COX v. GLANZ

1/15/2013

Page 1 IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA CAROLYN COX, as the Special) Administrator of the Estate) of Charles Jernegan, Deceased, Plaintiff,) CASE NO. 11-CV-457-V.) CVE-HFM (1) STANLEY GLANZ, SHERIFF) OF TULSA COUNTY, in his) Individual and Official) Capacities; (2) CORRECTIONAL HEALTHCARE) MANAGEMENT OF OKLAHOMA,) INC.; CONDENSED (3) SARA SAMPSON, MHR-MHP;) (4) FAYE TAYLOR, LPN; (5) S. JEFFERIES, LPN; (6) L. RITCHIE, LPN; (7) RENADA LOWEN, RN; (8) CORRECTIONAL HEALTHCARE) COMPANIES, INC.; and (9) CORRECTIONAL HEALTHCARE) MANAGEMENT, INC., Defendants.) DEPOSITION OF ELANDIA DIANE MALOY TAKEN ON BEHALF OF THE DEFENDANTS IN TULSA, OKLAHOMA ON JANUARY 15, 2013 PLAINTIFF'S **EXHIBIT** REPORTED BY: JUDY THOMPSON, CSR CITY REPORTERS 117 PARK AVENUE OKLAHOMA CITY, OKLAHOMA 73102

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	Page 114		Page 116
1	A. No.	1	that got weird.
2	Q. And you said that they eliminated your	2	When you were alone with her, and I don't
3	position. Was anybody that you were aware of	3	know if you were confronting her about it, she would
4	supervising or doing your job after you left?	4	at least tell you, well, absolutely, they have to do
5	A. I do not have knowledge of that.	5	those things?
6	Q. Fair enough.	6	A. Yes.
7	Were you ever told by Pam Hoisington that	27	Q. But then whenever you were out of earshot,
	you didn't have to match the red chart with their	8	it's your belief she would tell them, you don't have
8		9	to do that?
9	chart?	10	A. Yes.
10	A. No.	11	Q. Right. How else did she try and undermine
11	Q. She never stated that to you?	12	you?
12	A. No.	13	A. A couple of times, I had wrote both the
13	Q. While she wouldn't make your employees do	14	ladies up for coming in late. They would come in all
14	it, she never told you that you didn't have to do it?	15	hours of the day. They leave anytime they wanted. 1
1,5	A. No.		would attempt to write them up for that. And Pam
16	Q. Did she not like you?	16	
1.7	MR. DAN SMOLEN: Object to the form.	17	tore up some of the write-ups in front of my face.
1.8	Q. (By Mr. Fortney) If you know.	18	Q. Now, you say you wrote them up. What
19	A. Secondhand knowledge, no.	1.9	happened to these write-ups, if you know? A. She tore the majority of them up in my face.
20	Q. You've been told by others she didn't like	20	
2.1	you?	21	Q. Well, that's the majority. That leads me to
2.2	A. Yes.	22	believe a minority exist somewhere.
23	Q. But your testimony is that she did tell your	23	A. Well, actually, if I left the office with
24	other two employees that they didn't have to do it;	24	her, I didn't know what she did with them afterwards.
25	is that true?	25	Q. I just want to make sure I understand your
	Page 115		Page 117
1	A. Correct.	1	testimony here. Your testimony is you really don't
2	Q. And how do you know that?	2	have any idea whether these exist today or not?
3	A. Because when we had the meeting, because Pam	3	MR. DAN SMOLEN: Object to the form.
4	would take us in the office one at a time. And I	4	A. Yes.
	1.1 1 Annual - and sinter And when we had	5	A D ECOPTAINTY, That's all the questions I
5	would write out several complaints. And when we had		MR. FORTNEY: That's all the questions I
6		6	have. Thank you.
	the meeting of all of us, it was stated that, Pam, you said I didn't have to do this. You said I didn't	1	have. Thank you. MR, DAN SMOLEN: I've got some questions.
6	the meeting of all of us, it was stated that, Pam,	6	have. Thank you. MR, DAN SMOLEN: I've got some questions. CROSS-EXAMINATION
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6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	the meeting of all of us, it was stated that, Pam, you said I didn't have to do this. You said I didn't have to do this. Pam would tell them one thing and tell me another thing. Q. Pam would tell you they did have to do it; is that what you're telling me? A. No. She would tell them that they did not have to do it. And she would tell me that they have to do it. Q. That's what I meant. A. Yes. Q. When she was facing you, she was, like, well, absolutely, they have to do that, right? A. No, she wasn't. Q. I'm misunderstanding now. I thought you said she told you that they did have to do it, that you had to do it and they had to do it?	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	have. Thank you. MR. DAN SMOLEN: I've got some questions. CROSS-EXAMINATION BY MR. DAN SMOLEN: Q. Diane, would you just describe to me what your job description was as the supervisor over medical records, what you believe your job description to be? A. It was to maintain Medical Records and to make sure the employees under me were doing what their job description was, which was filing, pulling the charts, scheduling the physicals and making sure medical records were all in their charts appropriately. Q. Okay. In that capacity, as a supervisor, did you ever participate in NCCHC audits? A. Yes, I did.

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1 Did you understand what NCCHC was? 2 A. Yes. 3 Q. What did you understand NCCHC to be? 4 A. It was for their accreditation to operate in 5 the jail. Q. And when you say "their accreditation," whose accreditation? A. It was for medical's accreditation, and it was, alsa, the jail had a standard that they wanted to keep, which was called the five star. 11 Q. Okay. And in your capacity as a medical records supervisor, did you participate in the audit process? 14 A. Yes. 15 Q. And describe to me — let me ask it this floway: Were you notified when there would be NCCHC auditis? 16 A. Yes. 17 Q. And how were you notified? 18 A. Yes. 19 Q. And how were you notified? 20 A. We were told by our supervisor that the audit was coming, that we had to get the medical records in order. 21 Q. And in that process, were you ever asked to falsify charts? 22 Q. (By Mr. Dan Smolen) Beplain to me how that would happen. 23 A. Yes. 24 Q. (By Mr. Dan Smolen) Explain to me how that would happen. 25 A. Yes. 26 Q. (By Mr. Dan Smolen) Explain to me how that would happen. 26 A. Pam had come to us and wanted perfect charts. She did not want any of the sick calls to be blank. So did not want any of the sick calls to be blank. So the had people remove those sick calls to be blank. So did not want any of the sick calls to be blank. So did not want any of the sick calls to be blank. So did not want any of the sick calls to be blank. So did not want any of the sick calls to be blank. So did not want any of the sick calls to be blank. So did not want any of the sick calls to be blank. So did not want any of the sick calls to be blank. So did not want any of the sick calls to be blank. So did not want any of the sick calls to be blank. So did not want any of the sick calls to be blank. So did not want any of the sick calls to be blank. So did not want any of the sick calls not have a did to this insmite. She did not want any of the sick calls not have a did to this insmite. She did not want any of the sick calls not have a did to this insmite. She d	1	Page 118		Page 120
2 A. Yes. 3 Q. What did you understand NCCHC to be? 4 A. It was for their accreditation to operate in the jail. 4 Q. And when you say "their accreditation," whose accreditation? 5 the jail. 9 Q. And when you say "their accreditation, and it was, also, the jail had a standard that they wanted to keep, which was called the five star. 1 Q. Okay. And in your capacity as a medical records supervisor, did you participate in the audit process? 4 A. Yes. 9 Q. And describe to me let me ask it this didn's was common their charts of himself and the was a common their charts of himself and the process? 4 A. Yes. 9 Q. And how were you notified? 9 A. We were told by our supervisor that the audit was coming, that we had to get the medical records in order. 2 Q. And in that process, were you ever asked to falsify documents? 3 Q. And in that process, were you ever asked to falsify documents? 4 A. Yes. 9 Q. (By Mr. Dan Smolen) Explain to me how that would happen. 4 A. Yes. 9 Q. (By Mr. Dan Smolen) Explain to me how that would happen. 5 A. Yes. 9 Q. (By Mr. Dan Smolen) Explain to me how that would happen. 6 A. Pam had come to us and wanted perfect of there was something in there bad or if there were sick calls in the charts that were raily sick. 9 Asked all has a place where the inmate vrites on the chart or the paper, and it has a diagnosis where the hearter was of the sick calls to be blank. So she had people remove those sick calls or she either had the nurses fill in something that they seen or, oven if it was an duplicate, to write "duplicate" on it. 9 Q. Did she ever ask you to create, essentially, falsify files that would then be provided to NCCHC during the audit process? A. Yes. Q. Did she ever ask you to create, essentially, falsify files that would then be provided to NCCHC during the audit process? A. Yes. Q. How did she go about requesting that of you? 2 How did she go about requesting that of you? 2 How did she go about requesting that of you? 2 How did she go about requesting that of you? 3 How and the char	1	-	1	A She nicked out certain names that she
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	Page 122		Page 124
1	A. Yes.	1	response to a failed audit?
2	Q. (By Mr. Dan Smolen) And you were in charge	2	MR. WEBSTER: Object to the form.
3	of the medical records; you were in charge of the	3	A. The auditors left bullets as to what was
4	charts, correct?	4	supposed to change, what they were supposed to
5	MR. WEBSTER: Object to the form.	5	improve. And Pam Hoisington was to write a report as
	A. Yes.	6	to how she was going to address these defects. And
6	Q. (By Mr. Dan Smolen) There would have been	7	from our understanding, they were going to come back
7	no one there with as much knowledge over the charting	8	in a couple of weeks, a period of weeks, and she was
8	and this type of request than you, correct?	9	supposed to lay out how she was going to address
9		10	these defects.
10	MR. FORTNEY: Object to the form.	11	Q. And did she ever address the defects?
11	MR. WEBSTER: Object to the form.	12	MR. WEBSTER: Object to the form.
12	A. Correct.	13	A. No.
13	Q. (By Mr. Dan Smolen) With respect to audits,		Q. (By Mr. Dan Smolen) What would she do?
14	do you ever recall a time when you were at CHC or the	14	A. Push it under the rug. She would not
15	Sheriff's Office received a bad audit?	15	
16	MR. WEBSTER: Object to the form.	16	address the defects. She wrote out a plan, and it
17	A. Yes.	17	was never implemented.
18	Q. (By Mr. Dan Smolen) Was that audit	18	Q. But would she ever paper over in the charts
19	addressed with you?	19	to look like the plan had been implemented?
20	A. Yes.	20	MR. WEBSTER: Object to the form.
21	Q. How was it addressed with you?	21	A. She would tell people that the plan was
22	A. They came to us. Before the audit, the	22	implemented, but it never was implemented.
23	Sheriff gave he had a meeting with all the	23	Q. (By Mr. Dan Smolen) Okay. Based on your
24	department heads and told us how important it was to	24	personal observations, you knew the plan had never
25	pass this audit and told CIIM they were going to lose	25	been implemented?
	Page 123		Page 125
1	their contract if they failed this audit. And heads	1	MR. WEBSTER: Object to the form.
2	were going to roll, is what Glanz said. He was the	1	-
		2	A. No.
2	one that was giving the meeting, him and Chief Alhin.	2 3	A. No. O. (By Mr. Dan Smolen) Did you observe any
3	one that was giving the meeting, him and Chief Albin.	3	Q. (By Mr. Dan Smolen) Did you observe any
4	one that was giving the meeting, him and Chief Albin. After we had the audit, the auditors were told to	3	Q. (By Mr. Dan Smolen) Did you observe any other practices, for example, with respect to inmates
4 5	one that was giving the meeting, him and Chief Albin. After we had the audit, the auditors were told to pick charts from the charts.	3 4 5	Q. (By Mr. Dan Smolen) Did you observe any other practices, for example, with respect to inmates being denied medical treatment pending them being
4 5 6	one that was giving the meeting, him and Chief Albin. After we had the audit, the auditors were told to pick charts from the charts. But, in fact, we were made to carry the	3 4 5 6	Q. (By Mr. Dan Smolen) Did you observe any other practices, for example, with respect to inmates being denied medical treatment pending them being transferred to the State Penitentiary?
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4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	one that was giving the meeting, him and Chief Albin. After we had the audit, the auditors were told to pick charts from the charts. But, in fact, we were made to carry the charts up to Chief Albin's office. And the auditor said, no, thank you; we're not going to pull charts out of this chart thing; we're going to pull our own charts. So they went back downstairs and pulled just random charts from everywhere. And they failed the audit. After the auditors left, we had another meeting. And Chief Albin and Glanz were highly upset that we failed the audit. And they were saying what's going to change and things like that. And they were mad about failing the audit. Q. Even though you failed the audit, based on your observations as a supervisor, did the medical treatment ever change?	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q. (By Mr. Dan Smolen) Did you observe any other practices, for example, with respect to inmates being denied medical treatment pending them being transferred to the State Penitentiary? A. Yes. Q. Describe that practice, if you would, please. A. A young man came into the facility, and he was urinating blood. And they put in sick calls, and it took a call for them to address his situation. And when they did, they it took some paperwork in order for them to get the tests or for them to be seen by an outside doctor, it would have to go to the Sheriff and other places for approval for him to be seen by an outside doctor. The doctor that was there advised the HSA, which is Pam Hoisington, for him to be seen by an outside doctor because he couldn't treat him. After all of the paperwork, he got to see an outside doctor. And it was determined that he had

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	Page 186		Page 188
1	Q. Let's go back to some of the things we were	1	Q. Fair enough. Can you tell me,
2	talking about.	2	approximately, how many names were on this list, 10,
3	You said that Pam Hoisington falsified	3	20, 5?
4	documents and falsified charts, correct?	4]	A. Above 20.
5	A. Yes.	5	Q. Above 20-plus names?
6	Q. And you participated in that, right?	6	A. Yes.
7	A. Yes.	7	Q. And did you maintain a copy of this list?
8	Q. You, actually, helped falsify these	8	A. No.
9	documents and helped falsify these charts, correct?	9	Q. And you participated in pulling these files
10	A. Well, she would yes.	10	to put in the milk crate to hide from the auditors,
	Q. And, as I gather your testimony, she was	11	correct?
11	trying to and you correct me if I'm wrong she	12	A. It was three ladies in there, so we all did,
12	was trying to cherry pick the files that the auditors	13	yes.
13		14	Q. Don't try and jump in the crowd. You
14	would see?	15	participated, right?
15	A. Yes.	16	A. Yes.
16	Q. But that didn't work. Those files that were	17	Q. Now, what I didn't hear you say is that Pam
17	cherry picked were delivered up to Albin's office,	18	Hoisington did that at the direction of Stanley
18	and the auditor said, no, no, no. We don't want to	1	Glanz. That is not your testimony, is it?
19	see the cherry-picked files. We want to go pick them	19	
20	randomly ourselves. That's your understanding?	20	A. No.
21	A. Yes.	21	Q. You're not saying she did that at the
22	Q. So they then came down and were able to	22	direction of Tim Albin, are you?
23	randomly look at any file that they wanted to,	23	MR. DAN SMOLEN: Object to the form.
24	correct?	24	A. We were told that, if it was a problem
25	A. No.	25	chart, that the auditors better not see those.
	Page 187		Page 189
1	Q. Explain.	1	Q. (By Mr. Fortney) Hold on. Pam Hoisington
2	A. There were certain files that were put away,	2	told you that?
3	that they would not have had access to.	3	A. It came from Chief Albin and Sheriff Glanz,
4	Q. Okay. Despite the fact that, and according	4	Q. How were you communicated that from them?
5	to your testimony, that certain files were cherry	5	A. When we had the first meeting, it is
6	picked and tried to be given to them for auditing and	6	discussed what charts were going to be placed for the
7	they refused that, right?	7	auditors to see. It was told that certain charts,
1	A. Yes.	8	not only did they audit, they went around to several
8	Q. Then they said no, no. We want to come down	9	inmates and talked to certain inmates. And it was
9		10	certain people that they did not want to talk to,
10	and look at the files as they are, right?	11	because they were known as troublemakers and things
1		7.7	Decause they were known as noncreamment and
11	A. Yes.	112	like that
12	Q. But your testimony is that certain files had	12	like that.
12 13	Q. But your testimony is that certain files had been pulled and wouldn't even be available for them	13	So it was told in that meeting that they
12 13 14	Q. But your testimony is that certain files had been pulled and wouldn't even be available for them to review; is that what you're telling us?	13 14	So it was told in that meeting that they didn't want them to see certain inmates. And even,
12 13	 Q. But your testimony is that certain files had been pulled and wouldn't even be available for them to review; is that what you're telling us? A. Yes. 	13 14 15	So it was told in that meeting that they didn't want them to see certain inmates. And even, at point, they moved inmates from cell to cell,
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Page 190

ELANDIA MALOY

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A. He said that he did not want the problem charts to be seen by the auditors, and he did not want the problem inmates to be seen by auditors. I do remember one particular gentleman that

they did not want to be seen by the auditor. And I recall his first name to be James. They did not want him to be seen by the auditors, because he was one of the inmates that they were giving the loaf and they were mistreating.

- Q. Where was he located; do you know?
- A. At one point in time, he was in F-24.
- Q. Does he have any special medical condition, 12 13 that you recall?
- 1.4 A. No.
 - Q. With regard to the loaf, since you brought that up, this was something that you personally witnessed Tom Huckaby make or do to a prisoner's
 - A. I did not see him make it. I saw him serving it to some of the inmates at the jail.
- 20 Q. And where did you see him do this? 21
- A. Medical. I've seen him do it in F-24. 22
 - Q. And when you say he would serve it to the inmate, describe, specifically for the record, what you observed.

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- A. Yes. At one point in time, the person that was housed in F-24, Huckaby placed him on suicide watch, because he felt like it was mistreatment and didn't give him any clothes or any blanket or any mat. And he was there naked. And there's windows there for everybody to see him. He would serve him a
- loaf. He served him a loaf for, like, two weeks that this person wouldn't eat or
 - Q. These dummy charts you described, as a chart that did not have all of the medical history in it --
- 11 Q. -- how would that medical history be 12 13 removed?
 - A. Pam would go through the charts herself, and she would take out what she felt was damning. And she would request certain charts on certain ones. And she would remove anything she felt was damning.
- Q. Did you participate in that, too? 18
- Q. Did you personally see her do that? 20
 - A. Yes.
- O. You said there were several audits while you 22
- 23 were down there?
- A. Yes. 24
 - Q. How many?

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A. When the medical trays -- the trays come in. The kitchen people bring the trays. And each tray is sometimes their specialty trays. If you have a diabetic, you have the diabetic tray. If you have a suicide watch, you'll have the paper tray or just finger foods, or something like that.

If he was down there, he would give the person the loaf. A lot of times he would make himself present to kind of egg on the person that was in suicide.

Or one particular gentleman, they would always have a riff because he was cursing and he was, you know, not very pleasant. And he would serve him one, also. And he was in F-24.

- Q. Now, when you're saying he would serve him one, would it come down already in the loaf form, or would he do that to it or have somebody do that to it once it came down to Medical?
 - A. It would be in the loaf form.
- Q. Are you saying that somebody had done this back up in Food Service?
- A. Yes.
- Q. And then he would come down. You, 23 personally, saw him come down and make sure that the 24 inmate that he wanted it got that loaf? 25

- A. I don't recall.
- Q. I need an approximation. We know of one. Are you talking about a half dozen, two more, three 4 more?
 - A. Maybe about five.
 - Q. About five, in total?
 - A. Yes.
 - Q. Do you recall what agency was conducting
 - A. I remember the Health Department came. That was one of them. And I believe that JCAOH came.
 - Q. The Joint Accreditation Committee on Hospitals?
 - A. I believe so.
 - Q. And you believe they conducted an audit?

 - Q. With regard to the Health Department, was that a general audit, or were they investigating something specific, if you know?
 - A. I don't know.
 - Q. You haven't made any allegations about any fraudulent behavior with regard to those. Is that just because you haven't been asked or should I go into that? Were there other activities similar to the allegations you've made in this NCCHC audit?

49 (Pages 190 to 193)