

VERDICTS & SETTLEMENTS

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CIVIL RIGHTS

WRONGFUL DEATH 42 U.S.C. Section 1983

SETTLEMENT: \$1,200,000.

CASE/NUMBER: Estate of Manuel A. Gonzalez Jr., by and through the executor, Manuel A. Gonzalez; G.G., a minor by and through his Guardian ad Litem, Tonia Caudra; M.G., a minor by and through his Guardian ad Litem, Tonia Caudra; Mark Gonzalez, Steven Gonzalez v. Roderick Q. Hickman, Jeanne S. Woodford, Susan Hubbard, John Dovey, Wendy Still, Lori Di Carlo,

Carol Roddy, Greg Mellott, and Does 1 through 200, inclusive / ED CV 05-660 MMM (RCx).

COURT/DATE: USDC Central / July 10, 2007.

JUDGE: Hon. Margaret Morrow.

ATTORNEYS: Plaintiff - Mark J. Peacock (Law Offices of Mark J. Peacock, Newport Beach); Sharon J. Arkin, Scott C. Glovsky (Arkin & Glovsky, Pasadena).

Defendant - Michael A. Bell (LaFollette, Johnson, DeHaas, Fesler & Ames, Riverside).

FACTS: Decedent Manuel A. Gonzalez Jr., 43, had been a correctional officer at the Correctional Institute for Men (CIM) in Chino for 16 years. On Jan. 10, 2005, inmate Jon Christopher Blaylock in the reception area of the prison (Tier 1 of Sycamore Hall where inmates awaiting transfer to other prisons are housed) allegedly stabbed Gonzalez. Gonzalez, who was releasing Blaylock from his cell at the time, was married and had six children. Although a stabproof vest fitted for Gonzalez, with his name label stitched onto it had been received by the prison months before the stabbing, the warden had ordered that the vests not be distributed.

Plaintiffs brought suit under 42 USC section 1983 in which they alleged a substantive due process claim, asserting that the state-created danger by "deliberate indifference" led to the death of Gonzalez.

Blaylock was serving a sentence of 75 years for attempted murder of a peace officer. He had a history of mental health problems and had previously assaulted prison staff and other prisoners.

The Gonzalez family filed a civil rights lawsuit in U.S. District Court Los Angeles naming in part former Corrections Secretary Roderick Q. Hickman, former Chino warden Lori DiCarlo and former state Corrections Secretary Jeanne Woodford. Mr. Hickman and Ms. Woodford were later dismissed from the case after they and all defendants except Lori DiCarlo and Gregory Mellott, were granted summary judgment by the court.

PLAINTIFFS' CONTENTIONS:

Gonzalez's family claims the prison system administrators contributed to Gonzalez's death because they failed to issue Manuel a stabproof vest and instead stored them in a warehouse. This contention was later dismissed by the court. The family also claimed the prison system administrators failed to properly house Blaylock. DiCarlo had written to state officials pleading to have Blaylock transferred to a higher-security prison in Vacaville.

DEFENDANTS' CONTENTIONS:

Defendants contend that the death was a result of Gonzalez's violation consisting of a written policy, known as a modified program, i.e., a lock down, instituted in December 2004 following a riot, which prohibited him from allowing Blaylock out of his cell and onto the tier. Despite that modified program, and despite the warning of a fellow officer who was working with Officer Gonzalez that morning, Officer Gonzalez allowed inmate Blaylock out of his cell and onto the tier. Moreover, Officer Gonzalez then inexplicably opened the locked grille gate, which separates the tier from the guard space where Officer Gonzalez and the fellow officer working with him that morning were located, and stepped onto the tier alone, turning his back on inmate Blaylock, and was fatally stabbed.

The defendants' expert Larry Small, a former Warden at CIM, was prepared to testify on the defendants' behalf at trial.

SETTLEMENT DISCUSSIONS:

On July 16, 2007, the case was settled in its entirety for the sum of \$1.2 million before the Hon. Rosalyn Chapman.

RESULT: \$1.2 million settlement to Gonzalez's family.

OTHER INFORMATION: This is the first case of an on-duty guard being killed in a California prison for two decades.