

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

TANYA MATTHEWS as Administratrix  
ad Prosequendum for the heirs-at-law of  
Decedent, DOUGLAS MATTHEWS and  
as GENERAL ADMINISTRATRIX OF  
THE ESTATE OF DOUGLAS  
MATTHEWS, individually,

**Plaintiffs,**

v.

CITY OF PLAINFIELD, , CARL RILEY,  
POLICE DIRECTOR, SIMONNE ALI,  
individually and in her official capacity as  
a civilian police aide, PATROLMAN G.  
JOHNSON, individually and in his official  
capacity, PATROLMAN T. ALSTON,  
individually and in his official capacity,  
LIEUTENANT CHRISTOPHER  
SILVESTER, individually and in his  
official capacity, and JOHN DOE POLICE  
OFFICERS 1-10 (fictitious names).

**Defendants.**

**Civil Action No.: 2:19-cv-12232**

**Hon. Claire C. Cecchi, U.S.D.J.**

**Hon. Steven C. Mannion, U.S.M.J.**

**AMENDED COMPLAINT  
AND JURY DEMAND**

Plaintiff, Tanya Matthews, Administratrix ad Prosequendum and General  
Administratrix of the Estate of Douglas Matthews, residing at 204 North 5<sup>th</sup> Street,  
Newark, New Jersey, by way of complaint against the Defendants says:

**NATURE OF THE ACTION**

1. This is an action for compensatory and punitive damages brought by  
Tanya Mathews, as Administratrix ad Prosequendum and General Administratrix of  
the Estate of Douglas Matthews, her brother, pursuant to the common law of the State

of New Jersey for violations of the New Jersey Civil Rights Act, the New Jersey Constitution, wrongful death pursuant to N.J.S.A. 2A:31-1, et. seq. as well, survival claims pursuant to N.J.S.A. 2A: 15-3, 42 U.S.C. 1983, et. seq. § 1988 and the Fourteenth Amendment of the United States Constitution, arising out of the death of Douglas Matthews while incarcerated at the Plainfield Police Department.

#### **NOTICE OF CLAIM FILED**

2. Plaintiff has complied with the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et. seq., by the filing of a timely Notice of Claim on or about May 4, 2017. As of the date of the filing of this Complaint, the municipal and/or governmental entity defendants have not responded to the plaintiff's Notice of Claim.

#### **PARTIES**

3. Defendant, City of Plainfield, (hereinafter "City") is and was and at all times relevant to this Complaint, a municipality organized under the laws of the State of New Jersey.

4. Defendant, Carl Riley, was at all relevant times, herein, was the Police Director of the Plainfield Police Department, charged with oversight of the day-to-day operations at the Department.

[REDACTED]

7. Defendant, Patrolman G. Johnson, was at all relevant times herein, was employed as a police officer and charged with transporting and booking the decedent, Douglas Matthews, and during said process was responsible for properly searching the decedent for illicit drugs and making observations of the decedent as to his level of drug intoxication.

8. Defendant, Lieutenant Christopher Silvester, was at all relevant times herein, employed as a Lieutenant by the City of Plainfield Police Department and was charged with oversight of the activities of the Defendant, Simonne Ali, during the months preceding April 14, 2017.

9. John Doe police officers 1-10, are fictitious names for any and all presently unknown police officers employed by the City of Plainfield, who were at all times relevant to this Complaint, agents, representatives and/or employees of the aforementioned police department who were in any way responsible for the events described in this Complaint. They are being sued both individually and in their official capacities.

#### **GENERAL ALLEGATIONS**

10. On Friday, April 14, 2017, at approximately 3:00 a.m., the decedent, Douglas Matthews, was arrested by members of the South Plainfield Police Department and charged with possession of a controlled dangerous substance, to wit, heroin.

11. Upon information and belief, at approximately, 6:00 a.m. that morning, decedent was brought to the Plainfield Police Department as a result of an

outstanding warrant in the City. At that time, he was placed in a holding cell in Police Department headquarters.

12. At all relevant times, a large percentage of individuals brought to the Police Department lockup, have ingested alcohol or drugs, legal and illegal or are near overdose or have concealed illegal drugs on their person.

13. Due to these circumstances, policies should have been promulgated by the Plainfield Police Department requiring that individuals so incarcerated must be observed closely in order to identify those who must be searched and observed closely in order to identify those individuals who may be under the influence of drugs or who may have concealed drugs on their persons which could be ingested while incarcerated.

14. Upon information and belief, due to the lack of written policies and procedures, or effective implementation and enforcement thereof, during the five-year period prior to the decedents incarceration, there were multiple deaths of individuals incarcerated at the Police Department lockup in the City due to suicide or illicit drugs which were ingested either before or during their incarceration.

15. Therefore, at the time of decedent's arrest on April 14, 2017, there should have been implementation and enforcement of written policies and protocols for which required mandatory cell checks and general monitoring of the welfare of detainees housed in the holding cells of the Police Department.

16. Upon information and belief, upon his incarceration at the Police Department, the plaintiff was either in the throes of a heroin overdose or had concealed heroin on his person and ingested the drug after he was placed in his cell.

17. Upon information and belief, Simonne Ali, G. Johnson and T. Alston deliberately failed to perform a search of decedent's person, routine checks of the decedent's cell, and were deliberately indifferent to decedent's serious medical needs. As a result, decedent was denied medical attention, care and treatment which was required to address his urgent and rapidly deteriorating physical state.

18. Moreover, upon information and belief, Simonne Ali, fabricated and falsified her log book to reflect that she had, in fact, performed requisite cell checks and otherwise fulfilled her duties.

19. Upon information and belief, between the hours of 9:30 a.m. and 12:20 p.m., decedent died from a drug overdose while in a holding cell at the Police Department.

20. Upon information and belief, as a result of an Internal Affairs investigation following the decedent's death, disciplinary action was taken against Simonne Ali for her failure to perform video monitoring and cell checks, which resulted in her termination.

21. Subsequently, Defendant, Lieutenant Christopher Silvester, as Watch Commander of the Uniform Patrol Bureau, reported that during the months preceding April 14, 2017 he witnessed Defendant, Simonne Ali, commit numerous persistent and egregious acts of dereliction of duty, disobedience of departmental orders and State regulations pertaining her prescribed duties, which created a substantial risks to the health and safety of detainees at the jail.

22. Despite these egregious acts of misconduct by Simonne Ali, Lieutenant Silvester failed to report her activities through the chain of command in order to

assure that appropriate disciplinary action, including termination, was taken, prior to decedent's tragic death.

23. Despite defendant's knowledge and awareness of several detainee overdoses and/or deaths from suicide at their facility prior to April 14, 2017, including a detainee suicide in 2007 which occurred while he was being monitored solely by a civilian police aide, defendants took no measures to correct the deficiencies and insufficiencies in the police staffing at its facility or to implement and enforce overdose or suicide prevention policies.

24. Defendants, and each of them, were under a duty as decedents incarcerators to ensure that he was properly assessed, evaluated, searched, and monitored and that he received all the medical attention he required to address his prevailing medical conditions including his acute drug intoxication.

25. The defendants, and each of them, knowingly and willfully breached their duties to the decedent and were deliberately indifferent to the decedent's serious medical needs by:

- a) Failing to properly assess and evaluate decedent's medical and psychological conditions;
- b) Failing to appreciate decedent's desperate and deteriorating state of physical health;
- c) Failing to provide decedent medical attention, care and treatment he required to address his acute drug intoxication;
- d) Failing to search, supervise, monitor and manage the holding cell where decedent was housed so as to ensure his continued physical health and well-

being;

e) Allowing decedent access to and possession of drugs sufficient and/or capable of causing his death;

f) Failing to perform video monitoring and/or routine cell checks of the decedent's cell and thereafter willfully fabricating official log books and records in an effort to conceal and/or cover-up defendant's culpability for decedent's death.

26. By deliberately failing to monitor, supervise, and oversee decedent's welfare while detained at the police lockup, defendants acted, and/or purported to act in the performance of their official duties and responsibilities under color of law.

27. Defendants negligent failures were a substantial factor in his death.

### **STATE LAW CAUSES OF ACTION**

#### **COUNT I**

##### **(Violation of New Jersey Civil Rights Act Against All Defendants)**

28. Plaintiff realleges and incorporates by reference each of paragraphs 1-27, above, as though fully set forth herein.

29. Defendants are liable under the New Jersey Civil Rights Act, N.J.S.A. 10:6-2, et. seq. for damages caused by their subjection of plaintiff's decedent to the deprivation of rights and privileges secured by the Constitution of the United States, as well as substantive's rights, privileges and immunities secured by the Constitution of the State of New Jersey, which directly and proximately resulted in plaintiff's decedent's death on April 14, 2017.

**COUNT II**

**(Survival Action Against All Defendants)**

30. Plaintiff realleges and incorporates by reference each of paragraphs 1-29, above, as though fully set forth herein.

31. As a direct and proximate result of the negligence and carelessness of the defendants as described above, decedent suffered severe physical pain and mental suffering prior to his death and plaintiff has incurred medical and hospital expenses for the care and treatment of decedent's condition prior to his death, as well as funeral and burial expenses.

**COUNT III**

**(Wrongful Death Against All Defendants)**

32. Plaintiff realleges and incorporates by reference each of paragraphs 1-31, above, as though fully set forth herein.

33. Upon his detainment at the Plainfield Police Department on April 14, 2017, plaintiff's decedent was suffering from acute heroin intoxication and/or following his detainment, ingested sufficient quantities of heroin to induce a deadly overdose.

34. On said date, the defendants, had a duty appropriately screen, monitor, supervise, and secure treatment for decedent, and failed to do so.

**COUNT IV**

**(Violation of Fourteenth Amendment "State Created Danger"  
Against All Defendants)**

35. Plaintiff realleges and incorporates by reference each of paragraphs 1-34, above, as though fully set forth herein.

36. At all relevant times, the defendants were aware that a high percentage of detainees who entered their jail have or had ingested drugs and/or have had concealed drugs on their person with the intention of using those drugs after they entered the facility.

37. At all relevant times, defendants knew that individuals who were highly intoxicated by drugs and/or had drugs on their person upon entering the facility could overdose and die.

38. At all relevant times, as a result of prior incidents committed at the City jail and other correctional facilities, defendants knew of the enhanced risk of overdose presented by individuals who entered their facility either already intoxicated or who had drugs on their person which could be used after their entry into the facility.

39. At all relevant times, defendants knew that their deliberate indifference to decedent's obvious need for supervision and monitoring and their willful failure to implement, abide, by and enforce intake policies and procedures, created a substantial risk or likelihood that the decedent would suffer injury and/or death.

40. Decedent's death from overdose while incarcerated at the defendant's facility was thus a foreseeable and direct consequence of defendant's willful indifference and unconscionable use of state authority in a manner which created an obvious and grave danger to the decedent.

#### COUNT V

#### **(42 U.S.C. § 1983: Supervisory Liability Against Riley and Silvester)**

41. Plaintiff realleges and incorporates by reference each of paragraphs 1-40, above, as though fully set forth herein.

42. Police Director Riley and Lieutenant Silvester, state actors, acting deliberately, recklessly and under color of state law, were, at all relevant times, Director of the Plainfield Police Department and a Lieutenant, with oversight responsibility for training, hiring, screening, instruction, supervision and discipline of police officers including Simonne Ali who deprived plaintiff's decedent of his constitutional rights.

43. Riley and Silvester's intentional and long-standing failure to correct insufficiencies and deficiencies through training, supervision and/or discipline and to anticipate the reasonably foreseeable events surrounding decedent's death constituted deliberate indifference to the constitutional rights of the decedent and led directly to the decedent's death by overdose.

44. The aforementioned lack of supervision and the implementation, maintenance and tolerance of policies, practices and customs aforesaid represent systematic failures which are customs and policies of the Plainfield Police Department and led directly to the death of plaintiff's decedent.

#### COUNT VI

**(42 U.S.C. § 1983: Monell Claim Unconstitutional Official Policy and Failure to Supervise and Train against the City of Plainfield, Police Director Riley and Lieutenant Christopher Silvester)**

45. Plaintiff realleges and incorporates by reference each of paragraphs 1-44, above, as though fully set forth herein.

46. The defendants, by and through its policy makers, failed to ensure through custom, policy and/or practice that its police officers would obey, follow and

otherwise and abide by appropriate protocol and procedures regarding the search, supervision, monitoring, and safekeeping of its detainees.

47. The defendants, and/or other final policy makers had actual or constructive notice of the failures of its police personnel to obey, follow and/or enforce appropriate policies and/or protocols regarding the search, monitoring and supervision of its detainees and, based on prior incidents of overdose within its facility, that it was reasonably foreseeable that the failure to do so would result in preventable and unnecessary detainee deaths by drug overdose.

48. The defendants failed to adequately supervise and enforce the adherence by its police officers to supervisory policies and procedures, through which it was foreseeable that constitutional violations of the type plaintiff's decedent suffered would be a predictable result of such failures.

49. Such failures to supervise and discipline, were conducted under color of state law and such unconstitutional customs, practices and/or policies amounted to gross negligence, deliberate indifference or intentional conduct, which were the moving force behind plaintiff's death by drug overdose while detained at the defendant's facility.

#### **PRAYER FOR RELIEF**

WHEREFORE, plaintiff prays as follows:

(a) Plaintiff demands judgment against all defendants, and each of them jointly and severally on all Counts of the Complaint for compensatory damages in an amount to be determined at trial;

(b) Where applicable, plaintiff demands judgment for punitive damages and exemplary damages against all defendants jointly and severally in an amount to be determined at trial in order that such award will deter similar proscribed conduct by defendants in the future;

c) Plaintiff demands judgment of attorney's fees with interests and costs;

d) Plaintiff demands judgment for all equitable and other relief as the Court deems just and proper.

#### **DESIGNATION OF TRIAL COUNSEL**

**RICHARD M. BROCKWAY, ESQ.**, is hereby designated as trial counsel pursuant to Court Rule 4:5-1.

#### **JURY DEMAND**

Plaintiffs herein demand trial by jury as to all issues so triable.

#### **DEMAND FOR INSURANCE INFORMATION**

Plaintiffs hereby demand that defendants set forth the name of any insurance carrier providing coverage for plaintiff's injuries, the policy number and the extent of liability limits.

#### **CERTIFICATION**

Pursuant to R. 4:15-1, I hereby certify that the matter in controversy is not the subject of any other pending or contemplated action or arbitration proceeding. This party is not aware of any other parties who should be joined in this action at this time.

CERTIFICATION

We further certify that confidential personal identifiers have been redacted from any documents now submitted to the Court, and will be redacted from all documents submitted in the future in accordance with R. 1:38-7(b).

BRAMNICK RODRIGUEZ GRABAS  
ARNOLD & MANGAN, LLC.  
Attorney for Plaintiffs

A handwritten signature in black ink, appearing to read 'RMB', is written over a horizontal line.

RICHARD M. BROCKWAY

Dated: December 12, 2019