

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
 )  
 COUNTY OF CHARLESTON ) CIVIL ACTION 2016-CP-10- 946

JAVON K. CURNELL, As Personal )  
 Representative of the Estate of JOYCE E. )  
 CURNELL, )

Plaintiff, )

v. )

CHARLESTON COUNTY and )  
 CHARLESTON COUNTY SHERIFF'S )  
 OFFICE, )

Defendants. )

COMPLAINT  
 (Jury Trial Requested)

FILED  
 2016 FEB 25 PM 4:33  
 JULIE J. ARMSTRONG  
 CLERK OF COURT

The Plaintiff, Javon K. Curnell, as Personal Representative of the Estate of Joyce E. Curnell, deceased, complaining of the Defendants, Charleston County and Charleston County Sheriff's Office, would respectfully show unto this Honorable Court:

**PARTIES, JURISDICTION, AND VENUE**

1. The Plaintiff, Javon K. Curnell, is a citizen and resident of the County of Charleston, State of South Carolina. Additionally, Javon K. Curnell is the duly appointed Personal Representative of the Estate of Joyce E. Curnell, having been so appointed by the Charleston County Probate Court on the 14<sup>th</sup> day of August, 2015, under case number 2015-ES-10-001308.

2. The Defendant, Charleston County, is a political subdivision of the State of South Carolina as defined in Section 15-78-10 et seq. of the Code of Laws of South Carolina (1985), as amended. At all times hereinafter mentioned in this complaint, this Defendant owned and/or operated the Charleston County Detention Center, and it acted or carried on its business by and through its agents, servants, and/or employees. Additionally, during the time period set out in the complaint,

these employees were operating within the scope of their officially assigned and/or compensated duties.

3. The Defendant, Charleston County Sheriff's Office, is a governmental agency and/or political subdivision of the State of South Carolina, existing under the laws of the State of South Carolina (as defined by Section 15-78-10 of the Code of Laws of South Carolina (1985), as amended) and has facilities located in the County of Charleston, South Carolina. At all times hereinafter mentioned in this complaint, the Defendant, Charleston County Sheriff's Office, owned and/or operated the Charleston County Detention Center (hereinafter "Detention Center") and acted and carried on its business by and through its agents, servants, and/or employees, to include the officers working within the Charleston County Detention Center. Additionally, during the time period set out in the complaint, these employees were operating within the scope of their officially assigned and/or compensated duties.

4. The Plaintiff filed a separate Notice of Intent to File Suit in a Medical Malpractice case on February 24, 2016 against the private medical provider, Carolina Center for Occupational Health, who has contracted to provide medical care within the Charleston County Detention Center, Civil Action Number: 2016-NI-10-11. The Plaintiff intends to consolidate these actions following the conclusion of the statutory requirements set forth in the South Carolina Medical Malpractice Act of 2005.

#### FACTS

5. The acts and occurrences which give rise to this action occurred while the Decedent was in the care and custody of the Defendants.

6. The Plaintiff's decedent, Joyce E. Curnell, was a 50 year-old female from Edisto Island, South Carolina with a history of sickle cell traits, chronic ethanolism, and hypertension.

7. Upon information and belief, at 12:08 p.m. on July 21, 2015, Ms. Curnell presented via Charleston County EMS to the emergency room at Roper St. Francis Hospital with complaints of nausea, vomiting, and diarrhea. While in the emergency room, lab work was conducted and IV hydration was administered.
8. Upon information and belief, Roper St. Francis Hospital Emergency Room physician, Kevin Price, MD, diagnosed Ms. Curnell with gastroenteritis, and hypertension. To help reduce the vomiting and nausea, Dr. Price prescribed Zofran ODT 4 mg Oral Tablet to be taken every 4 – 6 hours as needed.
9. During the course of her hospitalization, it was determined that Ms. Curnell had an outstanding bench warrant in connection with her alleged failure to pay a court fine in the amount of \$1,148.90. Thereafter, Charleston County Sheriff's Office responded while Ms. Curnell was still a patient at Roper St. Francis Hospital and placed her under arrest. She was transported to the Charleston County Detention Center for booking at 2:30 p.m. directly from the Roper St. Francis ER.
10. Registered Nurse Katherine Hall documented that verbal and written discharge instructions were provided to Ms. Curnell and the arresting police officer employed with the Charleston County Sheriff's Office. According to the Roper St. Francis ER Discharge Instructions, Ms. Curnell was to seek PROMPT medical ATTENTION if she experienced "increasing abdominal pain or constant lower right abdominal pain; continued vomiting; frequent diarrhea; reduced oral intake; weakness, dizziness, or fainting; drowsiness; confusion; stiff neck; or seizure."
11. After an initial assessment by medical staff, Ms. Curnell was escorted to the B3M unit for housing. Detention Officer Charlene Jackson was one of the officers assigned to Ms. Curnell's unit. According to her statement, upon entering the B3M unit on the night of July 21, 2015, Ms. Curnell was unsteady and "trying to keep her balance." She complained of her "stomach hurting"



and within minutes “she was in the bathroom throwing up.” Ms. Curnell reported to Officer Jackson that she was too weak to submit a sick call request. Additionally, Detention Officer Kristen L. Cook reported that she vomited “through the night” and “couldn’t make it to the bathroom.” Officer Jackson provided Ms. Curnell with a red trash bag and at approximately 1:30 a.m., contacted Nurse Ashley B. Wiley requesting medical assistance. Nurse Wiley informed Officer Jackson that a nurse would be coming to the unit around 5:00 a.m. and that she would evaluate Ms. Curnell.

12. Ms. Curnell continued to vomit throughout the night. At no time did Defendants fulfill their requirement to summon or procure adequate medical attention for Ms. Curnell. At or around 4:45 a.m., Officer Jackson relayed Ms. Curnell’s deteriorated physical appearance and that she had been vomiting throughout the night. Despite the fact that Defendants had actual knowledge of Ms. Curnell’s open and obvious medical condition that included “continued vomiting, increasing abdominal pain, weakness, dizziness, drowsiness” as described in the discharge instructions from hospital as indications requiring “PROMPT ATTENTION,” in complete and total disregard of the Roper St. Francis Hospital Discharge Instructions, the Plaintiff is informed and believes that the Defendants failed to procure any medical treatment to Ms. Curnell whatsoever.

13. In her incident report, Officer Cook reported that after breakfast the following morning, July 22, 2015, Ms. Curnell was unable hold her breakfast down and “layed down throughout the afternoon, vomiting...” [sic]. Despite Ms. Curnell’s physical appearance as described by detention staff and other inmates, the Plaintiff is informed and believes Defendants failed to satisfy their non-delegable duty to provide adequate attention in response to Ms. Curnell’s open and obvious distress.

14. According to the Charleston County Sheriff’s Office incident report, Ms. Curnell was last observed by correctional staff on 2:12 p.m. and was found, unresponsive, at 5:00 p.m.

15. According to the Autopsy Report, Ms. Curnell died as a result of complications of gastroenteritis. The Plaintiff has been informed and believes that had the Decedent been timely evaluated by a medical professional and properly treated for her gastroenteritis and dehydration, her deterioration and ultimate death would have, more likely than not based on a reasonable degree of medical certainty, been prevented.

**FOR A FIRST CAUSE OF ACTION**  
**AGAINST THE DEFENDANTS**  
**(Negligence/Gross Negligence - Survival)**

16. The Plaintiff reiterates each and every relevant allegation stated above as if repeated verbatim herein.

17. The Defendants are liable to the Plaintiff as a result of its negligence, gross negligence, recklessness, willfulness, and wantonness in one or more of the following particulars:

- (a) In failing to secure proper care for the Decedent, when the Defendants and/or their personnel, agents, and/or employees knew or should have known that the Decedent was in open and obvious distress;
- (b) In failing to provide reasonable, necessary, and appropriate supervision, care, and access to medical treatment to the Decedent;
- (c) In disregarding the Decedent's complaints of distress;
- (d) In failing to monitor the Decedent, while detained, and take the proper steps to provide assistance to her when they knew or should have known that she was unable to care for herself;
- (e) In failing to ensure that the Decedent had access to medical care;
- (f) In failing to seek emergency medical attention for the Decedent, when they knew she was suffering from an open, obvious, and serious medical need;

- (g) In failing to refer or transport the Decedent to a specialist and/or a hospital;
- (h) In failing to sufficiently monitor the Decedent;
- (i) In failing to follow the mandates of the Minimum Standards for Local Detention Centers in South Carolina;
- (j) In failing to properly train and/or supervise its employees, agents, and/or staff, so as to ensure that detainees (including the Decedent) are provided with proper care and attention while incarcerated;
- (k) In failing to have the proper policies and/or procedures in place regarding the administration of proper supervision;
- (l) In failing to take the appropriate steps to provide care and treatment to the Decedent when they had actual and constructive notice of the Decedent's open and obvious distress;
- (m) In failing to have the proper policies and procedures in place regarding recognition of medical needs of new detainees;
- (n) In failing to draft and/or institute proper policy and procedure necessary to ensure that inmates are provided basic and/or appropriate medical care and protection from abuse;
- (o) In failing to comply with national, state, and local standards and guidelines with regard to the provision of medical care in detention facilities;
- (p) In failing to train their employees, agents, and/or staff to recognize the medical needs of detainees;
- (q) In failing to properly treat and/or care for the Decedent, Ms. Curnell;
- (r) In failing to provide, order, seek, and/or maintain emergency medical care;
- (s) In abandoning the Decedent when she was in desperate need of medical care; and



(t) In failing to have proper communication by and between the detention center officers and the medical personnel contracted to provide medical assistance to the detainees.

18. The above acts of gross negligence and gross breaches of the proper standard of care (by and through the employees, agents, and/or servants of these Defendants) have caused the Decedent to suffer conscious pain and suffering, leading to her death. The Plaintiff has suffered the loss of the life of the Decedent, loss of her love and support, mental anguish, emotional distress, incurred funeral expenses, and undue grief, and Ms. Curnell's heirs will likely suffer from the effects of the Defendants' actions now and in the future. As such, the Plaintiff is entitled to ACTUAL AND CONSEQUENTIAL from the Defendants.

**FOR A SECOND CAUSE OF ACTION AGAINST THE DEFENDANTS**  
**(Wrongful Death)**

19. The Plaintiff reiterates each and every relevant allegation stated above as if repeated verbatim herein.

20. This action is brought for the wrongful death of Joyce E. Curnell, pursuant to the provisions of § 15-51-10 *et seq.*, Code of Laws of South Carolina (1976, as amended), and is brought for the statutory heirs of Joyce E. Curnell, who died on the 22<sup>nd</sup> day of July, 2015.

21. The death of the Decedent was caused and occasioned by the grossly negligent acts on behalf of the Defendants as set forth above.

22. Prior to her death, Joyce E. Curnell was fifty (50) years of age. By reason of her untimely death, her heirs have been deprived of all the benefits of her society and companionship and have been caused great mental shock and suffering by reason of her death. They have and will forever be caused grief and sorrow by the loss of Ms. Curnell's love, society, and companionship. They

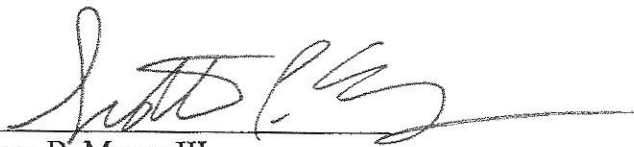
have been deprived of her future experiences and judgments. They have incurred expenses for her funeral and final expenses and, as a result of the foregoing, they have been damaged as follows:

- (a) mental shock and suffering;
- (b) wounded feelings;
- (c) grief and sorrow;
- (d) loss of her support;
- (e) loss of companionship; and
- (f) deprivation of the use and comfort of the Decedent's society and loss of her experience, knowledge, and judgment.

23. As a further result, and because of the Defendants' reckless, willful, and grossly negligent conduct, which ultimately caused the wrongful death of Joyce E. Curnell, this Plaintiff is entitled to ACTUAL and CONSEQUENTIAL damages in an amount to be determined by a jury in accordance with the law and evidence in this case.

WHEREFORE, the Plaintiff, in his fiduciary capacity as personal representative of the Estate of Joyce E. Curnell, prays judgment against all of the Defendants, both jointly and severally, for ACTUAL and CONSEQUENTIAL damages, for the costs of this action, and for such other and further relief as the Court may deem just and proper.

Respectfully Submitted,



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February 25, 2016  
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