

IN THE UNITED STATE DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE

LAURIE FITZGERALD, in her capacity)
As Administrator and Personal)
Representative)
For the Estate of)
DONALD IRA FITZGERALD,)
DECEASED,)
Plaintiff,)

JURY DEMAND

VS)

CASE NO. _____

HAMILTON COUNTY, TENNESSEE,)
QUALITY CORRECTIONAL)
HEALTHCARE, HAMILTON COUNTY)
SHERIFF, JIM HAMMOND (personally),)
MARJORIE ALFINDA, MOSES)
BENAVIDES, MD, THOMAS RUMPER,)
and KAYLA SWAFFORD,)
Defendants.)

COMPLAINT

Comes now, the Plaintiff, Laurie Fitzgerald, in her capacity as the Administrator and Personal Representative of the Estate of Donald Fitzgerald, (Deceased), by and through counsel, and for Complaint against the Defendants, Hamilton County, Tennessee ("Hamilton County"), Quality Correctional Healthcare of Tennessee, PLLC ("QCHC"), Hamilton County Sheriff, Jim Hammond (personally) Marjorie Alfinda, Moses Benavides, MD, Thomas Rumper and Kayla Swafford, state as follows:

PRELIMINARY STATEMENT

Plaintiff brings this lawsuit following the death of Donald Ira Fitzgerald, a 49-year-old resident of Hamilton County, Tennessee. Mr. Fitzgerald died from a perforated bleeding ulcer due to lack of proper medical care, while in the custody, care and control of these Defendants, at Silverdale Detention Center (hereafter referred to as "Silverdale"), owned and operated by

Hamilton County, Tennessee and/or Hamilton County Sheriff's Department. Laurie Fitzgerald has lawfully petitioned the Hamilton County Chancery Court and has been named the Administrator and Personal Representative of the Estate of Donald Fitzgerald.

Plaintiff's claims under 42 U.S.C. §1983, and the United States Constitution, arise out of the Defendants' deliberate indifference and failure to provide proper care, humane living conditions and adequate medical treatment to Mr. Fitzgerald, in June of 2022. Only days into his 30-day sentence at Silverdale, Mr. Fitzgerald complained of stomach pain while medical personnel at the jail, including the Defendants, accused him of making it up, and incorrectly and recklessly assumed he was simply suffering the effects of withdrawal from narcotics (constipation) and/or symptoms from ingesting narcotics. Mr. Fitzgerald had no narcotics in his system at the time of his death. The failure of the Defendants resulted in serious physical and emotional injuries, pain, suffering and ultimately the death of the Mr. Fitzgerald. The Defendants deprived him of his clearly established rights guaranteed under the United States Constitution and under the laws of the United States. Plaintiff seeks all damages allowable under the law, including attorney fees and costs in this action pursuant to 18 U.S.C. §1988.

JURISDICTION AND VENUE

1. This action is brought pursuant to 42 U.S.C. §1983. Jurisdiction is founded on 28 U.S.C. §§ 1331 and 1343, and the Eighth Amendment to the Constitution of the United States.
2. Venue is proper in the Eastern District of Tennessee under 28 U.S.C. §1391(b)(2).

PARTIES

3. The Decedent, Donald I. Fitzgerald, died unmarried on June 12, 2022, in Chattanooga, Tennessee. See the Death Certificate attached hereto as **Exhibit A**.

4. Plaintiff, Laurie Fitzgerald, is the Administrator of the Estate of Donald I. Fitzgerald, Deceased, and his Personal Representative. She is also the biological sister of Donald I. Fitzgerald. Mr. Fitzgerald died without being married. See Tennessee Code Annotated §20-5-107. See Letters of Testamentary as **Exhibit B**.

5. Plaintiff is a resident of the Eastern District of Tennessee and resides at 508 Bailey Road, Benton, Tennessee 37307.

6. Defendant, Hamilton County is the governmental entity ultimately responsible for the care, custody, health and well-being of its ward, Donald I. Fitzgerald, the Decedent, while he was at Silverdale at all times relevant to this Complaint. Hamilton County is liable for its own conduct and the acts and omissions of its servants, employees, agents and contractors. Such servants, employees, agents and contractors acted in conformity with the policies, practices and customs of Hamilton County. Further, Hamilton County had non-delegable Constitutional duties to ensure that the Decedent was safe from harm, received adequate medical care and that its designated contractor, QCHC and its agents, employees and subcontractors, provided constitutionally adequate medical care to the Decedent.

7. Defendant QCHC of Tennessee, PLLC, is a business operating in the State of Tennessee and Hamilton County. Upon information and belief, QCHC hires, manages, trains and employs various nurses and/or doctors who provide medical care to inmates at Silverdale. QCHC is liable for its own conduct and the acts and omissions of its servants, employees, agents and contractors, pursuant to the doctrines of *Monell* liability, agency, apparent agency, implied agency, employer/employee relations, joint and several liability, *respondeat superior*, and vicarious liability. Further, QCHC which contracts with Hamilton County to provide required medical care to inmates at Silverdale, had non-delegable constitutional duties to ensure that Decedent received

adequate medical care and that its employees, agents and/or contractors provided constitutionally adequate medical care to Decedent. QCHC's principal office is located at 1585 Mallory Lane, Brentwood, TN 37027. Their registered agent for service of process is Incorp Services, Inc., 1585 Mallory Lane, Suite 104 Brentwood, Tennessee 37027.

8. Defendant, Sheriff Jim Hammond (hereafter, "Sheriff Hammond") is the former elected Sheriff of Hamilton County, sued in his individual and official capacity as Sheriff, is an adult Citizen of the State of Tennessee, and is domiciled in Hamilton County, Tennessee. Sheriff Hammond oversaw Silverdale and was responsible for the hiring, training, supervision, discipline and control of the deputies under his command. He was responsible for all actions of the staff at Silverdale and was the final policy maker for Silverdale. He is liable both directly and vicariously for the actions complained of herein. He can be served through the County Attorney, Rubin Taylor.

9. Defendant, Marjorie Alfinda, was at all material times, an agent of Hamilton County and QCHC as a nurse at Silverdale. She was directly responsible for Decedent's care, custody, health and wellbeing. At all material times, Marjorie Alfinda, acted under color of state law in the course and scope of her agency and/or employment with QCHC.

10. Defendant, Kayla Swafford, was at all material times, an agent of Hamilton County and QCHC as a nurse at Silverdale. She was directly responsible for Decedent's care, custody, health and wellbeing. At all material times, Kayla Swafford, acted under color of state law in the course and scope of her agency and/or employment with QCHC.

11. Defendant, Moses Benavides, MD, was at all material times, an agent of Hamilton County and QCHC as a medical doctor at Silverdale. He was directly responsible for Decedent's care, custody, health and wellbeing. At all material times, Dr. Benavides, acted under color of state law in the course and scope of his agency and/or employment with QCHC.

12. Defendant, Thomas Rumper, was at all material times, an agent of Hamilton County and QCHC as a nurse at Silverdale. He was directly responsible for Decedent's care, custody, health and wellbeing. At all material times, Thomas Rumper, acted under the color of state law in the course and scope of his agency and/or employment with QCHC. Upon information and belief, he is responsible for mocking the Deceased, telling him he was faking his symptoms and treating him with a condescending and aggressive attitude.

13. Plaintiff demands a jury try the issues in the case.

FACTS

14. Plaintiff adopts all the allegations of the preceding Paragraphs as if fully set forth herein. The following is a summary of facts necessary to prove the allegations and elements of the alleged causes of action but should not be construed to be a complete statement of facts which may relate to other potential causes of action.

15. On June 6, 2022, Mr. Fitzgerald pleaded guilty to possession of drug paraphernalia and obstructing a highway or other passageway. Both were simple misdemeanor charges. He received a stiff sentence of 11 months and 29 days suspended after 30 days to serve, concurrent to both charges. He was 49 years old and a resident of Hamilton County.

16. On June 10, 2022, a Friday morning, at around 7:30, medical records from the jail show that Mr. Fitzgerald was complaining of abdominal pain that was constant, dull and non-radiating. Records noted he had not had a bowel movement in a few days. He was originally given a laxative and an enema. About an hour later, he again complained of severe abdominal pain and was given magnesium citrate, another laxative, and a Toradol injection for pain. At some point thereafter, when symptoms did not resolve, a rectal exam was performed in the clinic to determine if he had impacted feces. None was noted. There was no x-ray machine available at

the jail clinic, so he was taken for a body scan, rather than transported to a hospital or urgent care facility. He lost consciousness and stopped breathing immediately after or during the scan. Medical staff administered CPR and administered at least five (5) doses of Narcan. When 911 was called, the incident was reported as a drug overdose. Mr. Fitzgerald was transported to Parkridge Hospital where he died on June 12, 2022.

17. According to the medical records, the Defendants believed that Mr. Fitzgerald had overdosed on fentanyl or an opioid narcotic. There were no drugs found in his system in the autopsy toxicology report. The medical examiner's report indicates the cause of death to be a perforated bleeding duodenal ulcer.

18. The ulcer went undetected by the medical staff at the jail because it was falsely assumed that Mr. Fitzgerald was suffering symptoms of an opioid addiction (including constipation) despite there being no evidence of any such addiction or ingestion of opioid narcotics or narcotics of any kind. He was not asked if he had ingested any narcotics, nor was any further testing done to verify or negate the belief that he ingested narcotics. The jail communicated the false medical information to EMS and ultimately, his medical team at Parkridge.

19. Had Mr. Fitzgerald been properly assessed for his symptoms; he would not have essentially been bleeding to death while being treated as an addict constipated from opioid use.

20. The Decedent experienced severe pain, mental anguish, and suffering prior to his death.

21. Jail employees and officials delayed or refused to give care and treatment because he was not diagnosed as being truly ill. Nurse Thomas Rumper accused him of faking his symptoms and denied him the care he was requesting. Decedent was not sent to a medical facility where his symptoms could be properly treated and assessed until he had bled to the point of

rendering him unconscious and causing cardiac arrest. Decedent suffered terrible pain and agony, mental suffering, and injuries due to the conditions and action of the Defendants.

**HISTORY OF MEDICAL NEGLECT AND INHUMANE
CONDITIONS AT SILVERDALE**

22. Silverdale has a history of failure to provide proper medical care to inmates, maintaining inhumane living conditions, and inmate on inmate violence in violation of the Eighth Amendment.

23. In December 2020, Hamilton County and Hamilton County Sheriff's Office, took over operations of Silverdale and closed the Hamilton County Jail located in downtown Chattanooga.

24. The jail population at Silverdale doubled overnight in a facility designed more as a workhouse for non-violent defendants serving misdemeanor sentences. Silverdale was ill-equipped and not sufficiently staffed to merge the jail populations. Since the merger, the failure to provide adequate medical care to inmates, failure to care for the safety and well-being of inmates, and the inhumane living conditions have led to multiple lawsuits being filed against Hamilton County and QCHC, among others.¹

25. These conditions led the Federal Judiciary to remove all federal inmates from Silverdale in 2020.

26. On April 23, 2021, multiple Silverdale inmates including, Luster Deloney, were stabbed numerous times by fellow inmates wearing towels over their faces when officers placed

¹ *Moore v. Hamilton County, et. al.*, 1:23-cv-00007; *Brown v. Hamilton County, et. al.*, 1:23-cv-00045; *Jackson v. Hamilton County, et. al.*, 1:23-cv-00046; *Cornett v. Hamilton County, et. al.*, 1:23-cv-00053; *Miller v. Hamilton County, et. al.*, 1:23-cv-00086; *Ellis v. Hamilton County, et. al.*, 1:23-cv-00099; *Franklin v. Hamilton County, et. al.*, 1:23-cv-00100; *Holt v. Hamilton County, et. al.*, 1:23-cv-00061.

them in a new cell despite the victims warning the officers that they would be attacked. Suit has been filed regarding this incident, Docket 1:22-cv-00094.

27. On September 5, 2021, inmate Michael Brinkley, was stabbed nine times, including once in the face, when officers failed to lock his cell door and ignored the victim's attempts to alert them to the mistake. Suit has been filed regarding this incident, Docket 1:22-cv-00095.

28. The County has notice of and is aware that in June 2021, an inmate named, Donyell DeWayne Holland, was beaten by other inmates at Silverdale and was badly injured. Mr. Holland was denied medical care and left on the cell floor for three (3) days. When a nurse finally tried to administer treatment, she was threatened by corrections officers at Silverdale. Mr. Holland has filed a lawsuit, which is still pending in the Eastern District of Tennessee. *Holland v. Booth, et al.*, No. 1:21-cv-00166.

29. The County has notice of and was aware that in September 2021, Silverdale failed an inspection conducted by the Tennessee Corrections Institute with the inspection listing overcrowding, multiple surveillance cameras in need of repair, and an HVAC in need of repair.

30. The County has notice of and is aware that in April 2022, Brandon Cornett, a male inmate, died while in custody at Silverdale. His wife called consistently for weeks leading up to his death insisting that he needed his medicine and was told "it was being handled." On April 24, 2022, Mr. Cornett, was very sick and put on the "provider list" to be seen the following day, sixteen days after staff were alerted to his condition by his wife. He died before he was seen by a doctor. His next of kin filed a lawsuit against Hamilton County and others, which is currently pending in the Eastern District of Tennessee. *Cornett v. Hamilton County, et. al.*, 1:23-cv-053.

31. On May 16, 2022, Carol White, was found dead at Silverdale. She was serving a 45-day sentence for drunk driving and was not provided the medication critical to managing her

seizures and thyroid issues. The Court ordered her medication to be delivered to Silverdale and be administered to her as prescribed. Those orders were ignored, and Ms. White died as a result. *White v. Hamilton County, et. al.*, 1:23-cv-00108.

32. The County has notice of and is aware that in May of 2022, Silverdale failed a health inspection. Inspectors found rat droppings in the food storage area, no sanitizer present in washing buckets, and walls, floors and ceilings that were in hazardous condition.

33. The County has notice of and is aware that DaQuarrious “Jay” Brown, an HIV positive inmate, was denied his HIV medications for two months while he was housed at Silverdale. Without his life-saving HIV medication, Mr. Brown’s health continued to get worse. Inmates in his cell would stage fights just to get the nurses’ attention. Mr. Brown regularly begged the Silverdale staff to administer his medication, yet they refused. By the time he was brought to Erlanger Hospital in March 2022, his HIV had rapidly progressed causing him to develop pneumonia and sepsis. Mr. Brown spent two months fighting for his life and later died. His family filed a lawsuit against Hamilton County and others. *Brown v. Hamilton County, et. al.*, 1:23-cv-00045.

34. The County has notice that on July 23, 2022, four inmates escaped from Silverdale. It took guards almost four (4) hours to notice they were missing.

35. The County has notice of and is aware that on October 16, 2022, Abraham Jackson, Jr., an inmate at Silverdale, died seven months into serving his sentence at Silverdale. He suffered from numerous infections brought on by malnutrition. Inmates told Mr. Jackson’s family that he blacked out on three different occasions, but nurses still would not see or treat him. His family filed a lawsuit against Hamilton County and others. *Jackson v. Hamilton County, et.al.*, 1:23-cv-00046.

36. The County has notice of and is aware that, on December 20, 2022, Marvin Johnston, Jr., an inmate at Silverdale, was found dead in his cell. His cause of death was listed as a fentanyl overdose.

37. Despite their knowledge of multiple documented instances of medical neglect, and inhumane living conditions, most of which have occurred in the last two years, the Defendants have taken no action to prevent further deprivations of civil rights at Silverdale.

38. Hamilton County, through its refusal to correct conditions at Silverdale, has adopted policies and procedures that threaten the lives of its inmates, as evidenced in the above examples.

COUNT I

42 U.S.C. 1983 MONELL LIABILITY (POLICIES, PROCEEDURES, CUSTOMS)

39. Plaintiffs hereby incorporate and adopt all the preceding paragraphs as if fully alleged and set forth herein.

40. Pursuant to the Eighth Amendment and Fourteenth Amendment to the United States Constitution, Mr. Fitzgerald, as an inmate at Silverdale, had a Constitutional right to be free from cruel and unusual punishment during his confinement, including a right to be provided with adequate medical care and humane living conditions.

41. Defendant, Hamilton County employed or contracted with QCHC, and together were responsible for the well-being of Mr. Fitzgerald as the contracting government agencies responsible for overseeing, monitoring, and providing proper health care at Silverdale.

42. The Defendants' acts and omissions, as alleged more specifically herein, breached a Constitutional duty as the Defendants were deliberately, consciously and intentionally indifferent and callous toward Mr. Fitzgerald's emergent medical needs.

43. The Defendants did not properly assess and diagnose Mr. Fitzgerald's pain. Rather, a false and stereotypical assumption was made that he was suffering from either withdrawal from use of narcotics or ingestion of narcotics. (Either of which could also be fatal and should have been carefully assessed and monitored).

44. The Constitutional violations resulted from the official policies, practices, procedures, regulations or customs adopted by official policy makers or policy making officials for Hamilton County and/or Silverdale Detention Center, and those that are employed thereby. Plaintiff alleges that the following policies (but not limited to those listed) caused the deprivation of Decedent's basic Constitutional right to be provided with adequate medical care and humane conditions:

- a. Tennessee Correctional Institute Regulations -1400-01.12(1)-(33);
- b. Protocols for the Continuing Care of Inmates at the Hamilton County jail;
- c. Manual for Standard Operating Procedures (S.O.P.);
- d. S.O.P. D-110;
- e. Policies and adequacy of training and hiring and monitoring of employees of QCHC.

45. The institutional policies, procedures, customs, and practices outlined in the preceding paragraphs subjected Mr. Fitzgerald to unnecessary and wanton infliction of pain and distress and demonstrated deliberate indifference to his serious medical needs. The specific, deliberately indifferent actions and omissions of the Defendants include but are not limited to, the following:

- a. dismissing Mr. Fitzgerald's medical complaints as drug induced when in fact he was bleeding to death;
- b. failing to provide adequate medical care for Mr. Fitzgerald/inmates;

- c. failing to provide adequate medicine and treatment to Mr. Fitzgerald and other inmates;
- d. failing to provide Mr. Fitzgerald and other inmates necessary hospital care;
- e. indifference of medical personnel, administration, and deputies were to medical emergencies;
- f. over-utilizing conservative treatment methodologies when medical conditions became emergent in contravention of prevailing medical practices and standards of care;
- g. failing to provide appropriate care in correction settings in accordance with prevailing medical practices for physicians and nurses;
- h. ignoring medical information of Mr. Fitzgerald and other inmates leading to improper care and treatment;
- i. delaying and failing to appropriately respond to Mr. Fitzgerald's emergent need for treatment and to recognize his life threatening condition;
- j. failing to adopt policies and procedures that ensure that inmates have timely and adequate medical care from medical personnel qualified to diagnose and treat conditions, including those suffered by Mr. Fitzgerald,
- k. failing to adopt policies, procedures and training for medical personnel and/or jail administration in recognizing emergency conditions,
- l. failing to provide a cogent, clear, nursing directive for prioritizing requests for medical services and sick calls,
- m. failing to ensure medical and nursing staff competency, including establishment of policies, procedures, and process to detect and respond to incompetency;
- n. failing to enact policies, procedures, and to institute a system to detect poor quality nursing, including failure to detect emergent medical disease, degenerating conditions, the necessity of medication and treatment, and conditions requiring further evaluation and treatment;
- o. failing to ensure proper equipment at the medical facility such that proper diagnoses can be made;
- p. failing to meet widely accepted community standards of care with regard to medical service for ill and injured inmates.

46. As a direct and proximate result of the violation of his civil rights, as described in other paragraphs herein, and in contravention of 42 U.S.C. §1983, the Defendants, including Hamilton County, its agents and assigns, allowed the Decedent to suffer the following injuries:

- a. days of pain and suffering from an excruciating medical condition;
- b. suffering of great pain of body and mind;
- c. significant mental and physical suffering;
- d. the loss of enjoyment of life for the time of his illness;
- e. loss of life.

47. The Defendants, including, Hamilton County, through its official acts and omissions were intentionally willful, wanton, reckless, and malicious and showed a deliberate indifference and reckless disregard for the rights of Mr. Fitzgerald and all inmates in custody of Silverdale. Plaintiff is entitled to an award of punitive or exemplary damages in an amount sufficient to punish the Defendants, including Hamilton County, for their actions against Decedent and to prevent such conduct in the future.

48. Plaintiff is entitled to her reasonable attorney's fees, costs, and expenses from the Defendants pursuant to 42 U.S.C. §1983.

COUNT II

42 U.S.C. 1983 (FAILURE TO TRAIN)

49. Plaintiff hereby incorporates and adopts all preceding paragraphs as if fully alleged and set forth herein

50. Silverdale, by and through its policy makers, either by enactment or acquiescence to, have adopted a policy or policies of inadequate training for medical and nursing personnel assigned to the jail facility to carry out their duties. Silverdale's failure was persistent and

widespread such that it constituted an official policy in action. The adoption of these policies and the failure to address inadequate training in these policies, is alleged in support of the cause of action.

51. Hamilton County's failure to provide such training not only resulted in the systematic deficiencies of Silverdale outlined in the above paragraphs, but also recklessly posed substantial risk of harm to the health and safety of Mr. Fitzgerald and all other inmates at the facility. Failure to train amounted to a deliberate indifference and deprived Mr. Fitzgerald and other inmates of their Eighth Amendment right to be free from cruel and unusual punishment and the unnecessary and wanton infliction of pain. Said failure was the moving force behind the violation of Decedent's constitutional rights.

52. But for the failure of Hamilton County and its agents to provide reasonable and adequate training for medical and nursing personnel assigned to the facility, Mr. Fitzgerald's Constitutional rights would not have been violated and Mr. Fitzgerald would not have lost his life.

53. Mr. Fitzgerald was damaged as a proximate and direct result of the conduct of Hamilton County in its failure to provide proper training for its staff.

54. Mr. Fitzgerald has been damaged as a direct and proximate result of Silverdale's failure in its official acts and omissions.

55. Plaintiff is entitled to her reasonable attorney's fees, costs, and expenses pursuant to 42 U.S.C. §1983.

COUNT III

42U.S.C. 1983 (FAILURE TO SUPERVISE)

56. Plaintiff hereby incorporates and adopts all the preceding paragraphs as if fully alleged and set forth herein.

57. Defendant, Hamilton County, and unknown agents and supervisors it employed, through its supervisory and management personnel, are vested with the final decision-making authority for Silverdale, as described in the Tennessee Code and local ordinances and resolutions. Customs, policies, and practices were adopted by Silverdale through the acts or omissions of its supervisory and management personnel. The customs, policies, practices and customs were so persistent and widespread as to constitute official policies and actions.

58. Hamilton County, through its supervisory and management personnel at Silverdale, was vested with the duty to exercise reasonable and adequate supervision, direction, and control over medical and nursing personnel assigned to the jail.

59. Silverdale supervisory and management personnel recklessly posed a substantial risk of harm to the health and safety of Mr. Fitzgerald and other inmates and deprived them of their Eighth Amendment rights of the United States Constitution to be free from cruel and unusual punishment and unnecessary and wanton infliction of pain and suffering. Its failure, either by acts, or omissions, in overt or tacit approval, was the moving force behind the violation of Mr. Fitzgerald's Constitutional rights and his subsequent damages.

60. But for the failure to exercise reasonable and adequate supervision of medical staff, Constitutional rights would not have been violated and Mr. Fitzgerald would not have lost his life.

61. Hamilton County was intentionally wanton, willful, reckless and malicious; and showed a complete and deliberate indifference to the rights of Mr. Fitzgerald, Plaintiff, and other inmates in custody. Plaintiff is entitled to an award of punitive or exemplary damages in an amount sufficient to punish Hamilton County, and to deter Silverdale and others from conduct like this in the future.

62. The Plaintiff is entitled to reasonable attorney's fees, costs, and expenses from Defendants as provided in 42 U.S.C. §1983.

COUNT IV

42 U.S.C. 1983 (INDIFFERENCE TO MEDICAL NEEDS)

63. The Plaintiff adopts and re-alleges all the previous allegations set forth in this Complaint as if set forth and re-alleged herein.

64. The Defendants were deliberately indifferent to Mr. Fitzgerald's serious and life-threatening medical needs. The Defendants subjected him to and engaged in conduct to deprive him of his Constitutional rights to be free from cruel and unusual punishment guaranteed by the Eighth Amendment to the United States Constitution as applied through the Fourteenth Amendment.

65. Mr. Fitzgerald suffered from unnecessary and wanton infliction of pain because of the clear and deliberate indifference to his medical needs, failure of the medical personnel at Silverdale and any offsite special medical providers, to properly diagnose and treat the perforated ulcer which ultimately caused his death. There were no drugs in his system. A far more serious condition existed. Proper assessment of his symptoms would have saved his life. The medical staff was deliberately indifferent in not further investigating his debilitating pain and lack of reaction to the treatment administered.

66. Specifically, under the Eighth Amendment of the United States Constitution Defendants were deliberately indifferent to Mr. Fitzgerald's medical needs in that they failed to provide the following:

- a. proper and timely medical attention for serious medical needs;
- b. referrals to offsite medical and proper diagnostic services;

- c. timely response to serious medical needs;
- d. appropriate treatment methodologies;
- e. transportation to a hospital or other diagnostic clinic for treatment;
- f. improperly diagnosing Mr. Fitzgerald, aggravating or exacerbating his bleeding ulcer;
- g. failing to treat medical needs;
- h. failing to respond appropriately to an emergent medical condition, which is a bleeding ulcer.

67. Defendants were deliberately indifferent to Decedent's rights under the Eighth Amendment and failed to hospitalize or admit the Decedent for proper medical diagnosis for his serious medical need.

68. Mr. Fitzgerald's death was the direct and proximate result of the deliberate indifference of the Defendants to the Plaintiff's medical needs.

69. The Defendants, through their acts and omissions, were intentionally willful, wanton, reckless, and malicious and showed a deliberate indifference and reckless disregard for the rights of Mr. Fitzgerald, Plaintiff, and the inmates in custody at Silverdale.

70. Plaintiff is entitled to punitive damages and exemplary damages in an amount sufficient to punish Defendants and to deter said Defendants and others from like future conduct.

71. Plaintiff is entitled to reasonable attorney's fees, costs and expenses from Defendants as provided by 42 U.S.C. §1983.

PRAYERS FOR RELIEF

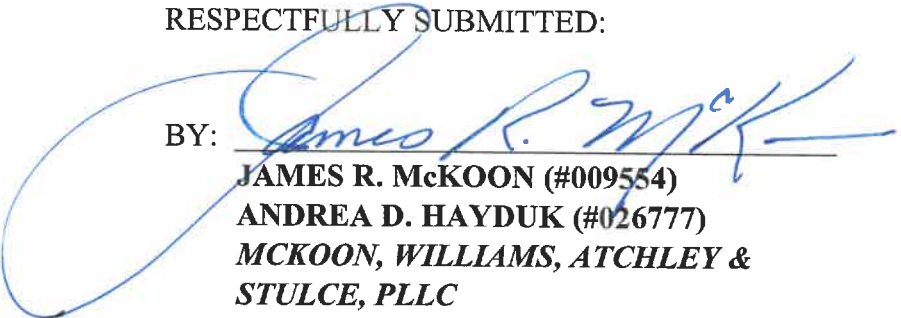
The Plaintiff prays for relief as follows:

- a. That process issue;

- b. That a jury be impaneled to hear the controversy before the Court;
- c. That Plaintiff be awarded all of the Constitutional violations, compensatory and actual damages in the amount not less than Two Million Dollars (\$2,000,000.00);
- d. That punitive damages be awarded against the Defendants in the amount of Two Million, five hundred thousand, dollars (\$2,500,000.00);
- e. That the Court order reasonable attorney's fees pursuant to 42 U.S.C. §1983 11 U.S.C. §1988, along with any costs and expenses in the prosecution of this action;
- f. For any other general relief as is required by law.

RESPECTFULLY SUBMITTED:

BY:



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**TENNESSEE DEPARTMENT OF HEALTH
CERTIFICATE OF DEATH**

STATE FILE NUMBER 2022 040036

1. Decedent's Legal Name DONALD FITZGERALD		2. Sex MALE	3. Date of Death 06/12/2022
4. Time of Death (Accession) 12:40 PM	5a. Age 49	5b. Date of Birth 05/09/1973	7. Birthplace NORWICH, CT
8a. Place of Death INPATIENT			
8b. Facility Name PARKRIDGE MEDICAL CENTER		8c. City or Town CHATTANOOGA	8d. County of Death HAMILTON
9. Marital Status DIVORCED	10. Surviving Spouse (name prior to first marriage)		11a. Decedent's Usual Occupation NOT EMPLOYED
12. Social Security Number 048-80-7826	13a. Residence-State or Foreign Country TENNESSEE		11b. Kind of Business/Industry NOT EMPLOYED
13b. County POLK		13c. City or Town BENTON	14. Was Decedent ever in US Armed Forces? NO
13d. Street and Number 508 BAILEY RD	15e. Inside City Limits? NO	13f. Zip Code 37307	
16. Decedent's Education HIGH SCHOOL GRADUATE OR GED COMPLETED	16. Decedent of Hispanic Origin? NO, NOT SPANISH/HISPANIC/LATINO		17. Decedent's Race WHITE
18. Father's Name MICHAEL FITZGERALD		19. Mother's Name Prior to First Marriage GLORIA VATOIR	
20a. Informant's Name LAURIE FITZGERALD		20b. Relationship to Decedent SISTER	20c. Mailing Address 508 BAILEY RD BENTON, TN 37307
21a. Method of Disposition CREMATION		21b. Place of Disposition OTHER	21c. Location BENTON, TN
22a. Signature of Funeral Director DAVID TODD BOWERS		22b. License Number 3895	22c. Signature of Embalmer
23a. Name and Address of Funeral Home SERENITY OF CLEVELAND FUNERAL HOME 3010 NORTH COOKE STREET CLEVELAND, TN 37312		23b. License Number 833	
24. Registrar's Signature EDWARD G BISHOP III		25. Date Filed 06/16/2022	
26. Certifier 26a. <input type="checkbox"/> PHYSICIAN - TO THE BEST OF MY KNOWLEDGE, DEATH OCCURRED AT THE DATE, TIME, AND PLACE, AND DUE TO THE CAUSE(S) AND MANNER STATED. 26b. <input checked="" type="checkbox"/> MEDICAL EXAMINER - ON THE BASIS OF EXAMINATION, AND/OR INVESTIGATION, IN MY OPINION, DEATH OCCURRED AT THE DATE, TIME, AND PLACE, AND DUE TO THE CAUSE(S) AND MANNER STATED.			
27a. Certifier JAMES METCALFE		27b. License Number 18166	27c. Date Signed 06/15/2022
27d. Name and Address JAMES METCALFE 3202 AMNICOLA HIGHWAY, CHATTANOOGA, TN 37406			
28. Part I. ENTER THE CHAIN OF EVENTS (DISEASES, INJURIES, OR COMPLICATIONS) THAT DIRECTLY CAUSED THE DEATH. DO NOT ENTER TERMINAL EVENTS SUCH AS CARDIAC ARREST, RESPIRATORY ARREST, OR VENTRICULAR FIBRILLATION WITHOUT SHOWING THE ETIOLOGY. ENTER ONLY ONE CAUSE ON A LINE. IMMEDIATE CAUSE: If final disease or condition resulting in death. Separately, list condition, if any, leading to the cause listed on line a. Enter into UNDEFINING CAUSE whenever injury that resulted in death. a. PENDING b. _____ c. _____ d. _____			Additional Information Given in Death
Part II. OTHER SIGNIFICANT CONDITIONS CONTRIBUTING TO DEATH BUT NOT RESULTING IN THE UNDERLYING CAUSE GIVEN IN PART I.			29a. Was an Autopsy Performed? 29b. Were Autopsy Findings Available to Complete the Cause of Death?
30. Manner of Death PENDING	31. Did Tobacco Use Contribute to Death?	32. If Female:	
33. If Transportation Injury, Specify:	34a. Date of Injury	34b. Time of Injury	34c. Injury at Work?
	34d. Describe How Injury Occurred		34e. Place of Injury
			34f. Location of Injury

PH-1552E

DOA 10112

I hereby certify the above to be a true and correct representation of the record or document on file in this department. This certified copy is valid only when printed on security paper showing the red embossed seal of the Tennessee Department of Health. Alteration or erasure voids this certification. Reproduction of this document is prohibited.

Tennessee Code Annotated 68-3-101 et seq., Vital Records Act of 1977



Edward G. Bishop III
State Registrar



1 4 3 7 9 1 2 2
Date Issued: Jul-05-2022

CERTIFICATION OF VITAL RECORD



**TENNESSEE DEPARTMENT OF HEALTH
DELAYED REPORT OF DIAGNOSIS - DEATH**

STATE FILE NUMBER 2022 040036

1. Decedent's Legal Name DONALD FITZGERALD				2. Sex MALE		3. Date Of Death 06/12/2022	
5a. Age 49		5b. Under 1 Year Months _____ Days _____		5c. Under 1 Day Hours _____ Minutes _____		5. Date Of Birth 06/09/1973	
5b. Facility Name PARKRIDGE MEDICAL CENTER				5c. City Or Town CHATTANOOGA		5d. County Of Death HAMILTON	
24. Registrar's Signature /s/ EDWARD G. BISHOP III				25. Date Filed 06/30/2022			
26. Certifier 26a. <input type="checkbox"/> PHYSICIAN - TO THE BEST OF MY KNOWLEDGE, DEATH OCCURRED AT THE DATE, TIME, AND PLACE, AND DUE TO THE CAUSE(S) AND MANNER STATED. 26b. <input checked="" type="checkbox"/> MEDICAL EXAMINER - ON THE BASIS OF EXAMINATION, AND/OR INVESTIGATION, IN MY OPINION, DEATH OCCURRED AT THE DATE, TIME, AND PLACE, AND DUE TO THE CAUSE(S) AND MANNER STATED.							
27a. Certifier /s/ JAMES METCALFE				27b. License Number 18166		27c. Date Signed 06/30/2022	
27d. Name And Address JAMES METCALFE 3202 AMNICOLA HIGHWAY, CHATTANOOGA, TN 37406							
28. Part I. ENTER THE CHIEF OF EVENTS (DISEASES, INJURIES, OR COMPLICATIONS) THAT DIRECTLY CAUSED THE DEATH. DO NOT ENTER TERMINAL EVENTS SUCH AS CARDIAC ARREST, RESPIRATORY ARREST, OR VENTRICULAR FIBILLATION WITHOUT SHOWING THE ETIOLOGY. ENTER ONLY ONE CAUSE ON A LINE. IMMEDIATE CAUSE (First disease or condition resulting in death; immediately preceding cause, if any, leading to the cause listed on line a. Do not include the underlying cause.) a. PERFORATED BLEEDING DUODENAL ULCER UNDERLYING CAUSE (Disease or injury that initiated the events resulting in death) LAST b. c. d.							APPROXIMATE INTERVAL ONSET TO DEATH
Part II. Other Significant Conditions Contributing To Death But Not Resulting In The Underlying Cause Given In Part I. STATUS POST LAPAROTOMY AND OVERSEWING, DISSEMINATED INTRAVASCULAR COAGULATION, CORONARY ATHEROSCLEROSIS.							29a. Was An Autopsy Performed? YES 29b. Were Autopsy Findings Available To Complete The Cause Of Death? YES
30. Manner Of Death NATURAL		31. Did Tobacco Use Contribute To Death? UNKNOWN		32. If Female: N/A			
33. IF TRANSPORTATION INJURY, SPECIFY:		34a. DATE OF INJURY		34b. TIME OF INJURY		34c. INJURY AT WORK?	
						34d. PLACE OF INJURY	
34e. Describe How Injury Occurred						34f. Location Of Injury	

PH-1605E

RDA 10112

14379121

I hereby certify the above to be a true and correct representation of the record or document on file in this department. This certified copy is valid only when printed on security paper showing the red embossed seal of the Tennessee Department of Health. Alteration or erasure voids this certification. Reproduction of this document is prohibited.

Tennessee Code Annotated 68-3-101 et seq., Vital Records Act of 1977

Edward G. Bishop III
State Registrar



1 4 3 7 9 1 2 1
Date Issued: Jul-05-2022

CERTIFICATION OF VITAL RECORD

Chancery Court for Hamilton County, Tennessee

IN THE MATTER OF THE ESTATE OF

No. 23-P-470

DONALD FITZGERALD

, DECEASED

PART 2

Date of Death: JUNE 12, 2022

PROBATE DIVISION

Administrator(s): LAURIE FITZGERALD

Letters of Administration

Whereas, it appearing to the Chancery Court that the above named deceased person left no will, and the said Court having appointed the above named Administrator(s) upon making bond and qualifying as directed by law; it is therefore

Ordered that Letters of Administration are hereby issued to the above named Administrator(s), being now empowered to enter into and take possession of all property rights and credits of this deceased person, and to administer this estate as required by law.

In witness whereof, I have issued these Letters on this 5th day of JUNE, 2023.

ROBIN L. MILLER, CLERK & MASTER

STATE OF TENNESSEE
COUNTY OF HAMILTON

By Rachael Kippelman
DEPUTY PROBATE CLERK

I solemnly swear I will honestly and faithfully discharge the duties imposed on me, including the filing of inventory, settlement, inheritance tax return, and affidavits, as required by law.

Sworn to and subscribed before me this 5th day of JUNE, 2023.

ROBIN L. MILLER, CLERK & MASTER

By Rachael Kippelman
DEPUTY PROBATE CLERK

>>>>>Certificate<<<<<

I, CLERK & MASTER of this court, certify: i) this is a Court of Record; ii) the above is a true, full, and correct copy of the Letters of Administration issued by this court in this estate; iii) these letters are still in full force and effect as of this date; and iv) these letters appear of record in this court's Administrators' Bonds and Letters Record Book NO. 114, page 203.

Witness my hand and seal this 5th day of JUNE, 2023.

ROBIN L. MILLER, CLERK & MASTER

By Rachael Kippelman
DEPUTY PROBATE CLERK
HAMILTON COUNTY
CHATTANOOGA, TN 37402

2023 JUN -5 AM 10: 29

[FORM 089, REV. 2008.02.04]

FILED

HAMILTON CO CLERK & MASTER