

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS
STATE OF LOUISIANA

NO. 17-4864

FILED
MAY 19 1:14

SECTION 7 DIV.

TRESSCEL THOMAS, JEANINE MCNEAL, and TINA THOMAS, as legal guardians of
the minor children, JASMINE and JAKIA THOMAS, and the ESTATE OF JAQUIN
THOMAS

VERSUS

MARLIN N. GUSMAN, in his official capacity as Orleans Parish Sheriff, GARY D.
MAYNARD, in his official capacity as the Independent Jail Compliance Director of the
Orleans Parish Jail, LEON A. CANNIZZARO, JR., in his official capacity as District
Attorney for the Parish of Orleans, KERIANA ALEXCEE in her personal and official
capacity as Deputy of the Orleans Parish Sheriff's Office, MITCH LANDRIEU in his
official capacity as Mayor of New Orleans, the CITY OF NEW ORLEANS, and
the STATE OF LOUISIANA

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CLERK
DEPUTY CLERK

PETITION FOR DAMAGES

NOW INTO COURT, come Petitioners, Tresscel Thomas, and Jeanine McNeal, and Tina
Thomas, on behalf of the minor children, Jasmine and Jakia Thomas, and also as the administrators
of the Estate of Jaquin Thomas, to petition for damages for the personal injuries and wrongful
death of Jaquin Thomas.

JURISDICTION

1. This Court has jurisdiction over the claims of the named parties and the subject matter of

this litigation under Articles 2 and 6 of the Louisiana Code of Civil Procedure.

VENUE

2.

Venue is proper in this Court because:

- A. Orleans Parish is the Parish in which Petitioner, Jaquin Thomas, suffered damages as a
result of Defendants' negligent and wrongful conduct
- B. Orleans Parish is the official domicile of Defendants, Marlin Gusman, Gary D. Maynard,
and Keriana Alexcee, as employees of Orleans Parish Prison.

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PARTIES – PETITIONER

3.

The Petitioners are all of full age and majority or are appearing through their legal representative. Each has the legal capacity to sue, and each is domiciled as follows:

- A. TRESSCEL THOMAS is the mother of JAQUIN THOMAS, now deceased;
- B. JEANINE MCNEAL is the legal guardian of JASMINE THOMAS, the minor sister of JAQUIN THOMAS, and the co-administrator of THE ESTATE OF JAQUIN THOMAS;
- C. TINA THOMAS is the legal guardian of JAKIA THOMAS, the minor brother of JAQUIN THOMAS, and the co-administrator of THE ESTATE OF JAQUIN THOMAS; and
- D. THE ESTATE OF JAQUIN THOMAS, administered by JEANINE MCNEAL and TINA THOMAS.

PARTIES – DEFENDANTS

4.

- A. MARLIN N. GUSMAN, in his official capacity as the elected Sheriff of Orleans Parish, whose duties and responsibilities include development and implementation of policies and procedures for the operation and management of Orleans Parish Prison and its employees. He is responsible for the care, custody, and protection of prisoners under the jurisdiction of Orleans Parish Prison;
- B. GARY D. MAYNARD, in his official capacity as the Independent Jail Compliance Director, who's tasked with full compliance with the federal Consent Judgment, ensuring that all required policies are developed and implemented under such Consent Judgment, and that the staff have been adequately trained on those policies;
- C. LEON A CANNIZZARO, JR., in his official capacity as District Attorney and as the District Attorney responsible for requesting Petitioner, Jaquin Thomas, be sent to an adult facility
- D. KERIANA ALEXCEE, in her official capacity as a New Orleans Sheriff's Department Deputy and in her personal capacity;
- E. MITCH LANDRIEU, in his official capacity as the Mayor of New Orleans;
- F. THE CITY OF NEW ORLEANS, as the city in which ORLEANS PARISH PRISON is located, as a municipal agency within the Parish; and
- G. THE STATE OF LOUISIANA.

FACTUAL ALLEGATIONS

5.

On July 27, 2016, fifteen-year-old Jaquin Thomas ("Jaquin") was arrested for second-degree murder and aggravated burglary.

6.

Jaquin's case was not heard by the Magistrate Court until August 24, 2016.

7.

At that time, the Rule to Show Cause hearing was set for October 23, 2016, a Sunday, eighty-seven (87) days after his arrest.

8.

Jaquin was first sent to a Juvenile Facility in Orleans Parish within the City of New Orleans.

9.

On August 25, 2016, Jaquin was placed on the "jail list" for hearing.

10.

On September 13, 2016, Jaquin was set to Orleans Parish Prison, an adult facility that houses numerous violent offenders.

11.

Jaquin had no prior arrests or convictions: there was no explanation provided as to why he was sent to an adult-facility rather than a juvenile facility.

12.

Jaquin's bail was set at \$550,000.00.

13.

While at Orleans Parish Prison, Jaquin was violently beaten and assaulted by other inmates.

14.

To Petitioners' knowledge and belief, after one assault on Jaquin, the perpetrator was further charged with Jaquin's assault and time was added to his sentence.

15.

The Orleans Parish Prison employees did nothing to stop or prevent these violent assaults on fifteen-year-old Jaquin, nor did they inform Jaquin's legal guardian or family.

16.

Jaquin suffered from depression while at his time at Orleans Parish Prison, for which he was never properly medicated because the hospital never sent medical forms to his legal guardian, Tina Thomas, who was required to sign off on them due to Jaquin's minor status.

17.

To Petitioners' knowledge and belief, at one point Jaquin was given the incorrect medication and had to have his stomach pumped by the prison hospital.

18.

Around 9:19PM the night of October 17, 2016, Jaquin committed suicide in his prison cell, using his bed sheets and ace bandage to hang himself from a metal bar in his cell.

19.

To Petitioner's knowledge and belief, it is prison policy that the deputy on-guard is required to check on each prisoner by walking by their cell every fifteen (15) minutes.

20.

The deputy on-guard at 9:19PM on October 17, 2016 was named Defendant herein, Keriana Alexcee ("Alexcee").

21.

Alexcee did not conduct regular checks on inmate every fifteen (15) minutes, as required by prison policies.

22.

Jaquin hung for 45 (forty-five) minutes before he was discovered, unresponsive, by Keriana Alexcee.

23.

Petitioners believe that video evidence exists which shows Defendant, Keriana Alexcee, walking by Jaquin's cell four times, as he hung, without regard.

24.

Jaquin was taken to the hospital, where he was pronounced dead at 10:11PM.

25.

An apparent suicide note was found in Jaquin's cell after his death.

26.

Petitioners never received this note or a copy thereof, or the many of Jaquin's other belongings.

27.

Jaquin is survived by his mother, Tresscel Thomas, his grandmother, Tina Thomas, and his two minor siblings, Jasmine and Jakia Thomas.

28.

Since the date of Jaquin's death, Petitioners are of the belief that all prison employees on duty the night of October 17, 2016, have been terminated from Orleans Parish Prison.

29.

Numerous inmates have died in Orleans Parish Prison due to lack of supervision, both before and after Jaquin's death.

COUNT I: WRONGFUL DEATH

30.

Petitioner incorporates by reference the foregoing paragraphs of this Complaint as though fully set forth herein.

31.

Tresscel Thomas the biological mother of Jaquin Thomas, while Jaquin's biological father is not filiated to his son.

32.

Such that Tresscel Thomas is the only beneficiary who can recover under Louisiana Code of Civil Procedure article 2315.2.

33.

Tresscel Thomas suffered a loss of love, affection, services, support, society, and grief as a result of her son's death.

34.

Jaquin's death was at the hands of Defendants due to their negligence.

35.

Tresscel Thomas' damages caused by Defendants include those damages named in paragraphs 68-71, which are incorporated here by reference as if fully incorporated herein.

COUNT 2: NEGLIGENCE

36.

Petitioners incorporate by reference the foregoing paragraphs of this Complaint as though fully set forth herein.

37.

Defendant, MARLIN GUSMAN, is liable to Petitioners for negligence for:

- A. Negligent supervision of Deputy KERIANA ALEXCEE and others similarly situated in the performance of their duties;
- B. Failure to adequately train prison employees, included by not limited to Defendant, KERIANA ALEXCEE;
- C. Negligent misapplication and/or non-application of safety precautions and procedures;
- D. Other negligence which may be proven at the trial on this matter.

38.

Defendant, MARLIN GUSMAN, is vicariously liable to Petitioners for:

- A. the actions of Defendant, KERIANA ALEXCEE, as her employer, and the tortious and negligent actions committed within the course and scope of her employment.

39.

Defendant, GARY MAYNARD, is liable to Petitioners for negligence for:

- A. Failure to address and remedy known deficiencies in prison safety, security, and medical and mental health care;
- B. Failure to ensure safety of inmates;
- C. Failure to apply and maintain a proper intimate-monitoring system;
- D. Failure to adequately train prison employees, included by not limited to Defendant, KERIANA ALEXCEE;
- E. Failure to effectively comply with the Stipulated Order for Appointment of Independent Jail Compliance Director and Consent Judgment;
- F. Other negligence which may be proven at the trial on this matter.

40.

Defendant, KERIANA ALEXCEE, is liable to Petitioners for negligence as for:

- A. Failure to comply with Orleans Parish Prison monitoring policies;
- B. Failure to properly supervise Jaquin Thomas;

C. Dereliction of duty;

D. Other negligence which may be proven at the trial on this matter.

The cumulation of Defendants' actions and inactions are the sole and proximate cause of the injuries, damages, and wrongful death of Jaquin Thomas.

41.

Defendant, MITCH LANDRIEU, is liable to Petitioners for negligence as for:

A. Failure to maintain a safe prison environment in Orleans Parish Prison;

A. Failure to properly implement policies to ensure a safe prison environment;

B. Dereliction of duty;

C. Other negligence which may be proven at the trial on this matter.

42.

The cumulation of Defendants' actions and inactions are the sole and proximate cause of the injuries, damages, and wrongful death of Jaquin.

COUNT 3: SURVIVAL ACTION

43.

Petitioners incorporate by reference the foregoing paragraphs of this Complaint as though fully set forth herein.

44.

Tresscel Thomas the biological mother of Jaquin, while Jaquin's biological father is not filiated to his son.

45.

Such that Tresscel Thomas is the only beneficiary that can recover under Louisiana Code of Civil Procedure article 2315.1.

46.

Tresscel Thomas has the right to recover for the suffering Jaquin endured from the time between his hanging and the time of his death: roughly forty-five (45) minutes.

47.

Jaquin's suffering was prolonged as a result of Defendants' negligence.

48.

Tresscel Thomas' damages caused by Defendants include those damages named in paragraph 68-72, which are incorporated here by reference as if fully incorporated herein.

COUNT 4: VIOLATIONS OF 14TH AND 4TH AMENDMENT
IN RELATION TO 42 U.S.C. § 1983

49.

Petitioners incorporate by reference the foregoing paragraphs of this Complaint as though fully set forth herein.

50.

42 U.S.C. § 1983 protects individuals from violations of their federally protected rights. A governmental entity is liable under Section 1983 when its police or customs violate an individual's federally protected rights.

51.

To Petitioners' knowledge and belief, the default practice of Defendant and District Attorney for New Orleans, LEON CANNIZZARO, is to prosecute children in Orleans Parish as adults.

52.

To Petitioners' knowledge and belief, Defendant, LEON CANNIZZARO, has sent over two-hundred (200) children to adult court since assuming office in 2009.

53.

To Petitioners' knowledge and belief, LEON CANNIZZARO consistently transfers children to adult facilities who have no prior delinquency record.

54.

The arbitrary transfer of Jaquin's as a fifteen-year-old with no priors violated his due process rights.

55.

The Fourteenth Amendment of the U.S. Constitution ensures that no person shall be deprived of life, liberty, or property without due process of law, and ensure equal protection under the laws of the United States.

56.

Article 1 Section 2 of the Constitution of the State of Louisiana of 1974 ensures the same in that "no person shall be deprived of life, liberty, or property, except by due process of law."

57.

LEON CANNIZZARO'S commonplace policies put Jaquin in danger after failing to provide due process and sending him to an adult facility, as a minor.

58.

LEON CANNIZZARO'S commonplace unconstitutional policies violated Jaquin's rights under the Fourteenth Amendment by depriving Jaquin of his constitutional right to due process of law.

59.

The deprivation of constitutional rights, injuries, and harm caused to Jaquin as alleged in this Complaint are the direct result of official policy, customs, and practices of Defendant, LEON CANNIZZARO.

60.

Additionally, Defendants MARLIN GUSMAN, GARY MAYNARD, AND KERIANA ALEXCEE'S failure to adequately supervise to ensure the safety of Jaquin as a prisoner at Orleans Parish Prison, resulting in his injuries, harm, and eventual suicide, constitutes a violation of Jaquin's right to equal protection under the Fourteenth Amendment.

61.

Defendants MARLIN GUSMAN, GARY MAYNARD, AND KERIANA ALEXCEE'S failure to prevent and remedy the violence, harassment, and abuse suffered by minor Jaquin in an adult prison facility further violated his right to equal protection.

62.

Defendants MITCH LANDRIEU, THE CITY OF NEW ORLEANS, and the STATE OF LOUISIANA are responsible for maintaining a facility in which employees are improperly trained and prisoners are unsupervised; jeopardizing prisoner safety and failing to provide adequate and equal protection.

63.

Defendants, MITCH LANDRIEU, MARLIN GUSMAN, and THE CITY OF NEW ORLEANS, are liable under 42 U.S.C. § 1983 after being put on notice of Defendant, LEON CANNIZZARO's unconstitutional policies and habits of sending minor inmates to adult facilities.

64.

Defendants, as a whole, failed to provide Jaquin with adequate protection from harm caused by other prisoners and his eventual suicide, through deliberate indifference.

65.

Defendant, MARLIN GUSMAN AND KERIANA ALEXCEE knew of and disregarded the excessive risk to Jaquin's health and safety, in violation 42 U.S.C. § 1983.

COUNT 5: VIOLATIONS OF THE LOUISIANA CHILDREN'S CODE ARTICLE 305

66.

Petitioners incorporate by reference the foregoing paragraphs of this Complaint as though fully set forth herein.

67.

Under the Louisiana Children's Code article 305(A)(1)(b), when a child is fifteen years of age or older at the time of the commission of second degree murder, he subject to the exclusive jurisdiction of the juvenile court *until* the juvenile court holds a hearing under Article 819.

68.

Should the Court find probable cause that the child committed one of the listed offenses, the child is thereafter subject to the exclusive jurisdiction of the adult court and will be transferred to the appropriate adult facility for determine prior to his trial as an adult.

69.

To the best of Petitioners' knowledge and belief, Defendants MITCH LANDRIEU, THE CITY OF NEW ORLEANS, the STATE OF LOUISIANA, are responsible for administrating and ensuring Court compliance with the Louisiana Children's Code.

70.

To the best of Petitioners' knowledge and belief, Defendant, LEON CANNIZZARO, requested that Jaquin be sent to Orleans Parish Prison at fifteen-years old.

71.

To the best of Petitioners' knowledge and belief, Jaquin did not receive a hearing under Article 819.

72.

Nevertheless, Jaquin was transferred to Orleans Parish Prison, an adult correctional facility, while awaiting trial.

73.

Jaquin was thus deprived of his procedural due process rights.

DAMAGES

74.

Petitioners incorporate by reference the foregoing paragraphs of this Complaint as though fully set forth herein.

75.

The acts, omissions, and policies of Defendants constituting violations of Jaquin's constitutional and statutory rights were and are a proximate cause of Petitioners' damages.

76.

As a result of Defendants' acts, omissions, and policies Jaquin Thomas suffered severe emotional and psychological injuries, physical injuries, and damages.

77.

The physical and emotional injuries inflicted upon Jaquin and the class were willful, wanton, cruel and the result of intentional or deliberate indifferent conduct, entitling Petitioner to punitive damages.

REQUEST FOR JURY TRIAL

78.

Petitioners request a trial by jury.

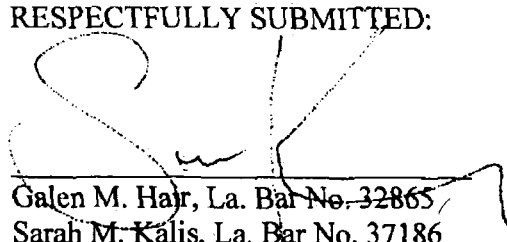
PRAYER FOR RELIEF

79.

WHEREFORE, the Petitioners respectfully request that this Court enter Judgment in favor of Petitioners and against all named Defendants, herein, and award the following relief:

- A. Appropriate injunctive relief, including but not limited to an order restraining Defendants from further violating others' due process rights;
- B. Compensatory and consequential damages, including those for emotional distress against Defendants;
- C. Punitive damages against Defendants;
- D. Pre-judgment and post-judgment interest at the highest lawful rate;
- E. Attorney's fees and costs of this action; and
- F. Any such further relief as the Court deems appropriate.

RESPECTFULLY SUBMITTED:



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