

WEDNESDAY, DECEMBER 22, 2010

FIVE SECTIONS | \$2.00

DAILY REPORT

A SMART READ FOR SMART READERS

Deceased inmate's wife settles civil rights case

WOMAN REACHES
\$525K agreement with
Coweta County

GREG LAND | gland@alm.com

THE WIFE OF A MAN who died after being strapped into a restraining chair for 14 hours at the Coweta County Jail has reached a \$525,000 settlement with the county to dismiss claims that jailers and medical staff ignored her husband's worsening medical condition as well as the chair maker's warning against using it for more than two hours.

"The nut of this case is this: You're not supposed to get the death penalty for a DUI in Georgia, and that's exactly what happened to Willie Sutton," said D. Brandon Hornsby, who represented Betty Sutton along with Moraitakis, Kushel, Pearson & Gardner partner Albert M. Pearson III.

"The defendants in this case had some of the best civil rights defense attorneys in Georgia, and at the end of the day, they all agreed that this was morally unacceptable," he said.

Coweta County's lead defense attorney, William T. Mitchell of Cruser & Mitchell, agreed that he faced an "uphill battle on liability," but also noted that—for his client, at least—the case isn't over. The jail's doctor, an independent contractor, declined to be part of the settlement.

"We'll be filing against her within the next 30 days," said Mitchell.



ZACHARY D. PORTER/DAILY REPORT

"The nut of this case is this: You're not supposed to get the death penalty for a DUI in Georgia, and that's exactly what happened to Willie Sutton," said plaintiff's attorney D. Brandon Hornsby.

William C. “Willie” Sutton Sr., 58, was booked into the jail on Jan. 23, 2008, to begin serving a 90-day sentence resulting from a DUI arrest the year before. According to court filings, he underwent routine inmate screening, and the booking officer reported that he did not appear to be under the influence of alcohol.

Two days later, Sutton suffered seizures and was given a medical examination by the jail’s medical director, who noted a history of high blood pressure and alcohol withdrawal. Dr. Miriam Burnett diagnosed Sutton as undergoing alcohol withdrawal and prescribed drugs including Librium, an anti-anxiety medication; Dilantin, an anti-seizure drug; and vitamins.

But, according to the complaint in the case, “Sutton continued to exhibit signs of alcohol withdrawal” including “extreme agitation and nervousness; talking in an incoherent gibberish manner; pacing, and the inability to take food or water without the assistance of fellow inmates.”

The next day, Jan. 26, Sutton had another seizure in the morning and was taken to a local emergency room, where he was stabilized and sent back to the jail. Over the next six days, Sutton “suffered from increasingly severe hallucinations, sweating, disorientation and other bizarre speech and behaviors, shaking, loss of balance and pleas for help,” says a preliminary statement of the case filed with the court.

“At least two inmates got in touch with [Betty] Sutton by telephone and told her that her husband was in ‘trouble’ medically.”

According to deputies’ logs cited in the case, Sutton had difficulty walking and fell down “a couple of times,” and was exhibiting what Hornsby described as “classic signs of delirium tremens.” Sutton was strapped into an Emergency Restraint Chair “for safety” for six and a half hours between midnight and 7 a.m. on Dec. 31, released to eat breakfast, then placed back in the chair for another four hours. After a two-hour break at lunchtime during which he was sent to the jail infirmary displaying signs of DTs, Sutton was again placed in the chair for about three hours.

He went into cardiac arrest just after 5 p.m.; a jail nurse summoned an ambulance and paramedics, and Sutton died at 5:41 p.m.

Among the case materials filed with the

court were instructions for the Emergency Restraint Chair including several cautionary warnings.

“[V]iolent behavior may mask dangerous medical conditions. Detainees must be monitored continuously and provided medical treatment if needed,” says one.

“Detainees should not be left in the Emergency Restraint Chair for more than two hours at a time,” says another.

In January 2010, Betty Sutton filed suit in U.S. District Court in Atlanta against Coweta County Sheriff Mike Yeager and 17 Sheriff’s Department employees; three jail nurses, also employed by the county; and Burnett. The three-count suit charged violations of Sutton’s constitutional rights as an individual in custody, as well as negligent hiring and training and professional negligence on the part of the medical practitioners.



This could have been anybody’s father, son or relative. ... The government has unlimited resources on their side, and we thought this was a significant civil rights case.

—Plaintiff’s attorney
D. Brandon Hornsby

In response filings, the Sheriff’s Department defendants claimed qualified and official immunity, and also argued that the jail staff had been acting under the supervision of and “took direction from medical professionals such as Dr. Burnett as to the appropriate treatment to render to inmates at the jail, including decedent Sutton, and those instructions were complied with at all relevant times.”

The nurses, represented separately by Mary M. Katz of Macon’s Chambless, Higdon, Richardson, Katz & Griggs, asserted that they had administered proper care to Sutton, and also noted that they “took direction” from Burnett.

Burnett and her related corporate entity, MJB Health Services Group, represented by Carlock, Copeland & Stair partners Renee Y. Little and D. Gary Lovell Jr., argued that the doctor had acted within the proper standards of care, had not infringed upon Sutton’s constitutional rights, and

that “no act or omission on the part of Dr. Burnett proximately caused Mr. Sutton’s demise.”

The case went to mediation before Henning Mediation’s Rex D. Smith earlier this year. In a stipulation filed Dec. 14, all the county employees and the nurses were dismissed for \$525,000, with each side paying its own costs. A separate stipulation dismissed Burnett and MJB without prejudice, and both Hornsby and Mitchell said the doctor, whose attorneys were retained by MAG Mutual Insurance, refused to participate in settlement talks. Little, reached by telephone, said she would have no comment on the case.

“The reason there were two dismissals is because Coweta County wanted to ensure it had the ability to file suit against Dr. Burnett,” said Hornsby. “There were very strong disagreements on the defense side about who was responsible.”

“I guess their position is that the doctor didn’t do anything wrong, but this was her patient. And he died,” agreed Mitchell, asserting that the county would pursue “everything allowed under the law” in its subsequent suit against Burnett.

“We mediated very early on,” he noted. Since the county had \$1 million in insurance coverage, “they saved a lot by settling.”

Katz did not respond to requests for comment.

Mitchell also said the plaintiff’s side would have faced obstacles if the case went before a jury.

“In 1970, this guy had been convicted of killing his children and burning his house down,” said Mitchell. Sutton served 15 years in prison, and had had a couple of DUIs after his release, he said.

“Our position was, ‘You know, a jury ain’t going to like this guy much,’” he said. “It was a challenging evidentiary issue. It really kept both sides on their toes.”

“He’d had previous problems with alcohol,” said Hornsby. “But this could have been anybody’s father, son or relative. Many individuals have DUI and alcohol problems, and many of them are in jail. That’s why we wanted to take this case: The government has unlimited resources on their side, and we thought this was a significant civil rights case.”

The case is *Sutton v. Coweta County*, No. 3:10-CV-011. DR