

SOUTH CAROLINA Lawyers Weekly

\$600K settlement reached after man killed in prison

By: renee.sexton Renee Sexton © December 16, 2019

The family of a South Carolina prison inmate who was killed by another inmate has received \$600,000 and a public apology from the South Carolina Department of Corrections after the two sides reached a settlement agreement shortly before they were set to present closing arguments to a Marlboro County jury in a wrongful death trial.

James Moore III and Scott Evans of the Evans Moore Law Firm in Georgetown and Douglas Jennings Jr. and Mason King of the Douglas Jennings Law Firm in Bennettsville report that Oliver Johnson was serving a 10-year sentence at Evans Correctional Institution in Marlboro County when he was beaten and stabbed 23 times by another inmate in 2016 and died.

Johnson's adoptive father, George Johnson, sued the South Carolina Department of Corrections for his son's wrongful death. He contended that no SCDC employee intervened or attempted to stop the attack, and at the time of the attack SCDC rules required at least two certified correctional officers within the prison housing unit at all times.

During the three-day trial, inmates and guards who were working at Evans on the day of the attack testified that the incident lasted as long as 15 minutes. Johnson also presented evidence that the incident would have occurred in plain view of the correctional officer in the central control room overlooking four wings of the housing unit, but at the time of the attack there was no officer in the housing unit. (SCDC regulations prevented the corrections officer in the control room from leaving it under any circumstances.)

The suit was filed under the South Carolina Tort Claims Act, alleging that the SCDC was grossly negligent in failing to properly supervise, monitor, and staff the prison. The \$600,000 that the SCDC agreed to pay is the statutory cap on damages under the SCTCA. The major of security for Evans also provided an apology on the court record and an assurance from SCDC that the department is addressing staffing issues and inmate protection at the prison.

"You can learn a lot about the civilization of a society by the way it treats its prisoners," Moore said. "It is something that should separate us here in America from those societies that have no human rights, no protections from a constitution, no legal system like ours. We have got to do better in South Carolina. My experience working as a lawyer who handles civil rights cases is that inmates are dying from a lack of basic medical care and a lack of security."

The attorneys said SCDC has a responsibility to maintain the Constitutional rights of inmates, meet their basic human needs, and keep them safe.

"By pursuing justice in this case, the plaintiff has hopefully made the SCDC more cognizant of safety issues in our prison system and has at least made Evans CI a safer place for staff and inmates," Jennings said.

The case was tried before Judge Roger Henderson. The defense attorneys' names are withheld as part of the settlement agreement.

"This was a resolution at trial of a disputed claim. The institution has since made changes to address safety and security concerns arising from this incident," a statement from SCDC said.

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SETTLEMENT REPORT — WRONGFUL DEATH

Amount: \$600,000 and public apology

Injuries alleged: Death

Case name: *Estate of Oliver Johnson v. South Carolina Department of Corrections*

Court: Marlboro County Circuit Court

Case No.: 2016-CP-34-00019

Judge: Roger Henderson

Date of settlement: Oct. 3

Most helpful experts: James Aiken of Asheville, North Carolina (prison security expert)

Insurance carrier: South Carolina Insurance Reserve Fund

Attorneys for plaintiff: James Moore III and Scott Evans of the Evans Moore Law Firm in Georgetown and Douglas Jennings Jr. and Mason King of the Douglas Jennings Law Firm in Bennettsville

Attorneys for defendant: Withheld

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