

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

CAPREACE E. SMITH, next of kin)
of BYRON L. SMITH, deceased)
) NO. 3:08-0465
v.) JUDGE CAMPBELL
)
TAMMY HINES and KEVIN COLLEN)

ORDER

This matter is set for a jury trial on July 6, 2010. The Court held a pretrial conference, attended by counsel for all parties, on June 28, 2010, at which the following matters were discussed and the following rulings made.

Plaintiff's Motion in Limine (Docket No. 75) is DENIED. Counsel for the Defendants may introduce evidence that Byron Smith, deceased, was charged with the crime of homicide at the time of his death as relevant to the issue of causation. Counsel for the Defendants may not, however, introduce evidence or argument concerning the underlying facts of the homicide charge or turn any portion of the trial into a "mini-trial" on the charge against Mr. Smith. The parties shall submit, by Friday, July 2, 2010, any proposed limiting jury instructions concerning this evidence of the homicide charge.

Defendants' Motion in Limine (Docket No. 80) is DENIED. Plaintiff's expert, Dr. Weitz may testify consistent with Plaintiff's Response (Docket No. 82) to the Motion in Limine concerning (1) the proper procedures used by a correctional institution when diagnosing and then caring for special needs prisoners such as prisoners who have been diagnosed as psychotic; (2) etiology and

manifestations of behavior of persons diagnosed as psychotic; and (3) whether Defendants should have classified Byron Smith as a special needs prisoner and, if so, what actions they should have taken to safeguard him. In accordance with Fed. R. Evid. 704, Dr. Weitz may offer his opinion concerning the ultimate issue of deliberate indifference.

Plaintiff's Motion in Limine (Docket No. 91) is taken under advisement. The parties shall file, by Wednesday, June 30, 2010, a copy of the report at issue and briefs on the issue of its admissibility.

Plaintiff's Motion in Limine (Docket No. 92) is DENIED, provided that Defendants shall make the witness, Lisa Naylor, available to Plaintiff's counsel for interview and/or deposition before the trial on Tuesday, July 6, 2010.

In addition, Defendants shall file, by Wednesday, June 30, 2010, any portion of the report identified as Exhibit 67 on Defendants' Exhibit List which Defendants intend to introduce at trial and a brief concerning its admissibility. By Friday, July 2, 2010, Plaintiff shall file a Response to Defendants' brief.

IT IS SO ORDERED.


TODD J. CAMPBELL
UNITED STATES DISTRICT JUDGE