

**STATE OF OHIO
COURT OF CLAIMS**

EUGENIA WADE, Individually and as	:	CASE NO:
Administratrix of the Estate of Luther	:	
Wade	:	
c/o Gerhardstein & Branch Co. LPA	:	
441 Vine Street, Suite 3400	:	
Cincinnati, Ohio 45202,	:	
	:	<u>COMPLAINT</u>
Plaintiff,	:	
	:	
v.	:	
	:	
	:	
OHIO DEPARTMENT OF	:	
REHABILITATION AND	:	
CORRECTION	:	
770 West Broad Street	:	
Columbus, Ohio 43222	:	
	:	
Defendant.	:	

Plaintiff, Eugenia Wade, Administratrix of the Estate of Luther Wade, individually and on behalf of the Estate of Luther Wade, brings this complaint against the Ohio Department of Rehabilitation and Correction (“Defendant” or “ODRC”) for negligence and the wrongful death of Luther Wade.

JURISDICTION, VENUE AND PARTIES

1. This action is brought pursuant to Chapter 2743 of the Ohio Revised Code, which vests this Court with jurisdiction over claims of negligence and wrongful death against the State of Ohio, state agencies, employees and officials.

2. Plaintiff, Eugenia Wade, is the duly appointed Administratrix of the Estate of Luther Wade (“Luther”), by the Probate Court of Clark County, Ohio, which Estate is designated Case No. 20170118. Plaintiff is, at all times relevant hereto, a citizen of the State of Ohio. Prior

to Luther's death, Plaintiff was his legal and biological mother. In bringing this action against Defendant, Plaintiff acts in her individual capacity as Luther's mother and in her representative capacity for the benefit of the Estate of Luther Wade and Luther's next of kin.

3. Prior to his death, Luther was, at all times relevant hereto, a resident of the State of Ohio entitled to protection by the laws of the State of Ohio. Luther was, at all times relevant, an inmate, under the control, care and custody of Defendant pursuant to O.R.C. §5120.16. At the time of his death he was living at Lebanon Correctional Institution ("LeCI").

4. ODRC is an instrumentality of the State of Ohio and, therefore, is the "State" pursuant to O.R.C. §2743.

5. Turand Humphrey ("Humphrey") and Douglas Hunt ("Hunt") were, at all times relevant hereto, "officers or employees" pursuant to section 109.36 of the Ohio Revised Code, employed by the State of Ohio and/or its instrumentalities as corrections officers at LeCI.

6. Tom Schweitzer ("Warden Schweitzer") was, at all times relevant hereto, an "officer or employee" pursuant to section 109.36 of the Ohio Revised Code, employed by the State of Ohio and/or its instrumentalities as the lawful Warden of LeCI.

7. At all times relevant hereto, Casey Pigge was an inmate housed in LeCI's Restrictive Housing Unit ("R-Block"), under the supervision of LeCI and its staff.

8. At all times relevant hereto, Luther Wade was an inmate housed in LeCI's R-Block. Turand Humphrey, Douglas Hunt, Tom Schweitzer, and ODRC/LeCI employees, officers (collectively referred to as "LeCI staff") were under a duty to provide reasonable care to Luther, and to protect him from the dangers incident to known poor and deteriorating cell conditions. At all times relevant hereto, each of the LeCI staff members were acting within the course and scope and in furtherance of their employment with the State of Ohio.

FACTUAL ALLEGATIONS

Luther Wade's History

9. Luther Wade was the youngest of Eugenia Wade's three sons. Though they had a difficult upbringing, exposed to violence and crime from a young age in a dangerous area of Springfield, Ohio, Luther, his brothers, and mother were a close, loving family.

10. Luther loved animals, nature, and spending time outdoors with friends and family. At the time of his incarceration, he was working in landscaping and tree services. Luther did not finish high school and could not read or write. Despite these challenges, he was committed to bettering himself and, was, at the time of his tragic murder, learning how to read and write.

11. Luther Wade was a sweet, quiet man. He had a reserved demeanor with strangers, but those who knew him best knew he loved to laugh. Family was everything to Luther, and no one was more important to him than his young daughter, who was four years old at the time of his death.

Casey Pigge's History Known to ODRC

12. ODRC knew that Casey Pigge was a known danger to other inmates and could attack at any time if given the opportunity. ODRC negligently failed to protect inmates, including Luther Wade, from Casey Pigge.

13. On September 5, 2008, Casey Pigge ("Pigge") brutally murdered Rhonda Sommers, the mother of his girlfriend and grandmother of his newborn daughter. Pigge slashed her neck five times. When he was awaiting trial, Pigge told mental health specialists how, after he killed his victim, he calmly washed his hands and made a snack, before setting the house on fire.

14. A month after he was arrested for murder, Pigge attempted to escape by digging

at the walls of his cell at the Ross County Jail. He was indicted for escape and two counts of possession of a deadly weapon—a homemade shank.

15. In 2009, while awaiting trial, he attempted suicide and was put into isolated housing. Later that year, he was sent once more to the Jail’s segregated housing unit for digging at his cell walls again. An administrative segregation order was entered, finding that Pigge represented a safety and security risk.

16. During his pre-trial detention, Pigge had regular visits with mental health professionals. He told them that he felt like he could explode at any moment and that he should be watched more closely. He also told them that he wanted to kill his ex-girlfriend, the daughter of his first victim, and that he would if he ever got the chance. During that same meeting, he told the doctor that he did not think his feelings were right; that he did not have any feelings; and that he used to kill small animals when he was a child.

17. During one of those mental health visits, Pigge expressed anger at having to move back into the jail’s general population. He explained that noise “rattles his brain and sets him off.”

18. In October 2009, Pigge plead guilty to aggravated murder and several other violent crimes. He was sentenced to 41 years in prison and began serving his sentence at LeCI.

19. When Pigge arrived at ODRC it was aware of Pigge’s violent history, escape attempt by repeated digging at his jail cell walls, possession of a deadly weapon in jail, and his being a security risk in jail.

20. ODRC policies require that correctional institution reception staff screen newly arrived inmates for violence indicators upon their arrival. Such screenings must consider information including rap sheet, records of previous convictions, and records from previous

commitments.

21. ODRC policies also state that reception staff shall avoid placing an inmate with violence indicators in a cell with an inmate who has no violence indicators, and that staff shall also avoid placing two inmates with greatly dissimilar sentences in the same cell.

22. In 2012, Pigge was sent to restrictive housing for attacking and attempting to rob another LeCI inmate. The victim was sent to the LeCI infirmary to treat injuries sustained in the attack.

23. Pigge spent time at another correctional institution but transferred back to LeCI on or about January 11, 2016.

24. After Pigge's return to LeCI, in the month before he murdered Luther Wade, Pigge moved back and forth, at least three times, between general population and restrictive housing in R-block. Each time was for the same reason: refusal to "lock," which means refusing to comply with orders to return and remain secured in his general population housing assignment.

25. When Pigge arrived at LeCI on January 11, 2016, he was sent to R-block for seven days for refusing to lock. On January 19, 2016, when he was due to return to general population, Pigge again refused to lock and was sent back to R-block for another ten days. On February 12, Pigge was again sent to R-block for refusing to lock.

26. It was obvious that Pigge was purposely refusing to lock so he could be single celled in R-block. After he murdered Luther Wade, Pigge reported to mental health professionals that he felt he had to kill Luther to make LeCI administration aware that he was serious about his desire to be placed permanently in a single-person cell.

Cell Tampering in LeCI's R-Block and Cell Conditions at LeCI

27. Restrictive Housing in R-block at LeCI is housing that separates an offender from the general population and restricts the offender to his cell twenty-two hours or more per day.

28. On R-block, three random "shakedowns," or searches, are supposed to be performed each day.

29. Correctional Officers Turand Humphrey and Douglas Hunt were assigned to R-block at the time of Luther's murder. Neither officer could remember the last time Luther Wade and Casey Pigge's cell (2R5) or the cell next door (2R4) were searched.

30. Although Humphrey documented inspections of cell 2R5 cell five days before Luther's murder, he had never actually physically entered the cell to conduct the inspection, as required by LeCI/ODRC policies and procedures.

31. Humphrey at first denied any knowledge of inmates tampering with cell walls or removing blocks in his interview with Ohio State Highway Patrol ("OSHP") investigators after Luther's death. However, in a subsequent interview, Humphrey admitted that he had noticed a small hole during his last inspection of cell 2R5.

32. Hunt heard reports and personally saw evidence of inmates in at least three different cells in R-block scraping away at the walls and removing blocks in the weeks and months before Luther was murdered. Hunt knew that officers had found cells on the first floor of R-block with enough blocks removed from the wall to pass from cell to cell. Hunt knew that this practice of inmates removing blocks from their cell walls and covering the walls up with clothes hanging on a line was "common knowledge" and referred to it as a "trend" at Lebanon.

33. The week before Luther was murdered, Hunt wrote up one inmate for tampering with the walls of his cell. That inmate lived in the cell right across from 2R5, where Pigge could

have easily observed him removing the blocks or even discussed with the other inmate how to do it himself.

34. Hunt personally observed attempts to remove blocks in one cell, heard of several instances of other inmates' attempts to remove blocks in other cells, and had seen the holes inmates had created, some of which, like the one in Pigge's cell, were large enough for a man to pass through.

35. Hunt knew that on the range bellow Luther's cell, inmates had removed 10 to 15 concrete blocks from the wall, allowing the inmates to actually walk through the hole created. According to Hunt, those inmates had attempted to cover the holes up with sheets and clotheslines, but they were eventually discovered though range checks.

36. Cell conditions at LeCI have long been deteriorating. A Correctional Institution Inspection Committee Report on conditions at LeCI noted that "from an inmate's perspective, there continues to be a large number of concerns regarding LeCI, including...the conditions of an aging facility." In their responses to the Committee's questionnaires, LeCI inmates "relayed a number of concerns regarding the deteriorating conditions of the cells."

37. Despite the fact that the Committee note a concern with clotheslines in cells, LeCI continued to allow inmates to hang homemade clotheslines.

38. LeCI staff failed to conduct thorough required cell inspections and cell integrity checks. The staff's failure to check cells lead to the ability for inmate Pigge to remove the blocks, unnoticed, and use one of the blocks as a weapon.

Luther Wade's Murder

39. Luther Wade was sent to R-block on January 25, 2016 as punishment for smoking cigarettes in his cell. Luther was given a 90-day suspended sentence, of which he was to serve

only fifteen days in R-block.

40. ODRC did not remove Luther from R-block after he served his 15 days of isolation. Luther was still in R-block almost 30 days later when, on February 22, 2016, he was moved to Casey Pigge's cell, number 2R5.

41. Pigge had been in 2R5 for approximately twelve days. During those twelve days, he regularly crawled through an illicit two-feet by two-feet hole in the dividing wall between cells 2R5 and 2R4, in order to visit and play cards with neighboring inmates.

42. The hole and loose block were covered by newspaper pages, with a handmade clothesline draped across to further conceal the opening.

43. At around 12:00 p.m. on February 23, 2016, Casey Pigge pulled one of the loose eight-by-eight inch block from the wall and placed it under his pillow.

44. He asked Luther if he wanted to see a card trick, and Luther said yes.

45. Under the guise of performing this card trick, Pigge asked Luther to take off his glasses and kneel on the floor of their cell.

46. Luther complied. According to Pigge he blindfolded Luther as part of the card trick and then told Luther to count to fifteen.

47. As Luther counted, tragically unaware of what was to come, Pigge removed the block from under his pillow, lifted it above his own head, and brought it crashing down onto Luther's skull.

48. Luther collapsed from the catastrophic force of the blow, and began choking on his own blood, struggling to breathe. To silence the sounds of Luther's gasping and choking, Pigge brought the block down repeatedly onto Luther's head and face, only relenting when Luther was finally quiet.

49. Pigge then began to clean up the bloody scene. He moved Luther to the bottom bunk and covered him with towels.

50. After Pigge had cleaned up some of the blood, Officer Humphrey walked past cell 2R5 and stopped to ask if Pigge wanted to go to his disciplinary hearing later that afternoon. When Pigge said no, Humphrey continued on, apparently unaware that Luther lay bloody and dying on the bottom bunk.

51. When Humphrey walked back past cell 2R5 approximately 45 minutes later, Pigge stopped him and told him that he had just murdered his cellmate.

52. Humphrey activated a man-down alarm at 1:15 p.m. Just a few minutes later, medical staff were notified that an inmate had been injured and responded to Luther's cell. Staff began administering CPR and a defibrillator was used.

53. Local EMS arrived approximately 15 minutes later and continued to provide emergency medical treatment.

54. EMS left LeCI at 1:46 p.m., and transported Luther to a nearby hospital, where he was pronounced dead at 2:06 p.m.

55. The Warren County Coroner conducted an autopsy. The Coroner determined that Luther died from multiple blunt force head injuries. Those injuries included fractures to Luther's face, jaw and all the bones in his skull. The coroner also found that Luther had aspirated blood in both his lungs.

56. Casey Pigge told investigators that he repeatedly struck Luther in the head with the concrete block, but that Luther continued to struggle to breath and make noises. Pigge reported to investigators that Humphrey had walked by and talked to Pigge while Luther lay on the bottom bunk of the cell, still alive, trying to breathe.

57. Given the pain and fear that Luther likely experienced after Pigge struck the first blow, and the pain and fear he continued to experience until he finally lost consciousness, as well as the painful manner of his death, made clear by the brutal injuries he sustained during the attack, Luther suffered emotionally and physically for at least two hours.

Defendant Had a Duty to Protect Luther Wade

58. ODRC knew that Luther Wade and Casey Pigge should have never been housed together.

59. ODRC also knew that the conditions at LeCI were deteriorating to such an extent that the inmates in R-block were able to make weapons out of the cell blocks, but it did not inspect the cells for weapons. After Luther's death, ODRC remedied the deteriorating walls and installed steel panels over the concrete blocks in the cell walls.

60. Defendant, its agents, employees, officers and/or members owed Luther Wade a duty to provide reasonable care and supervision. Defendant also had a duty to protect Luther from unreasonable risks of physical harm which may arise from the known dangerous and deteriorating conditions in the LeCI facilities, especially in the R-Block, and from a known violent cellmate with a history of tampering with his cell walls, all of which resulted in Luther's murder.

61. It was foreseeable to Defendant, its agents, employees, and/or officers that injury and death were likely to result from the remedied poor structural conditions of the LeCI cells, in conjunction with assigning Luther to live in a cell with another inmate, Casey Pigge, who had a known history of extreme violence and of tampering with his cell.

62. Defendant, its agents, employees, and/or officers had actual and/or constructive notice of the foreseeable risk factors to Luther, which included but were not limited to:

- a. Assigning Luther to cell with inmate Casey Pigge, a convicted murderer, who was serving a 41-year prison sentence for the brutal killing of his girlfriend's mother and the grandmother of his daughter;
- b. Pigge having a known history of attacking other inmates, and having been disciplined by LeCI staff for attacking and attempting to rob a fellow inmate;
- c. Pigge having a known history of attempted escapes by destroying or damaging cell property;
- d. Only a week before Luther's murder, an inmate housed nearby in R-block had been written up for tampering with cell walls;
- e. Cells in R-block has so many concrete blocks removed from their walls that holes were created large enough for a person to pass through and in one cell, large enough for a person to walk through;
- f. LeCI practice of allowing inmates to hang clotheslines in their cells, knowingly obstructing the view into the cells and allowing for the covering up of illicit holes in cell walls
- g. LeCI staff failure to thoroughly inspect cells which lead to Pigge's ability to fashion a deadly weapon from carving enough concrete blocks from the cell wall so he could pass through to another cell and to hide the block in the cell.

Breach of Duty

63. Defendant, its agents, employees, officers and/or members breached the duty of care, supervision, security and protection owed to Luther Wade through their acts and/or omissions.

64. Defendant, its agents, employees, officers and/or members' breaches include, but

are not limited to:

- h. Failure to adequately inspect Pigge's and Luther Wade's cell;
- i. Failure to adequately address a known and on-going concern of general deterioration of cells;
- j. Failure to make facility-wide repairs or install facility-wide protections to cell walls;
- k. Failure to adequately assess and address the danger to other inmates presented by Casey Pigge's overwhelming desire to be housed in a cell by himself, as well as his known tendencies for extreme violence;
- l. Failure to follow policies with regards to inmate assignments.
- m. Failure to ensure staff conducted through cell inspections and cell integrity checks.

Injuries Proximately Caused by the Breach

65. As a direct and proximate result of Defendant, its agents, employees, officers, and/or members breach, Luther Wade suffered excruciating physical pain and severe mental anguish for at least two hours prior to his death and he died.

66. Luther's injuries would not have occurred but for Defendant, its agents, employees, officers, and/or members' failure to exercise reasonable care, supervision and/or protection for Luther's safety as known cell conditions and inmate control required.

FIRST CAUSE OF ACTION – NEGLIGENCE

67. Plaintiff hereby incorporates Paragraphs one (1) to sixty six (66) as if fully rewritten herein.

68. Defendant, its agents, employees, and/or officers were, at all times relevant to this

action, employees acting in the course and scope and in furtherance of their employment with ODRC and/or LeCI, rendering ODRC liable under the doctrine of *respondeat superior* and pursuant to R.C. 2743.02(A)(2).

69. Plaintiff brings this first claim as Administratrix of the Estate of Luther Wade for Defendant's negligence which caused the conscious pain, suffering, injuries and damages sustained by Luther prior to his death, for the benefit of the Estate.

SECOND CAUSE OF ACTION – WRONGFUL DEATH

70. Plaintiff hereby incorporates Paragraphs one (1) through sixty nine (69) as if fully rewritten herein.

71. Plaintiff, Eugenia Wade, brings this second claim of wrongful death, individually and as the mother and next of kin of Luther Wade.

72. Plaintiff and Luther's next of kin, including his mother, his brothers and his daughter, have suffered the following damages as a result of Defendant's negligent and wrongful conduct as described above: loss of services, loss of society, including loss of companionship, consortium, care, assistance, attention, advise, mental anguish, pecuniary losses, loss of prospective inheritance, and funeral and burial expenses.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays the Court enter judgment against ODRC and LeCI, jointly and severally for:

1. Compensatory damages in an amount that exceeds TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00);
2. All reasonable funeral and burial expenses;
3. Costs of suit and reasonable attorneys' fees;

4. And other damages recoverable under Ohio's wrongful death statutes, including all other relief the Court deems just and proper.

Respectfully submitted,

/s/ Jennifer L. Branch
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