

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

**George David Fossyl, individually
and as administrator of the Cheryl
Fossyl Estate,
Tonia Harris, and
Martin Fossyl,
C/o Alphonse A. Gerhardstein
617 Vine Street
Room 1409
Cincinnati, OH 45202**

Plaintiffs,

vs.

**Thomas Aubrey Watson
6151 Free Soil Rd.
Georgetown, OH 45121**

And

**Michael R. Milligan
5501 Old U.S. 68
Georgetown, OH 45167**

And

**Nick Tsanges
315 West State Street
Georgetown, OH 45121**

And

**Brown County, Ohio
750 Mt. Orab Pike
Georgetown, OH 45121**

And

**Windell Crawford
302 East Main Street
Mt. Orab, OH 45154**

And

**Charles "Bud" Ernst
C/o Brown County, Ohio
750 Mt. Orab Pike**

Case No.

COMPLAINT AND

JURY DEMAND

recover Cheryl Fossyl's missing remains. This action seeks damages against those responsible for the murder and against Brown County. This action also seeks injunctive relief against the former County officials, including an order that directs these parties to produce necessary records related to Cheryl Fossyl's murder.

II. JURISDICTION

2. Jurisdiction over the federal civil rights claims is conferred on this Court by 28 U.S.C. §§ 1331 and 1343(3) and (4). Jurisdiction over the state law claims is conferred by 28 U.S.C. § 1367(a). Venue is proper in this Division.

III. PARTIES

A. Plaintiffs

3. Plaintiff George David Fossyl is the brother of Cheryl Fossyl. Cheryl Fossyl was murdered on or about June 4, 1977. George David Fossyl brings this action individually and as the administrator of the estate of Cheryl Fossyl. The next of kin include only the deceased's siblings.

4. Tonia Harris is the sister of Cheryl Fossyl.

5. Martin Fossyl is the brother of Cheryl Fossyl.

B. Defendants

6. Defendant Thomas Watson is a resident of Georgetown, Ohio.

7. Defendant Michael Milligan is a resident of Georgetown, Ohio.

8. Defendant Nick Tsanges is a resident of Georgetown, Ohio.

9. Defendant Brown County, Ohio is a unit of government organized under the laws of the State of Ohio.

10. Defendant Charles “Bud” Ernst is the former Sheriff of Brown County, Ohio. From 1972 until 1980, he was the chief law enforcement officer responsible for the investigation into the murder of Cheryl Fossyl. He is sued in his individual and official capacities. He is not sued for damages at this time.

11. Defendant Windell Crawford is the former Sheriff of Brown County, Ohio. From 1992 through 2000 he was the chief law enforcement officer responsible for the investigation into the murder of Cheryl Fossyl. He is sued in his individual and official capacities. He is not sued for damages at this time.

12. Defendant Danny Pride is the Brown County Clerk of Court. He has served as the Clerk of Court at all times relevant to this case. He is sued in his individual and official capacities. He is not sued for damages at this time.

13. Defendant John Doe(s) are employees and former employees of Brown County who knew about and did not disclose the misconduct of the other defendants and/or otherwise participated in the conspiracy and cover-up in this case. They are sued individually and in their official capacities. They are not sued for damages at this time.

IV. STATEMENT OF FACTS

A. Murder of Cheryl Fossyl

14. In the summer of 1977 Cheryl Fossyl was a junior at Georgetown High School, taking classes at the Joint Vocational School in law enforcement. She was sixteen years old.

15. Cheryl Fossyl was murdered on or about June 4, 1977. Portions of her head and neck were discovered in Brown County on June 11, 1977. Portions of her trunk and

legs were discovered in Adams County, Ohio on June 28, 1977. Portions of her body have never been located.

16. Cheryl Fossyl was murdered by Brown County residents Thomas Watson and Michael R. Milligan. On information and belief, Nick Tsanges helped plan and cover-up the murder.

17. The actions of defendants Watson, Milligan, and Tsanges in murdering Cheryl Fossyl and in covering up the murder since 1977 have been taken pursuant to an agreement or conspiracy to injure the person or property of Cheryl Fossyl and the plaintiffs.

18. On information and belief, former Brown County residents Susan Davis and Jean Ann Chinn were present at the murder. Ms. Davis and Ms. Chinn were both teenagers at the time of the Fossyl murder. They are both dead at this time.

B. Failure to Recover the Remains and Solve the Murder

19. Defendants Watson, Milligan and Tsanges have resided in Brown County since Cheryl Fossyl's murder and have never been charged or arrested for the crime.

20. Prior to 2001, Plaintiffs inquired as to the status of the Fossyl murder investigation over the years and were routinely told by county officials that it was still open but "unsolved."

21. Charles F. "Bud" Ernst was the Brown County Sheriff at the time of Cheryl Fossyl's homicide. When he left office in 1980 he took the Cheryl Fossyl investigative file with him leaving no investigative file in the Sheriff's office.

22. On information and belief, some, but not all, of the Cheryl Fossyl homicide investigation file was eventually returned.

23. In 1995 defendant Sheriff Crawford learned that Jean Ann Chinn, who was believed to be present at the Fossyl murder, was residing in Florida and had a terminal illness. Members of the Sheriff's staff sought to go to Florida to interview Ms. Chinn. No member of the Sheriff's staff traveled to Florida to interview her or arranged to have Florida law enforcement authorities do so. Jean Ann Chinn died several months thereafter. She never did make a formal statement to law enforcement authorities.

24. In January 2000, then Sheriff Windell Crawford learned that Brown County Sheriff deputy John Fetters had conducted an interview of a potential witness in the Fossyl murder case. Crawford instructed Fetters not to work on "that goddamn case." At that time Crawford did not assign anyone to the Fossyl murder case or to the particular witness that had talked to Fetters.

25. When Windell Crawford left office as the Brown County Sheriff at the end of 2000, the entire Fossyl homicide investigation file was removed from the Sheriff's office.

26. Between the murder of Cheryl Fossyl in 1977 and the present, the Brown County Clerk of Courts, Danny Pride, has removed from the public record several Common Pleas court files related to the Fossyl murder, including the entire record of the murder prosecution of Ralph Moore, Brown County Common Pleas Court Case No. 77CR6702. Upon Information and belief, he also removed from the public record some or all of the Coroner records on Cheryl Fossyl.

27. In January 2001, Dwayne Wenninger assumed the office of Brown County Sheriff. The following month, defendant Thomas Watson made statements to Brown County sheriff deputies implicating himself, Mike Milligan and Nick Tsanges in the Cheryl Fossyl murder.

28. Sheriff Wenninger shared the admissions by defendant Watson with Thomas Grennan, the Brown County prosecutor. Mr. Grennan did not take action on the case. Thereafter, on the request of the Fossyl family, the Brown County Commissioners applied to the Common Pleas Court for the appointment of a special prosecutor. A special prosecutor was appointed by the court. A grand jury convened by the special prosecutor heard testimony from witnesses but did not return any indictments.

29. Defendants Ernst, Crawford, Pride, and Doe(s) (“Government Defendants”), and Defendant County, individually and through the custom, policy or practice as set by County policy-makers, have each intentionally denied investigative and law enforcement services to the Fossyl family with respect to the Cheryl Fossyl murder while providing such services to other crime victims. There is no legitimate, rational basis for this difference in treatment.

30. The Government Defendants and Defendant County, individually and through the custom policy or practice as set by County policy-makers, have each intentionally treated plaintiffs differently from others similarly situated and there is no rational basis for the difference in treatment.

31. The Government Defendants and Defendant County, individually and through the custom policy or practice as set by County policy-makers, have each intentionally acted to deny the Fossyl family access to the unrecovered remains of Cheryl Fossyl.

32. The Government Defendants and Defendant County, individually and through the custom policy or practice as set by County policy-makers, have each intentionally increased the risk of harm to Cheryl Fossyl’s remains (the property of the Fossyl family)

and limited the ability of the Fossyl family to use self-help to recover Cheryl Fossyl's remains.

33. The Government Defendants and Defendant County, individually and through the custom policy or practice as set by County policy-makers have each acted intentionally, recklessly, and with deliberate indifference to the property and other federally protected rights of the plaintiffs. These actions reflect an arbitrary abuse of government power, which shocks the conscience.

34. Defendants Watson, Milligan and Tsanges have acted maliciously, with deliberate indifference, intentionally, recklessly and negligently with respect to the actions alleged in this complaint.

C. Injury to Plaintiffs

35. In February 2001, Plaintiffs learned that Sheriff Wenninger was actively investigating Cheryl Fossyl's murder. In October 2001, plaintiffs starting learning the facts alleged in this complaint, realizing for the first time since 1977 the evidence against the murder suspects, and the actions by county officials that were taken to delay and hinder the investigation.

36. As a result of the wrongful actions of defendants, plaintiffs have sustained great pain and suffering, loss of inheritance, emotional distress, fear for their safety, and interference with their property rights by destroying evidence.

37. As a proximate cause of the conduct of defendants Watson, Milligan, and Tsanges, the beneficiaries of Cheryl Fossyl have suffered mental anguish and damages for loss of society over their life expectancies, including loss of companionship,

consortium, care, assistance, attention, protection, advice, guidance, counsel, instruction, training and education.

38. As a proximate cause of the conduct of defendants Watson, Milligan, and Tsanges, Cheryl Fossyl suffered a brutal beating before her death and endured severe suffering, physical pain, torture and death.

V. FIRST CLAIM – 42 U.S.C. §1983

39. Defendants Ernst, Crawford, Pride, Doe(s), and Brown County have, under color of law, deprived plaintiffs of rights, privileges and immunities secured by the Fourteenth Amendment to the United States Constitution, including but not limited to the right to equal protection and to due process of law.

VI. SECOND CLAIM - §1983 CONSPIRACY

40. Defendants have, under color of law, engaged in a conspiracy that continues to this day to destroy evidence, cover-up the role of Watson, Milligan, and Tsanges in the murder of Cheryl Fossyl, and cover-up the role of Government Defendants who aided the suspects in avoiding prosecution, all thereby depriving plaintiffs of rights, privileges and immunities secured by the Fourteenth Amendment to the United States Constitution.

VII. THIRD CLAIM - WRONGFUL DEATH – AGAINST THOMAS WATSON, MICHAEL MILLIGAN, AND NICK TSANGES

41. Cheryl Fossyl was murdered and died as a result of injuries inflicted by Thomas Watson, Michael Milligan, and Nick Tsanges. The death of Cheryl Fossyl resulted in damages to the next-of-kin of Cheryl Fossyl pursuant to Ohio Revised Code Section 2125.02.

VIII. FOURTH CLAIM - SPOILIATION OF EVIDENCE

42. Defendants have willfully destroyed evidence related to the investigation of the death of Cheryl Fossyl, thereby disrupting plaintiffs' ability to pursue and present their claims in litigation regarding her death.

IX. FIFTH CLAIM – GROSS ABUSE OF A CORPSE

43. Defendants Watson, Milligan and Tsanges have abused the corpse of Cheryl Fossyl and continue to hide her remains, preventing the family from recovering them.

X. SIXTH CLAIM – STATE LAW CONSPIRACY AGAINST THOMAS WATSON, MICHAEL MILLIGAN, AND NICK TSANGES

44. Defendants Watson, Milligan, and Tsanges conspired to murder Cheryl Fossyl and cover-up their involvement in her murder.

XI. SEVENTH CLAIM – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

45. Defendants have acted intentionally and with malice toward the plaintiffs causing severe emotional distress.

XII. PRAYER FOR RELIEF

WHEREFORE, plaintiffs request that this Court:

- A. Award plaintiffs compensatory damages against Thomas Watson, Mike Milligan, Nick Tsanges and Brown County in an amount to be shown at trial (there is no damage claim against the other defendants at this time);
- B. Award plaintiffs punitive damages against Thomas Watson, Mike Milligan and Nick Tsanges in amount to be shown at trial;
- C. Enjoin Defendants Ernst, Crawford, Pride, and Doe(s) from continuing to deny equal protection under the law and other rights to the Fossyl family,

including but not limited to an order that these defendants produce all missing Cheryl Fossyl Homicide investigative records, coroner records, related common pleas records, including the Moore case file;

- D. Award plaintiffs reasonable attorney fees;
- E. Award plaintiffs such other and further relief, as the Court deems appropriate.

Respectfully submitted,

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