

as UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

MALINDA ODISHO, as Personal Representative
and on behalf of the Estate of Dan Byrd,

Plaintiff,

v.

Case No:
Honorable

MACOMB COUNTY,
MACOMB COUNTY JAIL and
CORRECT CARE SOLUTIONS

Defendants.

The Law Offices of Gregory J. Rohl, P.C.
Gregory J. Rohl (P39185)
Attorney for Plaintiff
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COMPLAINT

There is no other Civil Action arising out of the same transaction or occurrence as alleged in this Complaint, pending in this Court nor has any such action been previously filed and dismissed after having been assigned to a judge.



GREGORY J. ROHL (P39185)

NOW COMES the Plaintiff, MALINDA ODISHO, as Personal Representative of the Estate of Dan Byrd, Deceased, by and through her attorneys, The Law Offices of Gregory J. Rohl, P.C., and for her Complaint against Defendant, states as follows:

1. Plaintiff, Malinda Odisho, is the duly appointed personal representative for the Estate of Dan Byrd, Deceased.
2. That this action arises under 42 USC §1983; jurisdiction being conferred by 28 USC §1331, §1343(a)(4).

3. That Decedent, Dan Byrd, was incarcerated in the Macomb County Jail located in Mount Clemens, Michigan from October 21, 2015 to November 13, 2015, at which time he was found unresponsive by staff around breakfast time and was pronounced dead soon thereafter. During his initial confinement, Decedent spent his first two days in a high observation cell, based upon clinical signs and symptoms of extreme drug/alcohol detoxification. Thereafter, Decedent was placed in a mental health step down unit from October 23, 2015 through November 11, 2015, at which time he was placed in general population; notwithstanding many contraindications and multiple indicators to keep him out of the general population.
4. Approximately 33 hours after his placement in general population, Decedent succumbed to a drug overdose from various pharmacological agents, which he somehow was able to procure while under the care and custody of the Macomb County Jail.
5. The Decedent's Estate brings this suit under 42 USC §1983 for violation of Decedent's rights under the 8th and 14th Amendments to the United States Constitution and Michigan State Law.
6. That this Court has supplemental jurisdiction of the Michigan State law claims pursuant to 28 USC §1367. Venue in this Court is likewise proper as to all Defendants pursuant to 28 USC §1391 (a)(2) and (b)(2), as the events giving rise to Decedent's claims occurred exclusively within the Eastern District of Michigan.
7. That Defendant, Macomb County, at all times relevant hereto was organized and operating under the laws of the State of Michigan, County of Macomb, and is a government subdivision or unit of government of the State of Michigan.

8. That Defendant, Macomb County Jail, operates a detention facility existing under and by virtue of the laws of the State of Michigan, having its principal location at 43565 Elizabeth Road, Mt. Clemens, Michigan 48043 City of Mount Clemens, County of Macomb, State of Michigan.
9. That Defendant, Correct Care Solutions, is an entity that operates in or with Macomb County Jail and Macomb County, providing medical services and treatment to inmates within the Jail.
10. That at all times material hereto, Defendant facility engaged various Sheriff deputies and other employees all of whom were acting under the color of State law and within the scope of their employment when Plaintiff Decedent cause of action arose.
11. That at the time of his incarceration, Decedent became a ward of the Macomb County Jail, whose agents, employees and representatives were all duty bound to ensure the preservation of all of his constitutional and civil rights along with maintaining his healthful condition and more importantly, avoiding the introduction of any illegal pharmaceutical agents and/or street drugs onto the premises of the Macomb County Jail.
12. That at the time of his incarceration, it was well known to all staff and employees that Decedent was upon admission, suffering from an acute detoxification, which required both medical treatment and monitoring.
13. That the Macomb County Jail has historically experienced multiple inmate deaths, secondary to drug overdoses and alcohol intoxication.
14. That the Macomb County Jail, through its administrative staff and leadership, was responsible for deterring and taking all affirmative steps necessary to prevent illegal drugs and contraband from being brought upon the premises of the Macomb County Jail

and was further responsible to prevent the consumption of said narcotic agents by the inmate population under its control and dominium.

15. That Defendant facilities corrections deputies were required to check in personally on any inmate found to be acting irrationally, especially where the underlying behavior caused the “bunkee” to get moved from the cell; this failed to occur with respect to Decedent Byrd.
16. That it was incumbent on the administration of Defendant facility to ensure that all staff were properly trained in addiction, especially in recognizing the signs and symptoms of drug intoxication; this did not occur with respect to Decedent Byrd.
17. That it was incumbent on Defendant facilities staff to ensure that all inmates who were detoxing would be prescribed appropriate medication to help alleviate seizures, and other symptoms of detoxification and to ensure that a physician be available to determine what would be medically required for transitioning of inmates experiencing detoxification issues; this was not done with respect to Plaintiff Decedent.
18. It was incumbent on Defendant facilities to ensure that all requests for medical treatment be documented and that follow through treatment be implemented to ensure the well being of inmates; this was not done with respect to Plaintiff Decedent.
19. It was incumbent on Defendant facilities to ensure that the emergency call button should be recorded each and every time it is pushed; this was not done with respect to Plaintiff Decedent.
20. It was incumbent on Defendant facilities to implement proper protocol, along with rules and regulations, ensuring that contraband not be permitted into the general population or consumption by the inmates, especially those with known addictions.

21. It was incumbent on Defendant facilities to ensure that inmates with addictions would not have access to street drugs and other contraband, while housed under the care and control of Defendant facility; this was not done.

COUNT I- FIRST CLAIM FOR RELIEF

22. Plaintiff hereby incorporates Paragraphs 1 through 20, as though fully set forth herein.

23. Defendant facilities staff, administration and Sheriff deputies engaged in deliberate and outrageous conduct that shocks the conscious in violation of Decedent's rights under the 8th and 14th Amendments to the United States Constitution and 42 USC§1983 by failing to keep street drugs and other contraband away from Decedent Byrd, a known addict while he was under their care, custody and control.

24. That as a direct result of the actions and inactions of Defendant facilities professional staff, employees and Sheriff deputies, Decedent Byrd sustained severe and physical injuries, excruciating emotional pain and injury, which culminated in his untimely demise.

COUNT II- SECOND CLAIM FOR RELIEF

25. Plaintiff hereby incorporates Paragraphs 1 through 23, as though fully set forth herein.

26. That Defendant facility was charged with a legal obligation to protect Plaintiff Decedent, Byrd, from contact with or ingestion of illegal pharmacological agents and otherwise knew, or should have known, that allowing Defendant Decedent access to such street drugs and/or contraband created a substantial risk of serious injury to Decedent Byrd. Notwithstanding this legal obligation, Defendant facilities professional staff, employees and deputy Sheriffs exercised deliberate indifference with respect to Decedent Byrd's personal safety and otherwise failed to protect him from substantial risk of serious harm

in violation of his rights under both the 8th and 14th Amendments of the United States Constitution and 42 USC §1983.

27. That the above-named deprivations of Plaintiff Decedent's rights constituted a risk of harm so grave that it violated contemporary standards of decency.
28. That Defendant facility, with an absence of medical authority to do so, placed Decedent Byrd into general population when they were on notice of the propensity for illegal contraband to be present and with full knowledge of the fact that Plaintiff Decedent was a recovering addict and was, in fact, still in the throes of detoxification.
29. That as a direct and proximate result of these actions, Plaintiff Decedent sustained severe physical injuries which culminated in his untimely demise and wrongful death.
30. That Defendant facility, through its professional staff, agents and Sheriff deputies, engaged in such conduct with malice and reckless or callous indifference to the rights of Plaintiff Decedent.
31. That Defendant facility deputies, acting under color of State law, placed Defendant decedent, a known addict, into general population, at which time they established a special custodial relationship with Decedent, giving rise to affirmative duties on their part, to secure for him all of his Constitutionally protected rights. Defendant facilities deputies and staff again, acting under color of State law, and in concert with another, by their conduct, exhibited intentional, outrageous and reckless disregard for Plaintiff Decedent's Constitutional rights, and their actions showed a deliberate indifference to Plaintiff Decedent's serious medical needs, which constituted a further deprivation of his constitutionally protected rights.

32. That Defendant facility, again, acting under color of State law, authorized, tolerated, ratified, committed or acquiesced in the creation of policies, practices and customs to establish a *de facto* policy of deliberate indifference to individuals such as Plaintiff Decedent and failing to restrict access to street drugs and other contraband by detainees who are under their care, custody and control.
33. That as a direct and proximate and result of these policies, practices and customs, Plaintiff Decedent was deprived of his constitutionally protected rights, as described above.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court allow the Trier of Fact to award her in the amount in excess of \$10,000,000.00 along with all costs, interests and attorney fees afforded under Michigan Law.

Dated: August 14, 2017

Respectfully Submitted,

The Law Offices of Gregory J. Rohl, P.C.

/s/ **Gregory J. Rohl**

Gregory J. Rohl

