

STATE OF INDIANA)
)
) SS:
COUNTY OF HOWARD)

IN THE HOWARD _____ COURT _____

2019 TERM

ESTATE OF TAVARIS McGUIRE)
BY CONSTANCE McGUIRE,)
PERSONAL REPRESENTATIVE,)
Plaintiff,)

CAUSE NO. 34 ____-1902-CT-____

-vs.-

34D02-1902-CT-00295

ROBERT BAKER IN HIS OFFICIAL)
AND INDIVIDUAL CAPACITY AS)
CHIEF OF POLICE OF THE CITY OF)
KOKOMO POLICE DEPARTMENT;)
OFFICER AARON TARRH #374 IN)
HIS OFFICIAL AND INDIVIDUAL)
CAPACITY; OFFICER JERAMIE)
DODD #380 IN HIS OFFICIAL AND)
INDIVIDUAL CAPACITY; OFFICER)
RICHIE SEARS #368 IN HIS)
OFFICIAL AND INDIVIDUAL)
CAPACITY; GREG GOODNIGHT)
IN HIS OFFICIAL AND INDIVIDUAL)
CAPACITY AS MAYOR OF THE)
CITY OF KOKOMO; STEVE ROGERS)
IN HIS INDIVIDUAL AND OFFICIAL)
CAPACITY AS SHERIFF (former))
OF THE HOWARD COUNTY)
SHERIFF'S DEPARTMENT; JERRY)
ASHER IN HIS INDIVIDUAL AND)
OFFICIAL CAPACITY AS SHERIFF)
(current) OF THE HOWARD)
COUNTY SHERIFF'S DEPARTMENT;)
HOWARD COUNTY, INDIANA, AS)
GOVERNED BY ITS)
COMMISSIONERS PAUL WAYMAN,)
TYLER MOORE, and BRAD BRAY)
IN THEIR INDIVIDUAL AND)
OFFICIAL CAPACITIES; JOHN DOES)
MEMBERS AND/OR EMPLOYEES)
OF THE HOWARD COUNTY)
SHERIFF'S DEPARTMENT IN THEIR)
INDIVIDUAL AND OFFICIAL)
CAPACITIES; AND JOHN DOES)
MEMBERS AND/OR EMPLOYEES)

FILED

FEB 01 2019

DEBBIE STEWART
Clerk Howard Superior Court
DIVISION II

OF THE HOWARD COUNTY JAIL IN)
THEIR INDIVIDUAL AND OFFICIAL)
CAPACITIES,)
Defendants.)

COMPLAINT

Count I

COMES NOW the Plaintiff, the Estate of Tavaris McGuire by Constance McGuire, Personal Representative, in person and by its Counsel, Caroline B. Briggs, and files its Complaint as set forth below:

1. Constance McGuire is the lawfully appointed personal representative of the Estate of Tavaris McGuire.
2. Tavaris McGuire died because the Defendants failed to obtain proper medical assistance while he was in the custody of the Defendants.
3. Tavaris McGuire's date of birth was July 12, 1995, and in February of 2017 he was 21 years of age. He is survived by two small children.
4. This lawsuit seeks monetary damages against the Defendants who were deliberately indifferent to the medical needs of Tavaris McGuire (hereinafter "Tavaris").
5. This action is brought pursuant to 42 U.S.C. Section 1983 and based on the Fourteenth Amendments to the United States Constitution as well as state law claims.
6. For purpose of 42 U.S.C. Section 1983 the named Defendants, as set forth below are being sued in their individual and official capacities.

7. The injuries occurred in Howard County, and this Court has subject matter jurisdiction of the questions presented and venue.
8. This Court has general jurisdiction over the common law tort of negligence and venue inasmuch as the actions complained of occurred in Howard County.
9. At all relevant times, Steve Rogers was the Sheriff of Howard County (hereinafter "Sheriff") and responsible for the care of prisoners in the Howard County Jail in Kokomo, Indiana. The current duly elected Sheriff of Howard County is Jerry Asher. He was not in office at the time of these events. The Sheriff is the policy making official for the jail.
10. The Howard County Jail is governed by Howard County which is governed by its Commissioners, whose names are: Paul Wayman, Tyler Moore, and Brad Bray.
11. At all relevant times Robert Baker was the Chief of Police of the Kokomo City Police Department (hereinafter "Police Chief").
12. Greg Goodnight is the Mayor of the City of Kokomo, Indiana, and is responsible for the maintenance and supervision of the Kokomo City Police Department.
13. The City of Kokomo and the Kokomo City Police Department is legally responsible for the actions of its employees pursuant to the doctrine of *respondeat superior*.

14. Howard County Indiana, the Howard County Sheriff, the Howard County Sheriff's Department and the Howard County Jail is legally responsible for the actions of its employees pursuant to *respondeat superior*.
15. Aaron Tarrh #374, Jeramie Dodd #380, and Richie Sears #368 (hereinafter "Officers") are all officers and employees of the Kokomo City Police Department.
16. John Doe Defendants are members or employees of the Howard County Sheriff's Department and/or the Howard County Jail who were present at the Howard County Jail between 11:55 p.m. on Feb. 3, 2017 and 2 a.m. on February 4, 2017. These John Doe Defendants were members of employees who observed Tavaris and who should have obtained medical treatment for Tavaris. These John Doe defendants will be identified as soon as their names are made known to the Plaintiff.
17. The Kokomo Police Department, the Sheriff of Howard County, and the Howard County Jail have a duty to provide for reasonable health care needs of pre-trial detainees in their custody.
18. Tavaris was arrested for possession of methamphetamine by the Officers who are employees of the Kokomo City Police Department on February 3, 2017 following a traffic stop at approximately 11:55 p.m.
19. The Officers took Tavaris to the Howard County Jail at 1800 North Markland Avenue, Kokomo, Indiana, a location in Howard County, Indiana, for booking as a pre-trial detainee.

20. Tavaris was taken to the booking area and held as a pre-trial detainee in the Howard County Jail from February 3, 2017 and until his death on February 4, 2017.
21. At all times relevant, Tavaris was in the custody of the City and/or County Defendants.
22. While he was being detained, Tavaris overdosed on, or suffered an overdose of, methamphetamine.
23. At the time of the autopsy, methamphetamine was found in the decedent's pocket.
24. The Defendants failed in their duty to remove methamphetamine from his possession.
25. Methamphetamine ingestion caused his death.
26. As a pre-trial detainee, Tavaris had Constitutional rights as set forth in the United States Constitution under the Due Process Clause of the Fourteenth Amendment, and said Constitutional rights were violated.
27. Tavaris' Constitutional rights under the Due Process Clause of the Fourteenth Amendment were clearly established during the time of his incarceration at the Howard County Jail.
28. Kokomo is a city with a high incidence of methamphetamine abuse.
29. Neither the Kokomo City Police Department nor the Howard County Sheriff's Department maintained adequate medical facilities to address instances of overdose.

30. The Howard County Jail did not maintain or possess hospital facilities or other medical facilities sufficient with which to adequately treat Tavaris' overdose.
31. The Defendants did not adequately train their employees in the treatment of overdoses even though drug usage is high in the area.
32. The Kokomo Police Department and/or the Sheriff of Howard County and his deputies and employees are responsible for the Howard County Jail and for the provision of medical care to its arrestees and inmates.
33. Some or all of the Defendants are employees of the Kokomo Police Department and the Sheriff of Howard County and in general the Howard County Jail.
34. Some or all of the Defendants knew that Tavaris had been arrested for possession of methamphetamine on February 3, 2017.
35. Some or all of the Defendants knew that Tavaris had a methamphetamine problem.
36. Tavaris' methamphetamine problem was documented.
37. Tavaris died while in the Defendants' control or care on February 4, 2017.
38. The Defendants did not treat Tavaris for his overdose until it was too late to save his life.
39. The Defendants failed to monitor Tavaris when he was overdosing.
40. The failure of the Defendants to provide treatment, medication, to monitor his care and treatment, and to provide medical care and other omission led to Tavaris' death.

41. The individual defendants were able to provide Tavaris with necessary medical care but failed to do so.
42. Tavaris' death was preventable.
43. The actions and inactions of the individual Defendants with respect to Tavaris were within the scope of their employment with the Kokomo Police Department, the Sheriff of Howard County, and/or the Howard County Jail.
44. The Defendants actions and inactions were under color of state law.
45. The Defendants owed a duty of care to Tavaris, which duty they breached.
46. The Defendants were deliberately indifferent to Tavaris' medical needs.
47. The Defendants' breach directly and proximately caused Tavaris' death.
48. The defendants' actions or lack thereof were pursuant to the enforcement of official, policy or custom or practice of the Defendants or failure to train.
49. As a direct and proximate result of the Constitutional violations and/or the custom, policy or practice of the jail, Tavaris suffered severe physical and emotional pain, his health deteriorated so that even with emergency care physicians were unable to save his life.
50. The Defendants specifically caused damage not only to Tavaris, but also to his two minor children surviving him, who will forever be deprived of his love and support.
51. The plaintiff reserves all rights to assert any claims consistent with the facts alleged above, pursuant to the notice pleading requirement of trial rule 8 of the Indiana Rules of Trial Procedure.

WHEREFORE, the Plaintiff seeks all relief available under law including compensatory damages, attorney's fees and costs, and all other appropriate relief.

Count II

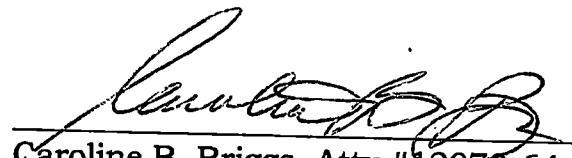
Plaintiff incorporates paragraphs 1 through 51 above and further says as follows:

52. The actions of the Defendants individually or collectively constituted the common law tort of negligence.
53. The Defendants breached their duty of care to Tavaris.
54. The breach of Defendants' duty of care proximately caused Tavaris' death and damage to his children.

WHEREFORE, the Plaintiff seeks all relief available under law including compensatory damages, attorney's fees and costs, and all other appropriate relief.

PLAINTIFF REQUESTS TRIAL BY JURY ON ALL COUNTS.

Respectfully submitted,


Caroline B. Briggs, Atty #12072-64
Attorney at Law
1216 Main St.
Lafayette, IN 47901
(765) 742-8122