

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

**ROGER MASON, THROUGH HIS NIECE
AND NEXT FRIEND
VALERIE ROBERTSON,**

PLAINTIFF,

V.

**TANGIPAHOA PARISH COUNCIL;
SHERIFF DANIEL EDWARDS,
CAPTAIN JOYCE JACKSON, AND
SEAN SWEENEY,
IN THEIR INDIVIDUAL AND OFFICIAL
CAPACITIES; AND DENNIS WHEAT AND
STUART MURPHY, IN THEIR OFFICIAL
CAPACITIES**

DEFENDANTS.

CIVIL NO. 11-157

JURY TRIAL REQUESTED

FIRST AMENDED COMPLAINT

I. INTRODUCTION

1. Plaintiff Roger Mason, a fifty-two year old man with a long history of severe mental illness, brings this action for monetary damages and declaratory relief under 42 U.S.C. §1983, the Americans with Disabilities Act, 42 U.S.C. 12101 *et. seq.* and Section 504 of the Rehabilitation Act, 29 U.S.C. §794 for injuries and violations of his rights while incarcerated at the Tangipahoa Parish Jail (TPJ) from August 18, 2009 to January 26, 2010. Defendants, by acting with deliberate indifference to his serious medical and mental health needs, and by knowingly confining him under conditions which are certain to cause great suffering and

exacerbation of his physical condition and mental illness, have violated Plaintiff's rights under the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

Defendants, in denying him access to medical and mental health treatment, on the same terms and conditions as provided other detainees in need of prescriptions for illnesses, subjected him to discrimination in violation of the Americans with Disabilities Act, 42 U.S.C. §12101 *et seq.* and Section 504 of the Rehabilitation Act. He also brings a claim of negligence against parish officials for breaching their duty under Louisiana law to provide him with appropriate mental and physical healthcare treatment which proximately caused him serious mental and physical injury.

II. JURISDICTION

2. This Court has subject matter jurisdiction of this action pursuant to 28 U.S.C. § 1331 because this action arises under the Constitution and laws of the United States, and pursuant to 28 U.S.C. §1343(a)(3) because this action seeks to redress the deprivation, under color of state law, of civil rights.

3. Plaintiff further invokes the pendant jurisdiction of this Court to consider claims arising under state law pursuant to 28 USC § 1367.

4. Venue is appropriate under 28 U.S.C. § 1391(b)(2) because a substantial number of the events giving rise to this Complaint occurred in this district.

5. A jury trial is requested.

III. PARTIES

Plaintiffs

6. Plaintiff Roger Mason, who is a person with a disability by reason of a severe mental illness, is a resident citizen of Tangipahoa Parish. He was born in 1958. Because of his disabilities, Roger Mason brings this action through Valerie Robertson, his niece and next friend.

7. Valerie Robertson has known Mr. Mason all of her life. She is in regular contact

with him and wants him to get the mental healthcare he needs.

Defendants

8. Tangipahoa Parish Council (TPC) is a public entity responsible for the operation and maintenance of the Tangipahoa Parish Jail.

9. TPC receives federal financial assistance.

10. TPC is liable for the actions delegated to its final policy maker, the Sheriff of the TPSO.

11. Sheriff Daniel Edwards is the Sheriff of Tangipahoa Parish and, as such, is responsible for the hiring, training, supervision, discipline and control of the deputies under his command, as well as medical personnel. He is responsible for medical and all other services and programs operated at the Tangipahoa Parish Jail (TPJ). He is also responsible for the supervision, administration, policies, practices, customs and operations of the Tangipahoa Parish Sheriff's Office (TPSO) and the TPJ. He is a final policymaker. He is being sued in his individual and in his official capacities for those acts and omissions which occurred while he was Sheriff. He is a person of the full age of majority and, on information and belief, a resident of the Eastern District of Louisiana.

12. Dennis Wheat the Warden at TPJ. He is responsible for the training, supervising, monitoring and disciplining TPSO officers, including Defendants Jackson, Murphy and Sweeney. He is also responsible for overseeing the security and well-being of persons held on the wards and the coordination between security officers and medical personnel regarding prisoners in need of medical care. He is being sued in his official capacity.

13. Captain Joyce Jackson is the Assistant Warden at TPJ. She is responsible for the assisting the Warden in the training, supervising, monitoring and disciplining TPSO officers, including those named as defendants herein, overseeing the security and well-being of persons held on the wards. She is also responsible for coordination between security officers and

medical personnel regarding prisoners in need of medical care. She is being sued in her individual and official capacities. She is a person of full age and majority and, on information and belief, is a resident of the Eastern District of Louisiana.

14. Stuart Murphy is the Head of Administration at the Tangipahoa Parish Jail. He is responsible for the planning, organizing, and implementing of operations and programs in TPJ. He is responsible for the supervision of subordinates, ensuring that all policy, rules, regulations, orders, procedures and directives are enforced and implemented. He is also responsible for the development, implementation, and monitoring of policies and procedures for operations and insuring that these are readily available to personnel. He is being sued in his official capacity.

15. Sean Sweeney is a nurse at the Tangipahoa Parish Jail. At all pertinent times herein, he was responsible for the provision of medical care and health services for persons incarcerated in TPJ, both directly and as a supervisor. He was responsible for insuring that medications were administered properly to persons incarcerated at TPJ, including to Mr. Mason. He is being sued in his individual and official capacities. He is a person of full age and majority and, on information and belief, is a resident of the Eastern District of Louisiana.

IV. STATEMENT OF FACTS

16. Mr. Mason has significant mental disabilities, he has suffered from a serious mental illness - chronic paranoid schizophrenia - and poly-substance abuse for at least the last twenty years. His poly-substance abuse is currently in remission.

17. In recent years, Mr. Mason has been incarcerated at the Tangipahoa Parish Jail on two occasions. In April 2009, Mr. Mason was arrested for aggravated assault and incarcerated at the TPJ pending a determination of his competence to stand trial. As a result, Mr. Mason remained at the TPJ from April 18, 2009 until sometime near the end of June 2009.

18. Mr. Mason was again incarcerated in the TPJ on August 18, 2009, when he was arrested for throwing cake at a family member's neighbor, and charged with simple assault and

unauthorized entry of an inhabited dwelling. Mr. Mason remained at TPJ until January 26, 2010 when he was transferred to Eastern Louisiana Mental Health System (ELMHS) in Jackson, Louisiana.

19. For much of the last twenty years, Mr. Mason lived in Amite, Louisiana. He is well known by that community, including law enforcement, as a person with a serious mental illness. In recent years, Mr. Mason often has been found wandering the streets of Amite. He frequently has been homeless or incarcerated. .

20. Prior to developing mental illness, Mr. Mason graduated high school and went to the University of Louisiana at Lafayette on a football scholarship. Mr. Mason dropped out of college when symptoms of his schizophrenia developed.

21. Mr. Mason's mental disability prevents him from performing the activities of daily living (ADLs) such as caring for personal hygiene and managing medication. He is also incapable of finding appropriate housing (he is homeless), money management or holding down employment. When he is actively psychotic, he is unable to interact with other people, communicate in a meaningful way or differentiate reality from illusion.

22. During Mr. Mason's first recent incarceration, staff at the TPJ, including Defendant Sweeney, knew of the seriousness Mr. Mason's mental illness. On April 27, 2009, he was diagnosed or identified by personnel at the jail as having schizophrenia and a poly-substance abuse history, and as being malnourished, confused and psychotic. On that date, staff at Rosenblum Mental Health Center (RMHC) also noted that Mr. Mason has been unstable for years and is in need of long-term hospitalization because he is gravely disabled.

23. RMHC is a community mental health center and is division of the Department of Health and Hospitals. RMHC provides mental health services to TPJ inmates by contract.

24. On or before, April 27, 2009, Mr. Mason was prescribed chlopromazine (brand name Thorazine) by a doctor at RMHC.

25. Defendant Sweeney knew of Mr. Mason's prescription chlopromazine on or before April 27, 2009.

26. Despite this prescription and the fact that he was clearly exhibiting behavior that clearly demonstrated his need for medication, medical personnel at the jail, only sporadically provided Mr. Mason's with his medication during the two months of his April incarceration at the TPJ.

27. Despite this prescription and the fact that he was clearly exhibiting behavior that clearly demonstrated his need for medication, Defendant Sweeney failed to ensure that Mr. Mason was provided with his medication during the two months of his April incarceration at the TPJ.

28. The Louisiana Code of Criminal Procedure 641, et seq. provides for a mental examination by a sanity commission where the Court has reasonable ground to doubt the competence of the defendant to defend criminal charges. Mr. Mason's public defender initiated an action for the appointment of a sanity commission to evaluate his competence to stand trial on the April 18, 2009 charge.

29. Shortly after his release from the TPJ, on August 18, 2009, the incident which led to his second incarceration occurred. This time Mr. Mason went to the home of his family's neighbor, Beatrice Henderson, to request something to eat. Ms. Henderson told police that at some point Mr. Mason became agitated, threatened, and threw cake at her.

30. Although Mr. Mason was unaware of it, just prior to his August 18 arrest, on August 4, 2009, the Twenty-first Judicial District had issued an order committing him to immediate in-jail based treatment for competency restoration for at least ninety days.

31. Following his second arrest on August 18, 2009, Mr. Mason was taken into custody by Deputy Matthew Dean. In the course of arranging for Mr. Mason's incarceration, Deputy Dean spoke with the Tangipahoa Parish Coroner's Office who advised the deputy to

inform Captain Joyce Jackson at the TPJ that Mr. Mason should be brought to the RMHC for treatment.

32. Mr. Mason has visited RMHC since at least 1999. He visited the center for treatment and psychotropic medication management fairly consistently from then until his arrest in April of 2009. His last visit to Rosenblum before the April 18, 2009 arrest was April 3, 2009. He also visited the Center after his release and before his August 18, 2009 arrest several times. His last visit was on August 11, 2009. He was not seen again until December 21, 2009.

33. Based on the advice of the Coroner's Office, prior to or upon his arrival at the TPJ with Mr. Mason, Deputy Dean informed Captain Jackson that Mr. Mason should be brought to the RMHC for treatment.

34. Upon his arrival at TPJ, Mr. Mason was booked by Officer Brandon Pinion. During the course of this booking Officer Pinion noted that Mr. Mason appeared to have psychiatric problems. As Officer Pinion stated, referring to Mr. Mason, "Subject is crazy". Officer Pinion also indicated that Mr. Mason had recently been hospitalized for mental problems and was taking prescription medication for mental problems.

35. While in jail following his second recent arrest, TPJ staff consistently failed or refused to provide Mr. Mason with his prescribed medication or otherwise provide him with treatment for his psychiatric illness, even though he was exhibiting behavior that clearly demonstrated his need for such medication and treatment.

36. While in jail following his second recent arrest, Defendants Sweeney and Jackson failed or refused to ensure that Mr. Mason was provided with his prescribed medication or otherwise provided with treatment for his psychiatric illness, even though they were informed of such and he was exhibiting behavior that clearly demonstrated his need for such medication and treatment.

37. Despite the fact that Captain Jackson was informed on August 18, 2009 that Mr.

Mason should be brought to the RMHC for treatment, Mr. Mason was not taken to that facility until December 21, 2009.

38. On December 21, 2009, Dr. Dedon of RMHC prescribed Mr. Mason 500 milligrams of Depakote and 3 milligrams of Risperdal both to be taken by mouth twice a day.

39. Despite the RMHC prescription in December, TPJ staff consistently failed or refused to provide Mr. Mason with his prescribed medication for the remainder of his incarceration at TPJ, even though he was exhibiting behavior that clearly demonstrated his need for such medication and treatment.

40. Despite the RMHC prescription in December, Defendant Sweeney failed or refused to ensure that Mr. Mason was provided with his prescribed medication as directed, even though he was exhibiting behavior that clearly demonstrated his need for such medication and treatment.

41. As a result of the inappropriate sporadic administration of his psychiatric and antipsychotic medications, Mr. Mason's condition became severely compromised and he devolved into florid psychosis. He was unable to communicate meaningfully with staff or other inmates due to the psychosis associated with his mental illness, exacerbated by the discontinuation of his psychiatric and antipsychotic medication.

42. Because of Mr. Mason's mental illness, TPJ staff prohibited him from access to any of the services provided by the jail, including but not limited to any and all means of communication, medical care, mental health care and the administrative remedy procedure.

43. Because of his mental illness and the lack of appropriate treatment, Mr. Mason was unable to access other services and programs offered at the jail, including but not limited to access to showers, outside activities, library facilities, and interaction with other prisoners.

44. In recent years, many inmates with mental illness, including those receiving psychiatric medications, have been incarcerated at TPJ.

45. For a variety of reasons, the TPJ has a history of being unable to care for people with mental illness like Mr. Mason.

46. Defendants are well aware of the unique needs and requirements posed by incarcerating persons with significant mental illnesses at the TJP.

47. Defendants are well aware of the treatment needs of persons with significant mental illnesses at the TJP, including the need for appropriate medication.

48. Despite Defendants' knowledge of the unique needs and requirements posed by incarcerated persons with significant mental illnesses, as well as their knowledge of Mr. Mason, Defendants failed to ensure that he receive the psychiatric care he needed while incarcerated at TPJ.

49. Despite Defendants' knowledge of the unique needs and requirements posed by incarcerated persons with significant mental illnesses, at no time between April 9, 2009 and January 26, 2010, did TPJ have written policies on the administration of psychotropic medications.

50. Despite Defendants knowledge of the unique needs and requirements posed by incarcerated persons with significant mental illnesses, TPJ has no infirmary or specialized treatment unit for prisoners with mental illness who are suicidal, homicidal or psychotic.

51. Because of the lack of appropriate mental health treatment, and resulting bizarre behaviors (incoherent and delusional thought and speech, smearing feces, extremely poor hygiene) associated with his mental illness, Mr. Mason was separated from the general population..

52. Because of the behaviors associated with his mental illness and of the lack of appropriate mental health treatment, Mr. Mason was housed in a cell alone for twenty-three hours a day.

53. This isolation exacerbated Mr. Mason's mental illness and he further

decompensated.

54. Because of the behaviors associated with his mental illness and of the lack of appropriate mental health treatment, Mr. Mason rarely showered while at the TPJ.

55. During Mr. Mason's August 18, 2009 to January 26, 2010 incarceration at TPJ, he tied a rag tightly around his wrist because he believed he had to protect himself from "the robots."

56. The rag became imbedded in his arm and began to rot; his arm emitted a foul odor and puss.

57. TPJ staff failed to monitor him or to protect him from other inmates in the general population.

58. Mr. Mason was also attacked by inmates during the one hour a day he was let out of his cell. Three of his ribs were fractured.

59. Mr. Mason also sustained an open wound on his back when he was kicked in the back by other inmates.

60. Due to his mental illness and the lack of treatment for his mental illness, Mr. Mason was unable to communicate with jail staff regarding his injuries or need for help.

61. Due to the behaviors associated with his mental illness and the lack of treatment for his mental illness, Mr. Mason was avoided by jail staff that could have acted in response to his injuries.

62. On January 26, 2010, TPJ nurse Sean Sweeney completed the Medical Summary for Mr. Mason for his transport from TPJ to ELMHS. His medications were listed but not sent to ELMHS.

63. Mr. Mason arrived at the intake department of the forensic facility at ELMHS on January 26, 2010. He arrived in a filthy jumpsuit soiled with dirt and human waste.

64. Upon his arrival at ELMHS, staff immediately noticed a strip of rag tied around

Mr. Mason's right wrist. A stench was issuing from the wound and it appeared infected, emitting a foul discharge. The rag was embedded in Mr. Mason's arm, the skin growing over the rag in places.

65. Staff covered Mr. Mason's arm wound with a garbage bag and took him to be showered. It was discovered that Mr. Mason also had an ulcerous wound on the right side of his back.

66. At no time during Mr. Mason's incarceration at the TPJ did jail staff act to redress Mr. Mason's injuries, even though they had ample opportunity to observe him.

67. When Mr. Mason arrived at ELMHS, he was too psychotic to answer any questions about his wounds aside from saying it was there "because of the robots".

68. Dr. Kenneth Perego was notified shortly after Mr. Mason's arrival at ELMHS.

69. On Dr. Perego's instructions, Mr. Mason was taken to Earl K. Long Hospital for treatment and surgical debridement.

70. Dr. Perego and others concluded that Mr. Mason had to have been neglected in order for the injuries to occur.

71. After Mr. Mason arrived at the emergency room at Earl K. Long, an emergency room nurse called the medical department of the TPJ to enquire about the wounds. She spoke with Sean Sweeney of the TPJ medical staff.

72. Mr. Sweeney told the emergency room nurse that Mr. Mason's diagnoses were schizophrenia, psychosis NOS and poly-substance abuse and that he was noncompliant with medications.

73. Mr. Sweeney also confirmed that no staff person had made a report of the injuries.

74. In a psychological screening on January 29, 2010 at ELMHS, Mr. Mason's mental illness was found to be in acute exacerbation. He was unable to complete the majority of the screening due to psychosis.

75. On February 3, 2010, Mr. Mason was taken to the medical complex for the forensic facility because he complained of chest pains. X-rays of Mr. Mason's chest revealed multiple rib fractures.

76. Due to the nature of the injuries, it was clear that they had occurred prior to Mr. Mason's commitment to ELMHS.

77. Mr. Mason underwent several months of painful wound care and chest pain as a result of his injuries.

78. Mr. Mason has been compliant with medications since his admission to ELMHS and has stabilized somewhat. His thinking remains delusional.

79. Defendants knew, or should have known, that Mr. Mason, a mentally ill person, was at risk in the TPJ.

80. Despite the knowledge that needed mental health treatment and medication, the defendants did nothing within their power to prevent serious harm to Mr. Mason, including ensuring that he had access to his medication and that he sent to another facility that could better meet his needs.

81. If TPJ lacked the proper facilities to provide mental health treatment for Mr. Mason, it still had an obligation to provide him with that care, either through contracting services with an entity that could, or ensuring his timely transfer to ELMHS.

82. Upon information and belief, DHH prioritizes for transfer to ELMHS those inmates exhibiting severe mental illness and psychosis. Personnel at TPJ did not attempt to expedite his transfer, and neither did they provide him with the necessary care.

83. Given the lack of appropriate mental health treatment in TPJ, it is dangerous to the detainees to be incarcerated in that facility.

84. Without proper medical care and protection from the general prison population, prisoners with significant mental illnesses often rapidly and radically destabilize.

85. Without proper medical care and protection from the general prison population, prisoners with significant mental illnesses are often unable to communicate with the lawyers, friends, and prison staff as effectively as those without mental illness.

86. Depending on the individual prisoner, these destabilizations can be—and often are—permanent, depriving the individual of much more than his or her chance to mount a defense in court.

87. Defendants know, or should know, that the lack of adequate mental health treatment to persons with serious mental health problems incarcerated at the TJP is very likely to cause a deterioration of their psychological well-being and mental capacity to the point that rehabilitation becomes impossible.

88. Defendants know, or should have known, that the TPJ was not providing the mental health care and restorative treatment required by and due Mr. Mason.

89. Defendants knew, or should have known, that Mr. Mason was seriously at risk in their facility.

90. Despite knowledge of Mr. Mason's mental health conditions, and the risks such conditions imposed on him, Defendants failed or refused to take any special precautions that were in their power to take to ameliorate or eliminate Mr. Mason's obvious risk of harm relative to his history of mental illness and observable psychotic behavior.

91. At the time of Mr. Mason's incarceration, the Defendants knew, or should have known, of continuing serious deficiencies in policies, practices and procedures at the jail related to psychiatric care, the observation of prisoners with mental illness and the administration of psychotropic medication.

92. Defendants knew, or should have known, that the staff at TPJ was inadequate or unwilling to protect or provide adequate treatment to person with serious mental illness, and that staff that existed were inadequately trained or supervised with regard to addressing the

psychiatric problems of prisoners.

93. Despite their knowledge of these serious deficiencies in policies, practices and procedures, and the training and supervision of staff, Defendants failed to take appropriate action to address and ameliorate these deficiencies.

94. Defendants knew, or should have known, that Mr. Mason was under the care of physicians at RMHC and required prescription psychiatric medication. Defendants had the authority to contact RMHC to get mental health treatment for Mr. Mason, but failed to do so until December 21, 2009.

95. Defendants knew, or should have known, that Mr. Mason was actively psychotic and unable to communicate with jail staff.

96. Despite Defendants' knowledge of Mr. Mason's disabilities, no measures were taken to provide him with reasonable accommodations so he could receive the treatment and services he needed to protect him from harm.

97. Defendants, at all times relevant to this complaint, acted under color of state law.

98. As a direct and proximate result of the foregoing, Roger Mason has suffered injury to his mental health and several painful physical injuries.

99. Currently, Mr. Mason is involuntarily committed by reason of mental illness to the forensic facility at Eastern Louisiana Mental Health System ELMHS in Jackson, Louisiana. He was also found incompetent to stand trial and unlikely to be restored to competency in the near future on his August 2009 charges.

V. CAUSES OF ACTION

FIRST CAUSE OF ACTION

14th Amendment – 42 U.S.C. 1983

100. The actions and inactions of Defendants, as set forth above, were deliberately indifferent to Mr. Mason's Fourteenth Amendment rights in that said Defendants failed to provide

Mr. Mason with adequate medical and psychiatric attention to his serious medical and psychiatric needs during his incarceration by failing to provide for necessary psychiatric care, by denying him access to necessary mental health medications and care, by failing to take adequate steps to ensure that he would not be injured while at the TPJ, and by failing to act to redress his injuries or protect him from future harm.

101. As a direct and proximate result of the actions and inactions of Defendants in violation of his rights under the Due Process Clause of the Fourteenth Amendment to the United States Constitution, Mr. Mason endured and suffered severe physical and emotional distress.

SECOND CAUSE OF ACTION

The American with Disabilities Act

102. Mr. Mason is a qualified individual with a disability as defined in the ADA. He has mental impairments that substantially limit one or more major life activity, including but not limited to interacting with other people, communicating his needs, taking care of himself or managing his medication. Mr. Mason also has a record of having a disability, and is regarded as having such impairment.

103. Defendant Tangipahoa Parish Council and the TPJ are public entities as defined under 42 USC 12131(1)(B).

104. Plaintiff is qualified to participate in the everyday programs offered at the TPJ, including but not limited to access to showers, the library, telephone, the companionship of other prisoners, and medical care. These are programs, services, and activities of a “public entity” subject to the ADA.

105. Through their conduct described above, Defendants have violated regulations enacted pursuant to the Americans with Disabilities Act, including:

(a) 28 C.F.R. §35.130(a), which provides that “no qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the

benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.”

(b) 28 C.F.R. §35.130(b)(i), which prohibits a public entity from “deny[ing] a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit, or service [of the public entity].”

(c) 28 C.F.R. §35.130(b)(iii), which prohibits a public entity from providing a “qualified individual with a disability with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;”

(d) 28 C.F.R. §35.130(b)(vii) which prohibits a public entity from “otherwise limit[ing] a qualified individual with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit or service;”

(e) 28 C.F.R. §35.130(b)(3)(i), by using “criteria or methods of administration” that have “the effect of subjecting qualified individuals with disabilities to discrimination on the basis of disability;”

(f) 28 C.F.R. §35.130(b)(3)(ii), by using “criteria or methods of administration” that “have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the public entity’s program with respect to individuals with disabilities;”

(g) 28 C.F.R. §35.130(b)(7), by failing to make “reasonable modifications in policies, practices or procedures when the modifications are necessary to avoid discrimination on the basis of disability,” where such modification would not fundamentally alter the nature of the programs being offered; and

(i) 28 C.F.R. § 35.160 by failing to take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others.

106. By actions and inactions described in this complaint, Defendants discriminated against Plaintiff in the following manner in violation his rights under the Americans with Disabilities Act, 42 U.S. C. § 12132:

(a) Defendants excluded plaintiff, on the basis of his mental illness, from participation in the everyday activities and programs afforded other prisoners, including but not limited to access to showers, the library, telephone, the companionship of other prisoners, and medical care.

(b) Defendants imposed upon plaintiff eligibility requirements that are not reasonably necessary to the administration of these services, programs and activities.

(c) Defendants failed to reasonably accommodate plaintiff's disabilities in a manner that would have allowed him to participate in the programs, services, and activities of the TPJ.

THIRD CAUSE OF ACTION

Section 504 of the Rehabilitation Act

107. Tangipahoa Parish Council and the TPJ receive federal financial assistance.

108. As a prisoner in the TPJ, Mr. Mason meets the eligibility requirements for the receipt of services or the participation in programs or activities provided by Tangipahoa Parish Council and the TPJ.

109. Defendants discriminate against persons with mental illness in violation of Section 504 of the Rehabilitation Act, 29 U.S.C. § 794 by failing to provide alternative methods of communication; Defendants, in denying Plaintiff access to medical and mental health treatment, on the same terms and conditions as provided other detainees in need of prescriptions for illnesses; excluding Plaintiff, on the basis of his mental illness, from participation in the everyday activities and programs afforded other prisoners, including but not limited to access to showers, the library, telephone, the companionship of other prisoners, and medical care; imposing upon Plaintiff eligibility requirements that are not reasonably necessary to the administration of these services, programs and activities; and failing to reasonably accommodate Plaintiff's disabilities in a manner that would have allowed him to participate in the programs, services, and activities of the TPJ.

FOURTH CAUSE OF ACTION

Negligence

110. Defendants have a duty to provide mental healthcare and prescription medications to prisoners at the TPJ.

111. Defendants have a duty to protect inmates from foreseeable harm, including harm to themselves and harm from others.

112. When appropriate mental healthcare and medications are not provided to seriously mental ill prisoners, it is foreseeable that individuals with significant mental illness will

substantially decompensate and make it substantially more likely that psychosis, self-injury, or injury by or to others will follow.

113. Any reasonable official, line personnel, and medical staff employed by TPJ know or should know of the risks imposed by lack of treatment.

114. Defendants breached their duties to Mr. Mason and were negligent in one or more of the following particulars:

a. In failing to arrange for Roger Mason to be examined and treated by mental healthcare staff;

b. In failing to provide Roger Mason with necessary and appropriate medication in order to alleviate or minimize symptoms related to his mental illness;

c. In failing to implement adequate procedures to ensure that Mr. Mason was protected from physical harm or, if harmed, that he was treated in a timely and adequate manner.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered in their favor and against Defendants as follows:

A. Award compensatory and punitive damages;

B. Enter a declaratory judgment, pursuant to 28 U.S.C. §§2201 and 2202, that Defendants violated his rights under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. §1983, the Americans with Disabilities Act, 42 U.S.C. 12101 et. seq. and Section 504 of the Rehabilitation Act, 29 U.S.C. §794 while incarcerated at the Tangipahoa Parish Jail (TPJ) from August 18, 2009 to January 26, 2010;

C. Award Plaintiff his costs and reasonable attorneys' fees incurred in the prosecution of this action;

D. Grant such other and further relief as the Court may deem just and proper.

Respectfully submitted the 26th day of January, 2011.

ROGER MASON, by and through his Next Friend
and Niece, Valerie Robertson

By And Through Their Attorneys:

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