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Dora Higgins and Vinson Higgins as court-
7 appointed Conservators for Latesha Denise
Smith
8

9 UNITED STATES DISTRICT COURT

10 CENTRAL DISTRICT OF CALIFORNIA- EASTERN DIVISION

11 DORA HIGGINS, an individual, and
VINSON HIGGINS, an individual, as
12 court-appointed Conservators for
LATESHA DENISE SMITH,

13 Plaintiffs,

14 v.

15 COUNTY OF SAN BERNARDINO,
16 SAN BERNARDINO COUNTY
SHERIFF’S DEPARTMENT, and
17 DOES 1 through 20, inclusive,
individually and in their official
18 capacities,

19 Defendants.

Case No. 5:21-cv-00807-JGB-SHK
Hon. Jesus G. Bernal

FIRST AMENDED COMPLAINT

1 Vinson and Dora Higgins (“Vinson and Dora”), as court-appointed conservators for
2 Latesha Denise Smith (“Latesha”), complain and allege as follows:

3 **INTRODUCTION**

4 1. On January 5, 2019, Latesha was incarcerated at the West Valley Detention
5 Center pending trial on criminal charges. Three and a half months later, she was on the
6 verge of death after attempting to take her own life in her cell. Today, she remains in an
7 unconscious and unresponsive state, under 24-hour medical care. She almost certainly will
8 remain that way for the rest of her life.

9 2. Latesha’s suicide attempt and resulting injuries are the direct result of the
10 defendants’ deliberate indifference to her underlying mental illness and rapidly
11 deteriorating mental state while in their custody. The defendants knew not only that Latesha
12 had a long history of mental illness, but also that her mental health had reached a breaking
13 point after months of incarceration. She repeatedly refused her medication. She suffered
14 from delusions. She acted erratically and irrationally. She desperately wanted out of jail
15 but refused to attend her court appearances. She exhibited virtually every trait of someone
16 whose mental health was in tatters. The defendants knew all of this.

17 3. And they also knew Latesha was suicidal.

18 4. Nevertheless, on April 10, 2019, the defendants left Latesha alone and
19 unmonitored in her cell. While no one was watching, Latesha built a rope out of her clothing
20 and attempted to hang herself – a suicide attempt that was as predictable as it was tragic.

21 5. Latesha’s parents, Vinson and Dora, bring this action to hold the defendants
22 responsible for their deliberate indifference to their daughters’ well-being.

23 **THE PARTIES**

24 6. Vinson and Dora (collectively “Plaintiffs”) are, and at all times mentioned in
25 this Complaint were, individuals residing in South Carolina. They are bringing this
26 Complaint on behalf of their daughter, Latesha Smith, who has been incapacitated since the
27 incident giving rise to this Complaint.

1 7. Latesha Smith is currently residing in a convalescent care facility located in
2 Los Angeles County, California.

3 8. Vinson and Dora are informed and believe that defendants the County of San
4 Bernardino (the “County”) and the San Bernardino Sheriff’s Department (the “Sheriff’s
5 Department”) are, and all times mentioned in this Complaint were, governmental entities
6 located in San Bernardino County, California.

7 9. Vinson and Dora are suing defendants named in this Complaint as Does 1
8 through 20 under fictitious names for the reason that Vinson and Dora do not presently
9 know their true names or identities. When Vinson and Dora do ascertain the true names
10 and identities of Does 1 through 20, it will amend this Complaint, including seeking leave
11 of Court as necessary. Vinson and Dora are informed and believe that Does 1 through 20,
12 along with the named defendants, are responsible for the acts about which Vinson and Dora
13 complain in this Complaint.

14 10. Vinson and Dora are informed and believe that, at all times mentioned in this
15 Complaint, each of the County and Does 1 through 20 (collectively the “Defendants”) were
16 the agents, servants, joint venturers, co-conspirators, and employees of one another, and in
17 doing the things alleged in this Complaint, were acting within the course and scope of that
18 relationship and with the full permission and consent of one another. Vinson and Dora are
19 informed and believe that each, all, or some of the defendants ratified, approved, and
20 adopted some or all of the acts of each of the other defendants. Vinson and Dora are
21 informed and believe that each, all, or some of the defendants materially aided in some or
22 all of the other defendants’ violations.

23 **JURISDICTION**

24 11. Plaintiffs Vinson and Dora have complied with the claim presentment
25 requirements of the California Government Tort Claims Act. The County improperly
26 rejected Vinson and Dora’s application for leave to present late claims within one year of
27 the incident. Vinson and Dora filed a timely petition with this Court for leave to file this
28 Complaint.

1 19. Recently provided medical records show that despite Latesha's housing
2 assignment and the additional duty to monitor her more closely, Latesha's mental health
3 and living conditions consistently deteriorated during the three months she was
4 incarcerated.

5 20. For instance, during a medical appointment in January, Latesha met her
6 therapist wearing only a blanket. During the same month, Latesha was deemed
7 insufficiently stable to transport to court and missed a court date.

8 21. By February, Latesha's appearance became disheveled, her attention span was
9 impaired, and she remained uncooperative and unpredictable. Latesha would laugh at
10 inappropriate times and talk to herself. Worse, she lacked insight into her own condition,
11 was in a state of confusion, and repeatedly refused to take medications. She was paranoid
12 and weary of the Detention Center staff. Although she had occasional lucid days, Latesha
13 continued her downward spiral.

14 22. By March, Latesha was manic, disoriented, and extremely paranoid. Driven
15 by her delusions, her behaviors became even more erratic. She believed the guards were
16 trying to feed her human meat, and she did not trust them to bring her clean clothes. She
17 would routinely undress, refuse to wear pants, and engage in socially inappropriate
18 behaviors. Latesha would alternate between agitation and shutting down completely and
19 refusing to communicate or leave her cell. She was disorganized and continued to refuse
20 treatment or medication. Her living conditions became unsafe and unhygienic. After
21 observing her behavior, one Detention Center mental health provider expressed concern
22 that Latesha might be suicidal and suggested she be monitored accordingly. Plaintiffs are
23 informed and believe that this monitoring was never implemented. Rather, while Detention
24 Center personnel remarked on the state of Latesha's cell and her behaviors, they deliberately
25 failed to address Latesha's hygiene, living conditions, or immediate medical needs. Indeed,
26 just the opposite, on at least one occasion in March 2019 a Detention Center officer –
27 disregarding Latesha's mental illness and fragile state – attacked Latesha with pepper spray,
28 causing her severe pain and discomfort. Instead of getting Latesha the help she needed, in

1 other words, Detention Center staff subjected her to corporal punishment for a condition
2 that was out of her control.

3 23. By the end of March 2019, Latesha was in desperate need of help. Nearly
4 three months of incarceration (on unproven charges that were later dismissed) had sent her
5 already compromised mental health into a downward spiral. She was suffering and the
6 Detention Center staff knew it. They also knew she was at grave risk of self-harm.

7 24. Nevertheless, on April 10, 2019, Latesha was left unsupervised and
8 unmonitored in her cell for a lengthy period. During the time she was left unmonitored,
9 Latesha used her clothing to build a rope and attempted to hang herself from the bunk in
10 her cell. When the Detention Center staff finally did check on Latesha, they found her
11 unconscious, not breathing, and blue in the face. It is not known how long after Latesha
12 attempted suicide she was found, or how long after she was found medical assistance was
13 called. She was ultimately transported to the local hospital emergency room.

14 25. Though Latesha survived her suicide attempt, she suffered severe brain
15 damage and has never regained consciousness. Latesha has required and continues to
16 require 24-hour medical supervision and care. She currently resides in a rehabilitation
17 facility in Los Angeles, County, separated from her parents and other family who live across
18 the country.

19 26. In short, Defendants purposefully turned a blind eye as Latesha's mental state
20 deteriorated, her behavior became even more distressed, and finally, the inevitable occurred
21 when Latesha attempted to take her own life.

22 27. Defendants have long-standing practices, customs, or policies that deprive
23 people from adequate access to mental health care. These include inadequate screening for
24 mental health disorders, delaying access to clinicians and medications, understaffing mental
25 health care professionals, delaying access to specialty care, failing to provide therapeutic
26 treatment and effective suicide prevention plans, failing to effectively manage medications,
27 failing to protect patient confidentiality by conducting cell-front therapist visits instead of
28 offering treatment in an environment conducive to treatment, denying access to

1 psychiatrists, and failing to provide the essential services necessary to meet minimum
2 standards of care. The risk of harm, including decreased mental health and increased risk
3 of suicide, is obvious, and Constitutional harm is likely to occur. Defendants are
4 deliberately indifferent to the risk of harm caused by these serious mental health care
5 deficiencies. In Latesha's case, as a result of and consistent with these policies and
6 deficiencies, Latesha's mental health rapidly declined, which led to her suicide attempt.

7 28. Defendants have long-standing policies, practices, and customs that permit
8 use of excessive force that subject people to serious injury or the risk of serious injury.
9 Correctional officers use or use other force on inmates as a first resort in reaction to any
10 behavior that might possibly be interpreted as aggressive. In many instances, the use of
11 force is completely unnecessary to control behavior or maintain order in the jails. In some
12 instances, the use of force may be necessary initially, but after the need for force has passed,
13 the individual is subjected to retaliatory assault. These patterns of excessive force occur
14 because Defendants do not adequately train, supervise, and discipline correctional officers
15 or lack training, supervision, and discipline. These patterns also occur because Defendants'
16 written policies and procedures are inadequate to safeguard against excessive force. For
17 example, they do not require correctional officers to attempt verbal de-escalation when
18 possible or limit the use of force on people who are unable to comply with commands due
19 to severe mental illness. The risk of harm, including preventable injuries and physical
20 suffering, is obvious, and Constitutional harm is likely to occur. Defendants are deliberately
21 indifferent to the risk of harm caused by these practices and customs. In Latesha's case, as
22 a result of and consistent with these widely adopted customs, a Detention Center officer
23 attacked Latesha with pepper spray without ascertaining Latesha's mental state or ability to
24 comply with orders, causing her severe pain and discomfort.

FIRST CAUSE OF ACTION

(Negligence)

[Against All Defendants]

29. Vinson and Dora reallege and incorporate by this reference Paragraphs 1 through 28 of this Complaint as if fully set forth herein.

30. As a prisoner with known and observed mental health issues, Defendants owed Latesha a duty of care to keep her safe and protect her, as well as a duty to summon and provide appropriate medical care. Furthermore, Defendants had a duty under Government Code section 845.6 to take reasonable action to summon medical care when the Defendants knew or had reason to know that Latesha needed immediate medical care.

31. Defendants' actions and omissions, either directly in their capacity as public employees whose true names are not known and are therefore referred to as Does 1-10 or through its employees operating the West Valley Detention Center, including but not limited to failure to take reasonable action to summon medical care when the employees knew or had reason to know of the need for immediate medical care were inconsistent with how reasonable entities and their employees in Defendants' position would have acted under the circumstances.

32. Defendants Does 1-10's actions and omissions, either directly in their capacity as public employees whose true names are not known and are therefore referred to as Does 1-10, including but not limited to deliberate indifference to Latesha's medical needs, failure to properly monitor Latesha or conduct necessary wellness checks, and failure to keep Latesha in safe or sanitary condition, were inconsistent with how reasonable employees in Defendants Does 1-10's position would have acted under the circumstances.

33. Defendants breached their duty to Latesha. This breach was a substantial cause of Latesha's harm.

34. As a direct and proximate result of Defendants' negligence, Latesha has been harmed in an amount to be proven at trial.

SECOND CAUSE OF ACTION

(Deprivation of Civil Rights under Section 1983)

[Against the County, the Sheriff’s Department; Does 1-20, in their individual capacities; and Does 16-20]

35. Vinson and Dora reallege and incorporate by this reference Paragraphs 1 through 28 of this Complaint as if fully set forth herein.

36. Vinson and Dora believe and therefore allege that at all relevant times, Defendants, under the color of state law, either directly (Does 1-15) or by and through its employees, deprived Latesha Smith of her constitutional rights, a citizen of the United States, including her right to equal protection of the laws and due process under the Fourteenth Amendment of the United States Constitution. Latesha’s constitutional rights were clearly established.

37. Defendants were on notice and aware of Latesha’s severe medical needs, failing mental health, the need to keep her closely monitored, and the unsafe and unsanitary state of her living conditions. Defendants knew there was a substantial risk that Latesha would be injured or worse. Defendants were deliberately indifferent to Latesha’s serious needs and deprived her of medical care and safe, humane conditions of confinement. Furthermore, Vinson and Dora believe and therefore allege that on at least one occasion, defendants Does 11-15 maliciously used excessive force on Latesha by pepper spraying her either without sufficient warning or using excessive chemical agents.

38. Vinson and Dora are informed and believe that the County and the Sheriff Department’s employees acted consistent with the County and the Sheriff Department’s long-standing practices, customs, or policies regarding improper treatment and care of inmates, particularly those with mental health disorders, and use of excessive force, which contributed to the Constitutional violations or officials with final policy-making authority (Does 16-20) ratified Defendants employees’ unconstitutional actions. Defendants’ policies, practices, and customs amounted to deliberate indifference of Latesha’s constitutional rights and were the moving force behind the constitutional violation.

39. Defendants’ violations were a substantial cause of Latesha’s harm.

40. As a direct and proximate result of Defendants’ actions, Latesha has been harmed in an amount to be proven at trial.

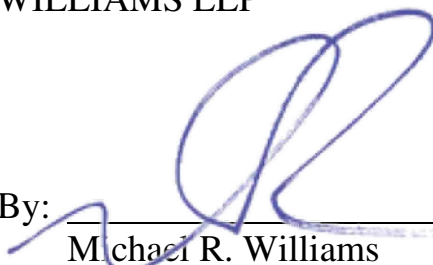
PRAYER

THEREFORE, Vinson and Dora pray for judgment as follows:

1. Compensatory damages in the amount to be proven at trial;
2. Punitive damages;
3. Pre-judgment interest;
4. Costs of suit; and
5. For such other and further relief as the Court may deem just and proper.

Dated: June 14, 2021

BIENERT KATZMAN LITTRELL
WILLIAMS LLP

By:  _____
 Michael R. Williams
 Attorneys for Plaintiffs
 Dora Higgins and Vinson Higgins as court-
 appointed Conservators for Latesha Denise
 Smith

CERTIFICATE OF SERVICE

I hereby certify that on June 14, 2021, I electronically transmitted the attached document to the Clerk’s Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the CM/ECF registrants who have entered their appearance as counsel of record.

/s/Miriah Edwards
Miriah Edwards

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