

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

THE ESTATE OF TIERRA HILL,

Plaintiff,

v.

MARIE RICHARDS,

Defendant.

ORDER

06-cv-732-bbc

A final pretrial conference was held in this case on February 28, 2008 before United States District Judge Barbara B. Crabb. Plaintiff The Estate of Tierra Hill appeared by Robert Gingras and Paul Kinne. Defendant Marie Richards appeared in person and by Robert Ebbe and Nicole Weir.

Counsel predicted that the case would take 4-5 days to try. They understand that trial days will begin at 9:00 and will run until 5:30, with at least an hour for lunch, a short break in the morning and another in the afternoon. There will be no trial on Friday morning.

Counsel agreed that with the exception of experts, all witnesses would be sequestered. Counsel are either familiar with the court's visual presentation system or will make

arrangements with the clerk for some instruction on the system.

No later than noon on Friday, February 29, plaintiff's counsel will advise defendant's counsel of the witnesses plaintiff will be calling on Monday and the order in which they will be called. Counsel should give similar advice at the end of each trial day; defendant's counsel shall have the same responsibility in advance of defendant's case. Also, no later than noon on the Friday before trial, counsel shall meet to agree on any exhibits that either side wishes to use in opening statements. Any disputes over the use of exhibits are to be raised with the court before the start of opening statements.

Counsel should use the microphones at all times and address the bench with all objections. If counsel need to consult with one another, they should ask for permission to do so. Only the lawyer questioning a particular witness may raise objections to questions put to the witness by the opposing party and argue the objection at any bench conference.

Counsel are to provide the court with copies of documentary evidence before the start of the first day of trial.

Counsel agreed to the voir dire questions in the form distributed to them at the conference. The jury will consist of eight jurors to be selected from a qualified panel of fourteen. Each side will exercise three peremptory challenges against the panel. Before counsel give their opening statements, the court will give the jury the introductory instructions on the way in which the trial will proceed and their responsibilities during the

trial.

Counsel discussed the form of the verdict and the instructions. Final decisions on the instructions and form of verdict will be made at the instruction conference once all the evidence on liability is in.

The following rulings were made on the parties' motions in limine.

Plaintiff's Motions

1. Motion to preclude defendant's experts from giving opinions about whether defendant acted with reckless disregard of Tierra Hill's risk of suicide. GRANTED as to expert's opinion whether Hill was at a substantial risk to harm herself because Hill's risk is not in issue; risk has been established by her suicide. GRANTED as to his opinions about defendant's mental state and credibility and about what others knew unless it is shown that defendant knew the same things. DENIED as to what defendant knew about the obviousness of the risk and the reasonableness of defendant's response.

2. Motion to exclude medical records of which defendant had no knowledge. GRANTED.

3. Motion to exclude evidence of Hill's running away from home. DENIED on the condition that defendant testifies that she relied on this fact in assessing plaintiff's risk.

4. Motion to exclude evidence relating to Hill's boyfriends. DENIED on same basis

of 3.

5. Motion to exclude Hill's statements that she was pregnant. DENIED on same basis as 3.

6. Motion to exclude evidence that Hill was in a foster home. GRANTED.

7. Motion to exclude evidence of Minnie Hill's employment history, work history, drug use, criminal history, abuse of Tierra Hill, withholding of medication from Tierra and refusal to take Tierra's calls, her lack of knowledge of the identity of Tierra's father and her lack of knowledge of the identity of the father of her other children. GRANTED, with the exception of Minnie Hill's refusal to accept Tierra's calls.

8. Motion to exclude evidence of the reason defendant left her job. GRANTED with caveat. If it will difficult to keep the jury from learning that defendant left her job, jury will be informed that defendant is no longer working at the jail but she was not fired.

9. Motion to exclude any reference to dismissal of other parties from suit. GRANTED.

10. Motion to exclude reference to plaintiff's entitlement to attorney fees if it is prevailing party. GRANTED.

Defendant's Motions

1. Motion to bar plaintiff from arguing that defendant was negligent. GRANTED;

however, plaintiff's expert is free to testify that it was unreasonable for defendant not to recognize risk that Hill posed.

2. Motion to prohibit plaintiff from arguing that defendant was deliberately indifferent to Tierra Hill's rights at any time other than May 17, 2004. DENIED. Plaintiff is free to argue that defendant should have taken other steps after May 17 to prevent Tierra Hill's suicide three days later. As to Hill's previous incarcerations at the jail, plaintiff can't argue that defendant did not treat Hill properly at those times but may rely on any relevant information defendant had about Hill on May 17.

3. Motion to exclude violations of policies and procedures. GRANTED.

4. Motion to bar plaintiff from arguing that defendant was deliberately indifferent by failing to recommend medication. GRANTED as unopposed.

5. Motion to exclude evidence of negligence of anyone other than defendant. GRANTED as unopposed.

6. Motion to exclude evidence of religious beliefs. GRANTED as unopposed.

7. Motion to exclude report of Lindsay Hayes. GRANTED. Plaintiff has no evidence that defendant was aware of report.

8. Motion to exclude evidence of defendant's contact with another inmate who attempted suicide. GRANTED as unopposed.

9. Motion to exclude evidence of peer review. GRANTED.

10. Motion to exclude evidence of Minnie Hill's injuries. GRANTED.
11. Motion to exclude evidence of overstaffing. GRANTED.
12. Motion to exclude testimony about reasons Barbara Andrew relinquished her supervisory position. GRANTED.
13. Motion to exclude newspaper articles related to case. GRANTED.
14. Motion to exclude new expert opinions. GRANTED.
15. Motion to exclude evidence of Hill's lost earning capacity. GRANTED because plaintiff has no expert testimony on issue.
16. Motion to exclude evidence of defendant's insurance coverage. GRANTED.
17. Motion to exclude coroner's report. GRANTED.
18. Motion to prohibit expert witness testimony or counsel argument to effect that defendant did not chart something as evidence that it did not happen or as evidence of deliberate indifference. DENIED.

Entered this 29th day of February, 2008.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge