. LESTER, in his individual and official)
capacity as the Sheriff of Comanche County Detention)
Center, and JOHN DOE EMERGENCY ROOM)
PHYSICIANS, and NORMAN REGIONAL HOSPITAL)
SYSTEM,)
Defendants.)

STATE OF OKLAHOMA } S.S.
CLEVELAND COUNTY }

FILED

MAR 06 2017

In the office of the
Court Clerk MARILYN WILLIAMS

PETITION

COMES NOW, the Plaintiff, above-named, and for her cause of action against the
defendants hereby alleges and states as follows:

PARTIES, JURISDICTION, VENUE

1. At all times pertinent to this case, Plaintiff Cynthia Williams was the duly
appointed personal representatives of the Estate of Austin Vance, deceased, and was a resident
of Norman, Cleveland County, Oklahoma. She brings this action on behalf of the Estate of
Austin Vance, deceased.

2. Defendants are the staff of the Cleveland County Detention Center, Sheriff Joseph
K. Lester, the duly elected Sheriff of Cleveland County, and members of the Board of County

Commissioners of Cleveland County (“BOCC”), Oklahoma, in charge of the administration of the Cleveland County Detention Center, in Oklahoma. Defendant, Board of County Commissioners of Cleveland County (hereafter “Board”) is a Political Subdivision of the State of Oklahoma and is charged, through its Sheriff’s Department, with the law enforcement responsibilities of the Cleveland County, Oklahoma. The Cleveland County, Oklahoma, by and through its Sheriff and the Sheriff’s Department, was at all times material hereto under a duty to run its detention activities in a lawful manner so as to preserve the peace within Cleveland county and to preserve to its citizens the rights, privileges and immunities guaranteed and secured to them by the constitution and the laws of both the United States and the State of Oklahoma.

3. At all times pertinent hereto, Defendant Joseph K. Lester was the duly elected Sheriff for Cleveland county, Oklahoma. He is sued individually and in his official capacity as the Sheriff of Cleveland County Sheriff’s Department. The Defendant John Doe officers are sued in their individual capacity as law enforcement officers for the Cleveland County Sheriffs Department.

4. This action is brought against a Political Subdivision of the State of Oklahoma pursuant to the Governmental Tort Claims Act (“Act”), 51 O.S. § 151, et seq..

5. In compliance with § 156 of the Act, Plaintiff filed notice of her claim in writing on or about August 8, 2016 with the Clerk of the Board of County Commissioners and Office. and the Sheriff’s Department.

6. Plaintiff’s Claim was deemed denied under § 157(A) because the Board and the Sheriff’s Department did not approve the claim within the 90-day period.

FACTS

7. Plaintiff hereby incorporates, in their entirety, paragraphs 1 through 6 as set forth above and by reference make said Paragraphs a part hereof as if fully set forth herein.

8. On April 26, 2016, at approximately 12:30 p.m., Austin Vance, deceased was found dancing in the street in Norman, Oklahoma and hallucinating. As a result, Austin Vance was arrested for public intoxication and taken to Norman Regional Hospital Emergency room to determine his fitness for incarceration.

9. Upon information and belief Austin Vance made it known to the responding law enforcement officers that he had ingested "adderol", and although Vance was sweating heavily, and extremely animated, twitching and moving his arms and legs at a very rapid pace, the emergency room physicians, without performing any meaningful evaluation to assess his mental health condition, and diagnosis, declared Austin Vance fit for incarceration.

10. Upon information and belief, Austin Vance was subsequently taken into custody and left in the care and custody of the Sheriff's department of the Cleveland County in the Cleveland County Detention Center in Norman, Oklahoma. At the time of his incarceration, Austin Vance, deceased, was restrained to a chair for an unknown amount of time and hooded. The detention officers used force to restrain and subdue him, pursuant to the Sheriff's Department's policy, practice or custom, in reckless disregard for the welfare of Austin Vance, which resulted in Vance suffering cardiac arrest.

11. Austin Vance consequently became unresponsive and died. The Board of County Commissioners, under the authority granted to it by the State of Oklahoma and/or the Cleveland County, operates and controls the Cleveland County Detention Center. The City of Norman, under the authority granted to it by the State of Oklahoma and/or the Norman Regional Hospital

Authority operates and controls the Norman Regional Hospital.

12. As a result of the incident, Board of County Commissioners of Cleveland County, and the Cleveland County Sheriff Department, by and through Defendant Sheriff Joseph K. Lester, conducted an investigation of the events and concluded that all officers acted in conformance with the rules, regulations, policies, practices and customs of the Cleveland County Sheriff's Department and the laws of the State of Oklahoma and the laws of the United States Government.

13. The Board of County Commissioners ratified and approved the conduct of the officers involved by exonerating them of any wrongdoing and without disciplining them such that the actions of the officers involved in the incident constitute the policies, practices, and customs of the Cleveland County Sheriff's Department.

14. As a direct and proximate result of the foregoing events, Austin Vance received numerous injuries which resulted in his death. Although the Medical Examiner's Office attributed the cause, and manner of death of Austin Vance to toxicity of metamphetamine, it believed that, but for the forcible restraint and hooding of Vance by the detention officers Vance would not have suffered excited delirium.

15. At all times material herein, the officers of the Cleveland County Detention Center were acting in their official capacities and by virtue of their positions as law enforcement officers of the Cleveland County, Oklahoma.

**FIRST CAUSE OF ACTION, 42 U.S.C. § 1983-SHERIFF LESTER AND BOCC
NORMAN REGIONAL HOSPITAL AND JOHN DOE PHYSICIANS, AND JOHN DOE
OFFICERS OF THE SHERIFF'S DEPARTMENT**

16. The above paragraphs are incorporated by reference,

17. At all times relevant to this case, Defendants were acting under color of the

laws of Oklahoma, and the Cleveland County .

18. Defendants acted deliberately indifferent to Austin Vance's serious medical needs by failing to provide required care and treatment for his medical condition. Defendants were aware, and knew of Austin Vance's serious medical needs, through their agents and employees, and the City of Norman Police Department. The failure to immediately secure hospital care for the treatment of Austin Vance demonstrated a callous disregard for the welfare of Austin Vance and deliberate indifference to the medical needs of Austin Vance.

19. Plaintiff incorporates herein by reference all of the allegations heretofore made, and further alleges and states as follows:

20. The individual Defendants, Sheriff Joseph Lester and his staff, the John Doe Emergency Room Physicians committed the above described actions and/or omissions under the color of law and by virtue of their authority as law enforcement officers Cleveland County and physicians substantially deprived Austin Vance of his rights, privileges and immunities guaranteed to him as a citizen of the United States in violation of 42 U.S.C. § 1983, and deprived Austin Vance of the rights guaranteed to him by the First, Fourth, Eighth, and Fourteenth Amendments of the United States Constitution including, but not limited to:

- a. Freedom of expression;
- b. Freedom from unlawful arrest and seizure of his person;
- c. Freedom from the use of unreasonable, unjustified and excessive force;
- d. Freedom from the deprivation of liberty without the due process of law;
- e. Freedom from cruel and unusual punishment;

f. Freedom from summary punishment;

21. As a direct and proximate result of the Defendants' acts or omissions, Austin Vance was killed.

22. As a direct and proximate result of the foregoing acts and omissions, Austin Vance died.

SECOND CAUSE OF ACTION, 42 U.S.C. § 1983-LIABILITY OF THE COUNTY AND NORMAN REGIONAL HOSPITAL

23. The above paragraphs are incorporated by reference.

24. Before April 26, 2016, Defendants Normand Regional Hospital and Board of County Commissioners of Cleveland County developed and maintained policies or customs exhibiting deliberate indifference to the constitutional rights of persons in Cleveland County, as a result of which Vance was deprived of his constitutional rights.

25. As the custodial of pre-trial detainees, Defendant County maintained a policy or custom of failing to adequately supervise the County Detention officers, and medical providers, and train staff and put in place procedures so that Austin Vance would receive medically appropriate care. As a patient of the hospital, Norman Regional Hospital also maintained a similar policy or custom of failing to adequately evaluating pre-trial detainees for incarceration.

26. Defendants' actions and/or omissions substantially deprived the Vance of his rights, privileges and immunities guaranteed to him as a citizen of the United States in violation of 42 U.S.C. § 1983, and deprived the Plaintiff of the rights guaranteed to him by the Eight and Fourteenth Amendment of the United States Constitution.

27. Alternatively, the County of Cleveland, Oklahoma is liable for the actions of its

officers and staff by virtue of the fact that the staff involved in this incident were not reprimanded, disciplined or terminated, and, accordingly, this Defendant ratified, condoned, acquiesced or approved their conduct in this matter in all aspects.

28. The aforementioned actions of the individual officers which were proximately caused by the policies and customs or systemic deficiencies of this Defendant were the underlying cause of the Vance's death.

THIRD CAUSE OF ACTION-NEGLIGENCE

29. The above paragraphs are incorporated by reference.

30. Defendant Physicians and Norman Regional Hospital owed Plaintiff a duty to exercise that degree of diligence and skill required of the average skilled physician within the local community to care for patients in a similar situation as the Vance.

31. Defendants breached the duty and care which they owed to Vance by failing to exercise that degree of diligence and skill required as set forth above, negligently hiring and retaining unskilled nurses and personnel who neglected to admit him to a rehabilitation facility and perpetrated other abuses against Vance in violation of the laws and regulations.

32. As a direct and proximate result of Defendant's breaches, as outlined above, Vance died.

33. The Plaintiff the duly appointed Personal Representative of Austin Vance Estate is currently a citizen and resident of Norman, Cleveland County Oklahoma, and pursuant to 51 O.S. §156 has complied with the notice provisions of the Governmental Tort Claims Act (GTCA) by filing a Governmental Tort Claim Notice on August 8, 2016 with the County of Cleveland. Plaintiff's Governmental Tort Claim was deemed denied on November 7, 2016. See Attached Exhibits.

34. Defendants' conduct was outrageous, and amounted to malicious and reckless disregard to Plaintiff's rights and gross negligence warranting punitive damages against Defendants in excess of \$75,000.00.

**FOURTH CAUSE OF ACTION, ARTICLE 2, § 30
OF THE OKLAHOMA CONSTITUTION---
JOSEPH K. LESTER , JOHN DOE E.R. PHYSICIANS
AND THE BOARD OF COUNTY COMMISSIONERS.**

35. Plaintiff hereby incorporates, in their entirety, paragraphs 1 through 34 as set forth above and by reference make said Paragraphs a part hereof as if fully set forth herein.

36. The actions of above-named Defendants were objectively unreasonable under the circumstances and exceeded the force necessary in violation of Article 2, § 30 of the Oklahoma Constitution for which Defendants are liable in their individual capacities and for which the Sheriff of Cleveland County, Joseph K. Lester, and the Board of County Commissioners are liable under a theory of *respondeat superior*.

37. The actions of Defendants were taken within the scope of their employment and in furtherance of a policy or practice of the Cleveland County that condoned the use of excessive force in violation of Article 2, Section 30 of the Oklahoma Constitution for which the Cleveland County and Sheriff Joseph K. Lester are liable.

**FIFTH CAUSE OF ACTION---ASSAULT & BATTERY- JOSEPH K.
LESTER AND THE BOARD OF COUNTY
COMMISSIONERS OF CLEVELAND COUNTY**

38. Plaintiff incorporates herein by reference all of the allegations heretofore made, and further alleges and states as follows:

39. To the extent that a jury determines that the actions of Sheriff Lester and his staff were malicious and outside the scope of their employment, the actions of Sheriff Lester and his staff are not

protected by the Governmental Tort Claims Act, and they remain personally liable to Plaintiff under state law.

SIXTH CAUSE OF ACTION—WANTON AND RECKLESS CONDUCT-AGAINST SHERIFF JOSEPH K. LESTER

40. Plaintiff incorporates herein by reference all of the allegations heretofore made, and further alleges and states as follows:

41. While holding the Plaintiff's decedent in their custody and control, the Defendants engaged in wanton, reckless and/or gross negligent conduct thereby inflicting pain and physical harm upon Austin Vance

42. The aforesaid alleged acts and conduct of the Defendants were either intentional, knowing, willful and purposeful or negligent and did cause the deceased, Austin Vance harm.

43. As a direct and proximate result of the Defendants' wanton, reckless, intentional and/or negligent conduct, the deceased, Austin Vance sustained injuries and the Plaintiff is entitled to damages.

SEVENTH CAUSE OF ACTION—INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

44. Plaintiff incorporates herein by reference all of the allegations heretofore made, and further alleges and states as follows:

45. The aforesaid alleged conduct of the individual Defendants was intentional, knowing, willful and purposeful and was outrageous beyond all bounds of human decency which a civilized society should tolerate, and the Defendants knew or should have known that their said conduct would inflict severe emotional distress upon the Plaintiff.

46. Plaintiff and her decedent have suffered physical, mental and emotional distress,

and including pain and suffering, and other damages as a result of the aforesaid alleged acts and conduct of the individual Defendants.

DAMAGES

47. Plaintiff hereby incorporates, in their entirety, Paragraphs 1 through 43 as set forth above and by reference make said Paragraphs a part hereof as if fully set forth herein.

48. As a direct and proximate result of the aforementioned actions of the Defendants, Austin Vance was killed. The damages for which the Plaintiffs seek compensation on behalf of Austin Vance from the Defendants, both jointly and severally, include, but are not limited to, the following:

- a. The wrongful death of her son, Austin Vance;
- b. Physical Pain and Suffering;
- c. Emotional Pain and Suffering;
- d. Medical Expenses;
- e. Loss of Enjoyment of Life;
- f. Loss of Earning Capacity;
- g. Loss of Services of Austin Vance;
- h. Funeral Expenses;
- i. Punitive damages against the applicable Defendants;
- k. Pre and post judgement interest;
- l. All such further relief, both general and specific, to which she may be entitled under the premises.

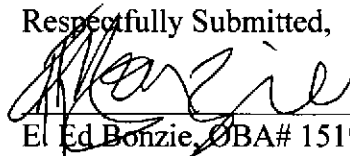
PRAYERS FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, the Plaintiff prays for judgment

against the Defendants, both jointly and severally, for the following:

- a. A declaratory judgment that the policies, practices or customs of the Cleveland County, and the Sheriff Department complained of herein are illegal and unconstitutional;
- b. Compensatory damages in the amount to be determined by the jury;
- c. Punitive damages against the applicable Defendants in the amount to be determined by the jury;
- e. Pre and Post Judgment Interest;
- f. All such further relief, both general and specific, to which the Plaintiffs may be entitled under the premises;

Respectfully Submitted,



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