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Sedgwick County approves \$300,000 settlement in jail inmate lawsuit

By Deb Gruver
The Wichita Eagle

Sedgwick County will pay \$300,000 to settle a federal lawsuit filed on behalf of a mentally ill inmate beaten in jail by a sheriff's deputy, commissioners announced Tuesday.

The lawsuit by Edgar Richard Jr. had sought \$4.5 million in damages and had been scheduled to go to trial March 25 in federal court in Wichita.

Commissioners met in executive session to discuss the lawsuit before their regular weekly meeting with staff.

"A settlement at this stage was considered clearly in the best interest of all concerned," Art Chalmers, the lawyer who defended the county, said in a written statement after the meeting.

Larry Wall, the lead attorney bringing the lawsuit, declined to comment Tuesday on the settlement. But he said he hoped the case would "alert the public to the problem of how mentally ill persons are treated in Kansas courts.

"In 1976, the United States Supreme Court ruled that prisoners are entitled to mental health care. We filed this lawsuit in June 2008 and in August of 2009, the city of Wichita opened the first mental health court. The city has recognized that mental health care is best provided in an outpatient setting whenever possible. It's cheaper and more effective and reduces recidivism. Unfortunately, the mental health court only deals with misdemeanors. . . The Legislature should create mental health courts to deal with prisoners charged with felonies who are suffering from a mental illness.

"Unfortunately, the mentally ill have frequently lost contact with friends and relatives. They have no advocate. To safeguard our citizens, we need to take mental health treatment out of the jail and return to hospitals and group homes," Wall said.

On Feb. 15, 2008, sheriff's Deputy Manuel Diaz came to Richard's cell and punched the 59-year-old in the face an estimated 15 to 20 times, fracturing Richard's jaw and leaving some of his teeth floating in a pool of his blood, according to U.S. District Judge Monti Belot's 83-page court document summarizing the case. Diaz pleaded no-contest to reckless aggravated battery, a felony.

The defendants were Diaz, Deputy Saquisha Nelson, the office of the sheriff, and Paul Murphy, who was the psychiatrist in charge of treating Richard when he was in jail.

The county's settlement releases Diaz and Nelson from liability for any alleged federal or state claims, the statement from Chalmers said. The settlement is not an admission of liability, the statement stressed. The Sheriff's Office fired Diaz.

The agreement also acknowledges the prior rulings of the court granting summary judgment and dismissal of former Sedgwick County Sheriffs Gary Steed and Robert Hinshaw and county commissioners in October 2012 and February. Under the terms of the settlement, plaintiffs agree to waive any appeal of the court's dismissals, a news release from the county said.

The county's settlement does not cover Murphy, but Wall said the case "is fully resolved.

The lawsuit alleged wider abuse of the mentally ill, who comprise a large portion of the jail population. In 2012, The Eagle reported that the 49 inmates the jail would have placed in a mental health pod if it had one at the time had been arrested 375 times since 2005. Two had been arrested more than 20 times each during that period.

Inmates with mental illnesses rotate in and out of jail and stay longer than those who don't struggle with illnesses such as schizophrenia, bipolar disorder and depression.

The Eagle reported in 2012 that an average 275 inmates, or nearly 19 percent, were on some medication for mental health each month. The average length of stay for an inmate in 2012 was 28 days. The average length of stay for the 49 inmates who would have been housed in a pod for mentally ill inmates was 165 days.

Concerns about treatment of inmates became an issue in the 2012 sheriff's election in which police Capt. Jeff Easter defeated Hinshaw.

Belot said in his summary that evidence showed a psychiatrist in charge of treating Richard knew he should be hospitalized for his psychotic condition.

But the psychiatrist failed to help get the inmate transferred before a jail deputy severely beat him, the judge said, based on evidence that had been introduced in the case.

At the time of the beating, the 59-year-old Richard had been in and out of state hospitals. Richard heard voices, talked to himself, suffered from hallucinations, called himself "Black Jesus," cursed at others and said and did sexually inappropriate things, sometimes in public. He ended up in the Sedgwick County Jail for a three-and-a-half-month stretch from late 2007 to early 2008, awaiting trial on an alleged probation violation. In jail, Richard would throw his tray, clog his toilet and refuse to take his medication. Deputies kept him largely confined to his cell, separated from other inmates. On the day a deputy punched him into a bloody mess – the incident that prompted the lawsuit – Richard had danced around a pile of torn toilet paper and urinated under his cell door.

Belot said the failure to take steps to get Richard transferred to a state hospital could be reason for a jury to find that Richard "needlessly incurred both physical pain and serious psychological harm as a result."

Richard ended up in a nursing home and died of stomach cancer in 2010.

On Feb. 17, the jail opened the first section of a pod focused on dealing with mentally ill inmates.

In May, Easter told county commissioners that having a special area to manage mentally ill inmates could limit the risk of lawsuits.

Contributing: Tim Potter of The Eagle

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