

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

ELIZABETH MCELROY,)
as Personal Representative of the)
Estate of DEMETRIC HAMPTON, JR.,)
a deceased minor,)

Plaintiff,)

v.)

Case No.: CV2021 - _____

STATE OF ALABAMA DEPARTMENT)
OF HUMAN RESOURCES;)
FRANCINE FENDERSON,)
in her individual capacity;)
DEMETRIC HAMPTON, SR.;)
FICTITIOUS DEFENDANT “A,”)
is the individual and/or entity that breached the)
mandatory duty owed to)
Demetric Hampton, Jr., by placing him in)
and/or allowing him to remain in an)
“unsafe environment” exposed to ongoing)
abuse and/or neglect, which proximately)
caused the death of Demetric Hampton, Jr.;)
FICTITIOUS DEFENDANT “B,”)
is those employees of the State of Alabama)
Department of Human Resources who)
committed acts or omissions which violated)
specific laws, rules and/or regulations of the)
State of Alabama that were enacted or)
promulgated for the purpose of regulating)
the activities of the State of Alabama)
Department of Human Resources,)
proximately causing the death of)
Demetric Hampton, Jr.;)
FICTITIOUS DEFENDANT “C,”)
is those employees and/or representatives of)
the State of Alabama Department of Human)
Resources who acted negligently, willfully,)
maliciously, fraudulently, in bad faith and/or)
beyond their authority, or under a mistaken)
interpretation of law, proximately causing the)
death of Demetric Hampton, Jr.;)
FICTITIOUS DEFENDANT “D,”)
is the person or persons whose negligence)

or other wrongful conduct proximately)
 caused the death of Demetric Hampton, Jr.)
 whose true and correct names are unknown)
 to the Plaintiff at this time, and will be added)
 by amendment when ascertained,)
)
 Defendants.)

COMPLAINT

STATEMENT OF THE PARTIES

1. Plaintiff Elizabeth McElroy is over the age of nineteen (19) years and is a resident of Jefferson County, Alabama. Mrs. McElroy is the County Administrator for Jefferson County, Alabama. She brings this civil action pursuant to Ala. Code § 6-5-410 as Personal Representative of the Estate of two-year old Demetric Hampton, Jr., who died as a result of the negligence or wantonness of the Defendants. At all times regarding the allegations in this Complaint, Plaintiff lived in Jefferson County, Alabama.

2. Defendant State of Alabama Department of Human Resources (hereinafter “the Department” or “DHR”) is a public corporation created and established by law. DHR is required by law to ensure that abused and neglected children receive protection and proper services.

3. Defendant Francine Fenderson is over the age of nineteen (19) years and is a resident of the State of Alabama. She was the Director of the Jefferson County Department of Human Resources at all material times and is being sued in her individual capacity.

4. Defendant Demetric Hampton, Sr. is over the age of nineteen (19) years and is a resident of the State of Alabama. Mr. Hampton is the biological father of Demetric Hampton, Jr.

5. Fictitious Defendant “A” is the individual and/or entity that breached the mandatory duty owed to Demetric by placing him in and/or allowing him to remain in an “unsafe environment” exposed to ongoing abuse and/or neglect which proximately caused the death of Demetric.

6. Fictitious Defendant “B” is the employee or employees of the Department who committed acts or omissions which violated specific laws, rules and/or regulations of the State of Alabama enacted or promulgated for the purpose of regulating the activities of the Department, proximately causing the death of Demetric.

7. Fictitious Defendant “C” is the employee or employees of the Department, who acted negligently, willfully, maliciously, fraudulently, in bad faith, beyond their authority and/or under a mistaken interpretation of law, proximately causing the death of Demetric.

8. Fictitious Defendant “D” is the person or persons whose negligence or other wrongful conduct proximately caused the death of Demetric, whose true and correct identities are unknown to the Plaintiff at this time, but will be added by amendment when ascertained.

9. Defendants DHR, Fenderson and Fictitious Defendants “A”, “B” and “C” are the “DHR Defendants.”

10. No claims are being made against the State of Alabama.

STATEMENT OF FACTS

11. Demetric Hampton, Jr. was born on May 25, 2017, in Birmingham, Alabama. He was the two year old son of Demetric Hampton, Sr. He was 12 days shy of his third birthday when he was murdered by his father on May 13, 2020. Demetric is survived by two sisters, one of whom is his twin. His mother had previously been killed in an automobile accident.

12. On April 5, 2020, Jefferson County Sheriff’s Deputies were called to a residence in regard to a disturbance involving Defendant Hampton and his wife Terrica Harris, Demetric’s stepmother. Neighbors had reported the couple was outside of a residence arguing loudly and the male had a gun. When deputies arrived, Harris was in her car attempting to leave. She refused to identify herself and became irate, yelling and cussing at the deputies. When she

eventually got out of her car, she took their 9 month-old baby from Defendant Hampton. She continued to yell and argue with the deputies. Deputies ordered her to hand them the child so they could detain her. She resisted and struggled with the deputies.

13. Defendant Hampton told Harris to give the baby to the deputies. When she refused, Defendant Hampton struck her in the face with a closed fist. The baby was also struck causing its lip to be cut.

14. Defendant Hampton also resisted when deputies attempted to detain him. He was then tasered and taken to the ground by the deputies. After being handcuffed, he continued to resist and was tasered again.

15. Defendant Hampton and Harris were both transported to the Jefferson County Jail.

16. Deputies contacted the DHR Defendants and notified them that five minor children were at the scene of the incident. After deputies relayed the details of the incident, DHR instructed the deputies to release the children into the custody of Ms. Harris' mother. Demetric, his twin and another one of his siblings were not related to Harris or her mother. Despite this, Demetric and his sisters were inexplicably placed in the custody of a woman not related to them, while their maternal grandmother lived only minutes away from the scene. The DHR Defendants were well aware of the maternal grandmother because she had previously had custody of the children as a result of abuse and neglect previously committed by Defendant Hampton.

17. Defendant Hampton was charged with:

- a. Endangering the welfare of a child;
- b. Resisting Arrest;
- c. Harassment; and
- d. Domestic Violence.

18. Harris was charged with

- a. Endangering the welfare of a child;
- b. Obstructing Governmental Operations;
- c. Disorderly Conduct/Disturbing the Peace; and
- d. Resisting Arrest.

19. Defendant Hampton and Harris were subsequently released after posting bond. Despite a long history of child abuse and having just been charged with child endangerment and other crimes in relation to the above incident, Defendant Hampton and Harris subsequently were given custody of Demetric and the other children.

20. On May 13, 2020, thirty-eight (38) days after Defendant Hampton and Harris were arrested and charged with endangering the welfare of another child and other crimes, deputies were again called to their residence on a report of a child not breathing.

21. Deputies arrived at the scene and were told by Defendant Hampton and Harris that Demetric had been eating and choked on his food. Defendant Hampton claimed he had removed the food from Demetric's airway and then began life-saving efforts.

22. Demetric was rushed to Children's Hospital of Alabama where doctors found he had suffered multiple injuries and burns that were not consistent with Defendant Hampton and Harris' stories.

23. Demetric could not be saved and was pronounced dead. According to the death certificate, his manner of death was classified as a "homicide" and his cause of death was "blunt force injuries of head."

24. Defendant Hampton had a long history with the DHR Defendants prior to Demetric's death. In fact, DHR had taken custody of his oldest daughter (Demetric's oldest sister) at birth

after she tested positive for syphilis and marijuana. Additionally, when Demetric and his twin sister were born, DHR immediately gave custody of them to their maternal grandmother. The DHR Defendants have been aware of Defendant Hampton's history of child abuse and neglect since the birth of the first child.

25. DHR Defendants had a mandatory duty, pursuant to the Rules and Regulations of the Department and the laws of the State of Alabama, to protect Demetric from abuse and/or neglect.

26. DHR Defendants had a duty to properly and timely handle the reports and investigations of suspected abuse and neglect of Demetric in accordance with the mandatory Rules and Regulations of the Department and the laws of the State of Alabama.

27. DHR Defendants failed to properly and timely handle the numerous reports and investigations of suspected abuse and neglect in violation of the mandatory Rules and Regulations of the Department and the laws of the State of Alabama.

28. DHR Defendants breached their mandatory duty owed to Demetric by placing him in and/or allowing him to remain in the "unsafe environment" exposed to ongoing abuse and/or neglect, which proximately caused his death.

29. At all material time, DHR Defendants and Fictitious Defendants were working within the line and scope of their employment and their actions and/or inactions were negligent, wanton, willful, malicious, fraudulent, in bad faith, beyond their authority and/or under a mistaken interpretation of the law.

COUNT I

30. Plaintiff realleges all prior paragraphs of the Complaint as if set out here in full.

31. DHR Defendants and Fictitious Defendants were the individuals charged with properly handling the reports of abuse and neglect of Demetric.

32. DHR Defendants and Fictitious Defendants received notification of suspected abuse and/or neglect of Demetric.

33. DHR Defendants and Fictitious Defendants were also on notice that Demetric Hampton, Sr. had previously been under suspicion of abuse and neglect of children.

34. As a direct result of DHR Defendants and Fictitious Defendants' wrongful acts, Demetric was placed in and/or allowed to remain in an "unsafe environment" in which he suffered more acts of abuse and neglect.

35. DHR Defendants and Fictitious Defendants committed acts or omissions which violated specific laws, rules or regulations of the State enacted or promulgated for the purpose of regulating the activities of DHR, proximately causing the death of Demetric.

36. Plaintiff further alleges that DHR Defendants and Fictitious Defendants acted negligently, willfully, maliciously, fraudulently and in bad faith, beyond their authority or under a mistaken interpretation of the law, proximately causing the death of Demetric.

37. As a proximate result of the aforementioned conduct of DHR Defendants and Fictitious Defendants, Demetric was placed in and/or allowed to remain in a dangerous situation where he was killed.

WHEREFORE, Plaintiff demands judgment against all Defendants in a fair and reasonable amount of punitive damages plus costs.

COUNT II

38. Plaintiff realleges all prior paragraphs of the Complaint as if set out here in full.

39. As part of DHR Defendants and Fictitious Defendants' mandatory duties, they were obligated to follow and ensure that Department employees followed the laws of the State of Alabama as well as the regulations of the Department.

40. DHR Defendants and Fictitious Defendants had a duty to perform these mandatory and nondelegable duties at all times material to this case.

41. DHR Defendants and Fictitious Defendants negligently performed and/or failed to perform these mandatory duties by placing and/or leaving Demetric in a position of danger that led to his death that he would have otherwise not faced.

42. DHR Defendants and Fictitious Defendants acted negligently, willingly, maliciously, fraudulently, in bad faith, beyond their authority and/or under a mistaken interpretation of the law, proximately causing the death of Demetric.

43. As a proximate result of the aforementioned conduct of DHR Defendants and Fictitious Defendants, Demetric was placed in and/or allowed to remain in a dangerous situation where he was killed.

WHEREFORE, Plaintiff demands judgment against all Defendants in a fair and reasonable amount of punitive damages plus costs.

COUNT III

44. Plaintiff realleges all prior paragraphs of the Complaint as if set out here in full.

45. All Defendants were under a duty to protect Demetric from harm.

46. All Defendants negligently or wantonly allowed Demetric to remain in a dangerous and volatile situation failing to protect him.

47. As a proximate cause of all Defendants' conduct, Demetric was subjected to abuse and/or neglect that resulted in his death.

WHEREFORE, Plaintiff demands judgment against all Defendants in a fair and reasonable amount of punitive damages plus costs.

COUNT IV

48. Plaintiff realleges all prior paragraphs of the Complaint as if set out here in full.
49. Defendant Hampton negligently injured Demetric and breached his duty to Demetric to not cause him harm.
50. As a proximate result, Demetric died.

WHEREFORE, Plaintiff demands judgment against all Defendants in a fair and reasonable amount of punitive damages plus costs.

COUNT V

51. Plaintiff realleges all prior paragraphs of the Complaint as if set out here in full.
52. Defendant Hampton committed and was charged with Murder in relation to the death of Demetric.
53. The crime committed upon Demetric by Defendant Hampton is a violation of Alabama law and supports a civil cause of action for monetary damages.

WHEREFORE, Plaintiff demands judgment against all Defendants in a fair and reasonable amount of punitive damages plus costs.

COUNT VI

54. Plaintiff realleges all prior paragraphs of the Complaint as if set out here in full.
55. The negligence, wantonness and/or other wrongful acts of the named Defendants and Fictitious Defendants in this cause combined and concurred to cause the injuries and damages as alleged above.

WHEREFORE, Plaintiff demands judgment against all Defendants in a fair and reasonable amount of punitive damages plus costs.

COUNT VII

56. Plaintiff realleges all prior paragraphs of the Complaint as if set out here in full.

57. Defendant Fenderson negligently failed to institute policies, procedures, regulations and/or directives to prevent at-risk individuals such as Demetric from being injured and/or killed.

58. Defendant Fenderson knew or should have known that employees of the Department were not following Department policies and procedures regarding the protection of at-risk individuals such as Demetric.

59. Defendant Fenderson negligently failed to correct this long-standing problem.

60. Defendant Fenderson knew that the failure to take corrective measures would likely result in injury and/or death such as that caused to Demetric.

61. Defendants Fenderson and DHR negligently or wantonly failed to carry out or enforce existing policies, procedures, regulations and/or directives addressing or concerning the safety of the at-risk individuals they serve, including Demetric.

62. Defendant Fenderson's actions were negligent, wanton, willful, malicious, fraudulent, in bad faith, beyond her authority and/or under a mistaken interpretation of the law.

63. As a proximate result, Demetric died.

WHEREFORE, Plaintiff demands judgment against all Defendants in a fair and reasonable amount of punitive damages plus costs.

COUNT VIII

(DEMAND TO PERFORM LEGAL DUTIES AND MINISTERIAL ACTS)

64. Plaintiff realleges all prior paragraphs of the Complaint as if set out here in full.

65. DHR Defendants and Defendant DHR have not performed their legal duty to make sure that the at-risk individuals served by the Department are safe and protected, including Demetric.

66. DHR Defendants and Defendant DHR did not perform their legal duty of requiring employees to expressly adhere to the policies and procedures of the Department.

67. This Count is brought to compel DHR Defendants and Defendant DHR to perform the above legal duties and ministerial acts.

WHEREFORE, Plaintiff requests that the Court require DHR Defendants and Defendant DHR to see that the at-risk individuals served by the Department are safe, and that employees are properly trained, supervised and required to expressly adhere to the policies and procedures. Plaintiff further requests that the Court require DHR Defendants and Defendant DHR to perform the above legal duties and ministerial acts as set out in this Count.

Respectfully submitted,

/s/ Thomas E. James

Thomas E. James (JAM023)

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