

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

PHILIP VILELLA guardian and)
conservator on behalf of SAVION)
RICHARDSON, a minor, son and next of)
kin of the deceased, Estelle Richardson)
and SAVIYANCE BECK, a minor,)
daughter and next of kin of the)
deceased, Estelle Richardson)

Plaintiff,

vs.

CORRECTIONS CORPORATION)
OF AMERICA, a Maryland Corporation)
with its principal place of business in)
Davidson County, Tennessee;)
JOSHUA D. SCHOCKMAN, KEITH ANDRE)
HENDRICKS, WILLIAM WOOD,)
JEREMY NEESE and SHIRLEY M. FOSTER,)
individually and as employees of)
CORRECTIONS)
CORPORATION OF AMERICA; and)
JOHN DOES #1-#4, Employees of)
of CORRECTIONS)
CORPORATION OF AMERICA)

Defendants.

No. 3-04-0661

JUDGES CAMPBELL/ GRIFFIN

SECOND AMENDED COMPLAINT

Plaintiff would show unto this Honorable Court the following:

I. JURISDICTION

1. Federal jurisdiction in this case is predicated on Title 28 U.S.C. §§ 1331 and 1343, *et seq.*, in that this is a case brought under the authority of the Civil Rights Act of

1871, Title 42 U.S.C. § 1983 and the Fourth and Fourteenth Amendments to the United States Constitution.

2. Jurisdiction is further predicated on complete diversity of citizenship pursuant to 28 U.S.C. § 1332 as the Plaintiff and beneficiaries are residents of the states of Florida and Michigan and all individual Defendants are residents of Tennessee with Corporate Defendant being chartered in the State of Maryland with its headquarters at 10 Burton Hills Boulevard, Nashville, Tennessee.

3. Jurisdiction over state-law claims is asserted as supplemental jurisdiction pursuant to 28 U.S.C. § 1367.

4. The matter in controversy exceeds, exclusive of interest and costs, the sum specified by Title 28 U.S.C. § 1332.

II. NATURE OF THE CASE

5. Plaintiff's federal claims under 42 U.S.C. § 1983 arise out of the beatings and wrongful death of Estelle Richardson, as the result of the deprivation of her civil rights under color of law guaranteed under the Fourth and Fourteenth Amendments to the U.S. Constitution as a result of the use of excessive force and deliberate indifference to her serious medical needs and rights as a pretrial detainee to be incarcerated in a safe and secure jail facility. Plaintiff's state-law claims are for assault and battery, infliction of mental distress, negligence, gross negligence, and reckless misconduct.

III. THE PARTIES

A. PLAINTIFF'S DECEDENT, ESTELLE RICHARDSON AND GUARDIAN PHILIP VILELLA

6. Estelle Richardson was a resident of Davidson County, Tennessee, at the time of her death. She resided at Blue Willow Court in Antioch, Tennessee, from

November 2003 until her incarceration in Metro Detention Center commencing in March 2004 until her death on July 5, 2004. Ms. Richardson was a pre-trial detainee.

7. Estelle Richardson was a single woman, never having been married. Her closest survivors were her two minor children (Saviyance Beck, age 14 and Savion Richardson, age 6) on whose behalf this case is brought by her duly appointed Michigan guardian and conservator, attorney Philip Vilella.

8. Estelle Richardson was the natural parent and mother of Saviyance Beck, a daughter, age 14, and Savion Richardson, a son, age 6. They resided with their mother in Davidson County until the time of her incarceration in March 2004.

D. DEFENDANT CORRECTIONS CORPORATION OF AMERICA

9. Corrections Corporation of America (hereinafter "CCA") is incorporated in Maryland with its headquarters and principal place of business in Davidson County at 10 Burton Hills Boulevard, Nashville.

10. CCA is one of the nation's largest private providers of jail, detention and corrections services to governmental agencies.

11. CCA was at all times relevant under contract with Davidson County Sheriff's Department to manage and operate The Metro Davidson County Detention Facility at 5115 Harding Place, Nashville. This is a medium security facility for female inmates, built to house eleven hundred inmates.

12. CCA was under contract with the Metropolitan Governmental of Nashville and Davidson County, to provide correctional and health and medical services for jail inmates who were incarcerated at its privately owned Metro Davidson County Detention Facility located in Davidson County. CCA was performing a public

function of administering correctional services for jail inmates on behalf of the Metropolitan Government. CCA was therefore a state-actor and acted under color of state law.

13. At all times material to this cause, CCA was the employer of Defendants Henricks, Woods, Neese, Schockman and Foster and Defendants John Does 1-4.

E. DEFENDANT JOSHUA D. SCHOCKMAN

14. Defendant Joshua D. Schockman is a resident of Nashville, Davidson County, Tennessee. Mr. Schockman has been served with process and has answered herein.

15. Defendant Joshua D. Schockman was at all relevant times a correctional officer of CCA and was acting within the course and scope of his employment as correctional officer at the CCA owned Metro Davidson County Detention Facility in Davidson County, Tennessee and was, therefore, acting under color of law. He was charged with the duty of guarding and keeping safe the decedent Richardson.

F. DEFENDANT KEITH ANDRE HENDRICKS

16. Defendant Keith Andre Hendricks is a resident of Nashville, Davidson County, Tennessee. Mr. Hendricks has been served with process and has answered herein.

17. Defendant Keith Andre Hendricks was at all relevant times a senior correctional officer of CCA and was acting within the course and scope of his employment as correctional officer at the CCA owned Metro Davidson County Detention Facility in Davidson County, Tennessee and was, therefore, acting under color of law. He was charged with the duty of guarding and keeping safe the decedent

Richardson.

G. DEFENDANT WILLIAM WOOD

18. Defendant William Wood is a resident of Hendersonville, Sumner County, Tennessee. Mr. Wood has been served with process and has answered herein.

19. Defendant William Wood was at all times relevant a security officer of CCA and was acting within the course and scope of his employment as correctional officer at the CCA owned Metro Davidson County Detention Facility in Davidson County, Tennessee and was, therefore, acting under color of law. He was charged with the duty of guarding and keeping safe the decedent Richardson.

H. DEFENDANT JEREMY NEESE

20. Defendant Jeremy Neese is a resident of Nashville, Davidson County, Tennessee. Mr. Neese has been served with process and has answered herein.

21. Defendant Jeremy Neese was at all times relevant a correctional officer of CCA and was acting within the course and scope of his employment as correctional officer at the CCA owned Metro Davidson County Detention Facility in Davidson County, Tennessee and was, therefore, acting under color of law. He was charged with the duty of guarding and keeping safe the decedent Richardson

I. DEFENDANT SHIRLEY M. FOSTER

22. Defendant Shirley M. Foster is a resident of Antioch, Davidson County, Tennessee. Ms. Foster may be served with process at 3939 Apache Trail Apt. N3 Antioch, TN 37013-3456

23. Defendant Shirley M. Foster was at all relevant times a correctional officer of CCA and was acting within the course and scope of her employment as a

correctional officer at the CCA owned Metro Davidson County Detention Facility in Davidson County, Tennessee and was, therefore, acting under color of law. She was charged with the duty of guarding and keeping safe the decedent Richardson.

J. DEFENDANTS JOHN DOES 1-4

24. Defendants John Does 1-4 were at all relevant times employees and/or supervisors of CCA and were acting within the course and scope of their employment.

IV. FACTS OF THIS CASE

24. Estelle Richardson was classified as a special needs inmate by CCA because of her emotional problems and her need for psychotropic medication. Estelle Richardson was found dead in her cell at CCA's Metro Detention Facility on July 5, 2004. After Ms. Richardson's death (and in discovery in this case), Plaintiff, through his attorneys, learned (discovered within the past year) that CCA employees routinely and systematically unconstitutionally used excessive force and caused injuries to Estelle Richardson.

25. On April 26, 2004 a CCA guard recklessly and needlessly maced (or pepper sprayed) Ms. Richardson while she was in a caged shower. Ms. Richardson was a threat to no one (including herself) and was maced for not putting on her pants following the shower quickly enough to suit the officer. This episode was videotaped. The act of macing Ms. Richardson under these circumstances was an unconstitutional use of force. *Greene v. Barber*, 310 F.3d 889, 898 (6th Cir.2002).

26. Following the macing episode on April 26, 2004 Ms. Richardson was handcuffed, placed in leg irons and officers put substantial or significant pressure on Ms. Richardson's back while in a face-down and prone position after being subdued

and incapacitated. This episode was videotaped. This constitutes excessive force. *Champion v. Outlook Nashville, Inc.*, 380 F.3d 893 (6th Cir. (Tenn.) 2004).

27. On or about June 27, 2004 at 1950 hours Ms. Richardson was reported to “medical” by a guard or guards to have “blood on her head.” Ms. Richardson was also seen to have injuries (bruises) on the back of her right thigh and back about one week prior to July 5, 2004 according to inmate Cameron James. On June 28, 2004 she was seen by a nurse at about 2:00 a.m. for “Blood oozing from L [left] ear.” The nurse examined her and gave her Tylenol and made a referral for her to see the CCA physician (Dr. Walker) *that* day—the 28th of June (a Monday) because of the seriousness of her condition. However, she was *never* seen by a physician.

28. A CCA employee, Captain Hambrick, filed a one page report on July 14, 2004 noting that she saw Ms. Richardson on June 29th 2004 (Tuesday) and that Ms. Richardson asked for medical attention and stated, if she did not receive medical attention she felt she “was going to die.” Captain Hambrick reported this incident to a CCA nurse, however, Ms. Richardson was *not seen* by any nurse or physician.

29. On information and belief, Plaintiff alleges that the injuries observed on June 27th and June 28th 2004 were the result of the use of excessive force by John Does 1-4. A physician entered an order (on or about July 1, 2004) for her to be seen by a CCA physician on July 2, 2004 however, she was *not* seen. These acts and omissions constitute deliberate indifference to serious medical needs. Ms. Richardson was in administrative segregation, meaning she was alone in her cell and had had no altercation with any inmates during this time period.

30. On information and belief, Estelle Richardson was also involved in an

incident with correctional officer Foster on Friday July 2, 2004. In Shower Cage 3 officer Foster assaulted inmate Richardson and used excessive force, causing her to bleed from her head with large amounts of blood (“blood all over the shower cage” according to inmate Cameron James). Inmate Jacqueline Wilkerson also stated Ms. Foster assaulted Ms. Richardson in the shower and on the ledge (bench). Inmate Carolyn Rhodes also witnessed this shower incident /altercation with officer Foster (hearing Ms. Richardson scream). Inmate Jacqueline Wilkerson also reported that officer Foster “made Inmate Richardson fall and she busted her mouth in the 3rd shower.” Inmate Tracey Alexander also reported, in a contemporary diary/calendar that “Foster slammed [*sic*] Estelle in shower Fri. [July 2,2004].” Ms. Richardson had blood on her sheets in her cell for 4 or 5 days prior to her death on July 5th according to Inmate Jacqueline Wilkerson. Inmate Judy Townsend reported that Ms. Richardson had been bleeding for about a week over her ear. Ms. Richardson attempted to stop the bleeding with a feminine napkin pad and was seen to have blood on the pad “2 to 3 inches long and about an inch wide” according to inmate Cameron James.

31. On Sunday, July 4, 2004 Estelle Richardson was involved in an excessive use of force incident with the correctional or security officers Joshua Schockman, Keith Hendricks, William Wood, and Jeremy Neese while she was alone in her cell. Officer Hendricks told Ms. Richardson to “get her nasty ass up and clean her room.” She did not respond. Officer Hendricks then entered the cell with officer Schockman (and officer Neese observing) and Officer Hendricks pulled her off of her bed and threw her to the ground. He [Hendricks] was “kicking Estelle Richardson while she was face down” according to eyewitness inmate Cameron James. He had his knee in her back.

According to eyewitness inmate Ruby Champlin she heard inmate Richardson's head hit the floor at this time. Hendricks then sprayed Ms. Richardson with mace. Inmate Tracey Alexander's contemporary diary recorded that Woods, Neese, Hendricks and Shockman "beat" Estelle Richardson.

32. An initial call for help came to the Metro 911 Center from the CCA jail facility at 5:37 a.m., Monday, July 5. A CCA supervisor reported that "a female inmate was on the floor and needed medical assistance."

33. Miss Richardson was found "unresponsive" in her cell at 6:00 a.m. She was immediately transported to Southern Hills Medical Center where she was pronounced dead.

34. The cause of death was "a skull fracture caused by blunt trauma, as well as various internal injuries." She also sustained broken ribs and a lacerated liver. Miss Richardson's death was ruled a homicide by Dr. Bruce Levy, Davidson County Medical Examiner.

35. Plaintiff alleges that the injuries and blows inflicted by John Does 1-4 and the individual Defendants were a substantial factor (and thus a proximate cause) of the death of Estelle Richardson. Plaintiff further avers that the failure to provide medical/physician care to Ms. Richardson for the blood oozing from her left ear (documented by a nurse on June 28th) was a deliberate indifference to serious medical needs and a substantial factor (and thus a proximate cause) of the death of Estelle Richardson. The failure to have a nurse see her after her complaint to Captain Hambrick on June 29th that she feared she "was going to die" was deliberate indifference to serious medical needs and a substantial factor (and thus a proximate

cause) of the death of Estelle Richardson. The failure to have a physician see her as scheduled on July 2nd was a deliberate indifference to serious medical needs and a substantial factor (and thus a proximate cause) of the death of Estelle Richardson. Further, on July 5th before breakfast Officers Shockman and Neese were informed by inmate Ruby Champlin that inmate Richardson was “shaking and foaming at the mouth” and was “in need of a nurse.” Officer Neese responded (according to inmate Champlin) “it takes too long for medical to get here” and officer Shockman “laughed.” This was deliberate indifference to serious medical needs and was a substantial factor in Ms. Richardson’s death.

V. FEDERAL CLAIMS 42 U.S.C. § 1983

A. EXCESSIVE USE OF FORCE

36. Plaintiff incorporates the factual allegations set forth above as if fully set forth herein. The Defendants’ excessive use of force on decedent, Estelle Richardson, was a violation of Ms. Richardson’s right to be free from excessive use of force as guaranteed by the Fourth Amendment to the United States Constitution. The acts and omissions of the individual Defendants, therefore, deprived Estelle Richardson of her civil rights under color of law.

37. The beatings of decedent, Estelle Richardson, by the individual Defendants and John Does 1-4 clearly violated the laws of the United States for the amount of force that custodial officers working for a private company acting under color of law can use, the parameters of which were or should have been sufficiently clear to the Defendants at the time of the incident. The individual Defendants are, therefore, not entitled to the defense of qualified immunity.

38. Plaintiff avers that CCA ignored a history, pattern and practice of abuse and unconstitutional violations involving excessive use of force by its employee guards. In addition, CCA was clearly on notice that its training on use of force and handling of special needs inmates were deficient and likely to cause injury.

B. DELIBERATE INDIFFERENCE TO PRETRIAL DETAINEE HEALTH AND SAFETY

39. The acts and omissions of the individual Defendants were deliberately indifferent to the substantive due process rights of a pre-trial detainee guaranteed under the Fourteenth Amendment to a safe and secure prison environment. This deliberate indifference was a proximate cause of the injuries and death of Estelle Richardson.

40. Plaintiff avers that CCA ignored a history, pattern and practice of abuse and unconstitutional violations involving excessive use of force and indifference to pretrial detainee health and safety (particularly special needs inmates) by its employee guards. In addition, CCA was clearly on notice that its training on use of force, attention to medical needs and handling of special needs inmates were deficient and likely to cause injury.

C. DELIBERATE INDIFFERENCE TO SERIOUS MEDICAL NEEDS

41. The acts and omissions of the individual Defendants were deliberately indifferent to the substantive due process rights of a pre-trial detainee guaranteed under the Fourteenth Amendment in connection with attention to serious medical needs. This deliberate indifference was a proximate cause of the injuries and death of Estelle Richardson.

42. Plaintiff avers that CCA ignored a history, pattern and practice of abuse

and unconstitutional violations involving indifference to serious medical needs of pretrial detainees by its employee guards. In addition, CCA was clearly on notice that its training on use of force, attention to medical needs and handling of special needs inmates were deficient and likely to cause injury

D. CORPORATE LIABILITY UNDER FOURTEENTH AMENDMENT

43. Defendant CCA is liable under the Fourteenth Amendment. CCA is liable by virtue of its ignorance of a history, pattern and practice of abuse, excessive force and deliberate indifference to medical needs by its employees. CCA is liable because its ignorance of a history, pattern and practice of abuse, excessive force and deliberate indifference to medical needs by its employees was the affirmative link or motivating force behind the conduct of the individual Defendants which resulted in the injuries to, and wrongful death of, Estelle Richardson.

44. CCA is also liable for deliberate indifference in training, supervising and discipline of its employees, including the individual and John Doe Defendants, under the Fourteenth Amendment for the deprivation of Estelle Richardson's Civil Rights under color of state law because said lack of training, supervision and discipline was the affirmative link or motivating force behind the conduct of the individual Defendants which resulted in the injuries to, and wrongful death of, Estelle Richardson.

45. The wrongful death and injuries were the reasonably foreseeable consequence of CCA's ignorance of a history, pattern and practice of excessive force and deliberate indifference to serious medical needs and CCA's failure to provide adequate training, supervision and discipline to its employees.

VI. STATE CLAIMS

A. INTENTIONAL TORTS

46. The Defendants committed an unlawful assault and battery upon decedent, Estelle Richardson, by their intentional, malicious, brutal, and unprovoked attacks upon her in violation of the common laws of the State of Tennessee all of which directly and proximately led to her death. The acts were committed during the course and scope of employment by the individual Defendants and constitute recklessness, malice and/or intentional misconduct supportive of punitive damages.

B. NEGLIGENT SUPERVISION, TRAINING AND DISCIPLINE

47. CCA's supervisory personnel failed to adequately train, supervise and discipline the Defendant guards named herein in regard to proper use of force in the course of custodial activities. Defendant John Does 1-4, and each of them, by their inadequate and insufficient training, supervision and discipline of the custodial guards named as Defendants (Joshua Schockman, Keith Hendricks, William Wood, Jeremy Neese and Shirley Foster) herein, created an unreasonable risk of harm and danger to the public and to the decedent, Estelle Richardson. CCA's breach of these duties proximately caused Estelle Richardson's injuries and death.

C. VICARIOUS LIABILITY

48. The acts of individual Defendants, during the course and scope of their employment, were negligent, reckless, malicious and/or intentional. These acts were also outrageous conduct and constitute the intentional infliction of emotional distress. CCA is vicariously liable for damages for the injuries to, and wrongful death of, Estelle Richardson caused by the tortuous misconduct of the guards.

VII. DAMAGES

49. As a direct and proximate result of the deliberately indifferent and/or malicious, intentional, negligent and/or reckless actions of the Defendants (Joshua Schockman, Keith Hendricks, William Wood, Jeremy Neese, Shirley Foster and John Does 1-4) decedent, Estelle Richardson, suffered conscious pain and suffering, severe and painful injuries, mental distress, loss of enjoyment of life, lost earnings, lost earning capacity, wrongful death and funeral and burial expenses.

50. Moreover, decedent's beneficiaries under the applicable wrongful death law will have suffered, and will continue to suffer, loss of love, affection, society, companionship, family relationship, guidance and emotional support as a result of the wrongful death of Estelle Richardson.

51. Plaintiff reserves the right to invoke the wrongful death law of Michigan to determine and damages and the persons entitled to share in the proceeds of the action.

WHEREFORE, Plaintiff prays for relief in the total amount of ONE HUNDRED SIXTY MILLION DOLLARS (\$160,000,000) as follows:

- A. For compensatory damages in the amount of Forty Million Dollars (\$40,000,000);
- B. For punitive damages the amount of One Hundred Twenty Million Dollars (\$120,000,000);
- C. For funeral and burial of the decedent, Estelle Richardson;
- D. For reasonable attorney fees and litigation expenses pursuant to Title 42 U.S.C. § 1988;

- E. For the court costs of trying this action;
- F. For a jury to hear this cause of action;
- G. For costs to be taxed to the Defendants;
- H. For such other and further relief as the Court may deem proper; and
- I. For prejudgment interest.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document has been served upon the following on this ____ day of _____ 2005, via postage prepaid, U.S. Mail, or Hand-Delivery to:

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