

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

FILED
U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

JAN 19 1988

MURRAY E. HARRIS, CLERK
BY DEPUTY DORIS STAMBER

CORRINE GARNER, on behalf
of herself, the six minor
children of Loyal Garner,
Jr., and the estate of Loyal
Garner, Jr.; and

LOYAL GARNER, SR. and SARAH
LEE GARNER, the parents of
Loyal Garner, Jr.,

Plaintiffs

v.

THOMAS LADNER, Chief of
Police of the City of
Hemphill, Texas;

JAMES HYDEN, Deputy
Sheriff of Sabine County,
Texas;

BILL HORTON, Deputy Sheriff
of Sabine County, Texas; and

CITY OF HEMPHILL, TEXAS,

Defendants.

CASE NO.

2-88-13-Ca

COMPLAINT

NATURE OF THE ACTION

1. This is a civil action pursuant to 42 U.S.C. §§ 1983 and 1985(3), the Texas Wrongful Death Act, Tex. Civ. Prac. & Rem. Code Ann. § 71.002 (Vernon 1986), and the Texas Survival Statute, Tex. Civ. Prac. & Rem. Code Ann. § 71.021 (Vernon 1986). The plaintiffs seek compensatory and punitive damages as a result of the brutal, racially motivated killing of Loyal Garner, Jr.

JURISDICTION

2. This Court has jurisdiction of this action pursuant to 28 U.S.C. §§ 1331, 1332, and 1343. The amount in controversy exceeds the sum of ten thousand dollars (\$10,000), exclusive of interest and costs.

PARTIES

3. Plaintiff Corrine Garner is the widow of Loyal Garner, Jr. She sues on behalf of herself, the six minor children of Loyal Garner, Jr., and the estate of Loyal Garner, Jr. She is a resident of Florien, Louisiana, and a citizen of the United States.

4. Plaintiffs Loyal Garner, Sr., and Sarah Lee Garner are the parents of Loyal Garner, Jr. They are residents of Florien, Louisiana, and citizens of the United States.

5. Defendant Thomas Ladner is the Chief of Police of the City of Hemphill, Texas. He is a resident of Sabine County, Texas, and a citizen of the United States. Defendant Ladner is white.

6. Defendant James Hyden is a Deputy Sheriff of Sabine County, Texas. He is a resident of Sabine County, Texas, and a citizen of the United States. Defendant Hyden is white.

7. Defendant Bill Horton is a Deputy Sheriff of Sabine County, Texas. He is a resident of Sabine County, Texas, and a citizen of the United States. Defendant Horton is white.

8. Defendant City of Hemphill, Texas, is a municipal corporation and an independent unit of local government.

STATEMENT OF FACTS

9. During the evening of Christmas Day, December 25, 1987, Loyal Garner, Jr., a black resident of Florien, Louisiana, was taken into custody on minor criminal charges by local law enforcement officials in Sabine County, Texas.

10. While in custody at the Sabine County Jail in Hemphill, Texas, Garner was dragged from his cell and savagely beaten by defendants Ladner, Hyden, and Horton.

11. After he was beaten and severely injured, Garner was dragged back to his cell and left to suffer throughout the night of December 25 and the morning of December 26.

12. Defendants Ladner, Hyden, and Horton knew that Garner needed medical attention after he was beaten, yet they failed to provide it to him.

13. On December 27, Garner died as a result of the injuries inflicted by defendants Ladner, Hyden, and Horton.

14. Prior to his death, Garner experienced great pain and suffering as a result of the injuries inflicted by defendants Ladner, Hyden, and Horton.

15. The actions of defendants Ladner, Hyden, and Horton deprived Garner of life and liberty without due process of law in violation of the fourteenth amendment to the Constitution of the United States.

16. The actions of defendants Ladner, Hyden, and Horton in beating Garner and in failing to provide him with medical care were undertaken under color of state law.

17. The actions of defendants Ladner, Hyden, and Horton in beating Garner and in failing to provide him with medical care were wilful.

18. The actions of defendants Ladner, Hyden, and Horton in beating Garner and in failing to provide him with medical care were undertaken pursuant to a conspiracy among the defendants to deprive Garner of the equal protection of the laws.

19. The actions of defendants Ladner, Hyden, and Horton in beating Garner and in failing to provide him with medical care were racially motivated.

20. The actions of defendant Ladner were within the scope of his employment as the Chief of Police of the defendant City of Hemphill.

21. The actions of defendant Ladner were undertaken pursuant to the custom or practice of the defendant City of Hemphill, Texas.

22. As a result of the defendants' actions, the estate of Loyal Garner, Jr., lost substantial future earnings.

23. As a result of the defendants' actions, the plaintiffs have suffered pecuniary losses, severe mental anguish, grief and bereavement, loss of companionship and society or consortium, and loss of inheritance.

CAUSES OF ACTION

24. The actions of the defendants violated 42 U.S.C. § 1983.

25. The actions of the defendants violated 42 U.S.C. § 1985(3).

26. The actions of the defendants violated the Texas Wrongful Death Act, Tex. Civ. Prac. & Rem. Code Ann. § 71.002 (Vernon 1986).

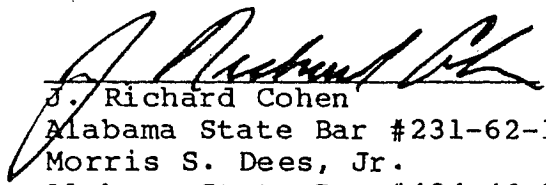
27. The actions of the defendants constituted an assault and battery against Loyal Garner, Jr. The cause of action survives his death pursuant to the Texas Survival Statute, Tex. Civ. Prac. & Rem. Code Ann. § 71.021 (Vernon 1986).

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays that this Court:

1. Award plaintiffs compensatory and punitive damages in an amount in excess of \$10,000, exclusive of interest and costs, against the defendants.
2. Grant plaintiffs such other relief as the Court deems necessary and just.

Respectfully submitted,


J. Richard Cohen
Alabama State Bar #231-62-1092
Morris S. Dees, Jr.
Alabama State Bar #424-46-7003
Post Office Box 2087
Montgomery, AL 36102-2087
(205) 264-0286

Mark Englehart
Texas State Bar #066 24 700
Box 3009
Longview, TX 75606
(214) 758-3009

Laurie W. Lyons/pc
Laurie W. Lyons
1700 Irving Place
Shreveport, LA 71101
(318) 221-8644

ATTORNEYS FOR PLAINTIFFS

Of Counsel:

Hill, Perry & Sloan
Box 3009
Longview, TX 75606
(214) 758-3009

Walker, Joske, Perlman, Lyons & Clawson
Attorneys at Law
1700 Irving Place
Shreveport, Louisiana 71101
(318) 221-8644