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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR KING COUNTY

DENISE JOHNSON, as Personal Representative
of the Estate of Kenneth Williams,

Plaintiff,

vs.

STATE OF WASHINGTON, DEPARTMENT
OF CORRECTIONS,

Defendant.

No. 21-2-05666-7 SEA

COMPLAINT

Plaintiff alleges as follows:

I. INTRODUCTION

1. Kenneth Williams died of cancer on June 12, 2019, in the custody of the Washington Department of Corrections (DOC). He died because DOC failed to provide him with timely diagnosis and treatment for a breast mass that a DOC nurse first identified in March 2018. Due to a series of inexcusable delays on the part of DOC staff, Mr. Williams' cancer was not diagnosed until approximately five months after the mass was discovered, by which time the cancer had metastasized. DOC never provided Mr. Williams with anti-cancer treatment. He spent the last several months of his life in near-constant pain, confined to his bed and a wheelchair,

1 before ultimately succumbing to the disease. Mr. Williams was 63 years old at the time of his
2 death. He left behind a wife and four children. If it had not been for DOC's shocking
3 mistreatment, he would be alive today and be looking forward to his release from prison this
4 year.

5 II. PARTIES

6 2. Plaintiff Denise Johnson is the Personal Representative of the Estate of Kenneth
7 Williams. The Estate of Kenneth Williams was formed in King County, Washington, and is
8 maintained under the jurisdiction of the King County Superior Court, under Cause No. 20-4-
9 00757-6 SEA. Ms. Johnson, acting in her capacity as the Personal Representative, brings this
10 action on behalf of the Estate and the Estate's beneficiaries under Washington's wrongful death
11 and survival statutes, RCW 4.20.005 *et seq.*

12 3. The Estate's beneficiaries are Mr. Williams' surviving spouse, Denise Johnson,
13 and his four surviving adult children, Julie Gobble, Angela Helgeson, Sarah Gendreau and
14 Kenneth Williams, II.

15 4. The Defendant is the State of Washington, acting through its Department of
16 Corrections (DOC). DOC is responsible for administering adult correctional programs in
17 Washington, including the operation of the State's adult prisons. It is responsible for the safety
18 and well-being of more than 15,000 prisoners in its custody. By taking custody of people and
19 confining them in its prisons, where they are powerless to obtain their own medical care, DOC
20 undertakes an affirmative duty to provide necessary care for prisoners' serious medical
21 conditions, consistent with accepted professional standards of care. Through its employment of
22 persons licensed by the State of Washington to provide health care to people in its custody, DOC
23 is a "health care provider" under RCW 7.70.020(3). Under traditional principles of *respondeat*

1 *superior*, DOC is vicariously liable for the negligent or otherwise tortious conduct of its
2 employees.

3 5. As of the commencement of this action, the Defendant has agreed to accept
4 original service of the Summons and Complaint in this matter by email at
5 serviceATG@atg.wa.gov. See [https://www.atg.wa.gov/electronic-service-original-summons-](https://www.atg.wa.gov/electronic-service-original-summons-complaint)
6 [complaint](https://www.atg.wa.gov/electronic-service-original-summons-complaint).

7 III. JURISDICTION & VENUE

8 6. This Court has original jurisdiction over this suit pursuant to RCW 2.08.010 and
9 RCW 4.92.010.

10 7. Venue is proper in this Court pursuant to RCW 4.92.010(1) because the Estate of
11 Kenneth Williams was formed and is maintained in King County, Washington.

12 IV. FACTS

13 8. Kenneth Williams was 60 years old when he entered DOC custody on May 24,
14 2016. At all times material to this lawsuit, Mr. Williams was confined at the Monroe
15 Correctional Complex in Monroe, Washington.

16 9. On March 4, 2018, during a nursing assessment at the Monroe Correctional
17 Complex-Twin Rivers Unit, DOC nurse C. Klimper felt a lump underneath the skin above Mr.
18 Williams' left nipple. She reported this finding to DOC physician assistant P. Ngo. However,
19 neither provider—both of whom were employees of DOC—took any steps to diagnose the lump
20 or arrange for further evaluation. Their failures take these steps fell below the accepted standard
21 of care.

22 10. Two months later, on May 8, Mr. Williams went to sick call complaining about
23 the lump. The nurse who saw him, who was employed by DOC, wrote in his chart, “MA

1 notified[;] appointment made to see provider.” However, no appointment was actually made. The
2 nurse’s actions and omissions here fell below the accepted standard of care.

3 11. Mr. Williams filed a prison grievance on May 27, 2018, stating the following:

4 I need to see a provider. I have signed up 5 times, wrote one kite, went to
5 sick call where the nurses felt the lump in my breast and told me that I
6 would surely see a provider but still nothing on the call outs. This has been
going on for 6 months now and I feel that I have been very patient, could
you please help me. Thank you.

7 12. Instead of assuring Mr. Williams that he would see a provider about the lump in
8 his breast, the grievance coordinator employed by DOC responded by asking for the dates he
9 signed up for sick call so that the grievance coordinator could assess whether he had complied
10 with the 20-day grievance time limit. When Mr. Williams did not respond within seven days, the
11 grievance coordinator withdrew the grievance. The grievance coordinator did not take any steps
12 to ensure that Mr. Williams received necessary medical attention.

13 13. A physician assistant employed by DOC finally saw Mr. Williams on June 5,
14 2018—more than three months after the breast lump was first documented in his medical chart.
15 During that visit, Mr. Williams reported “sharp, knife-like stabbing pain” in his left breast. The
16 DOC provider, R. Smith, confirmed the mass, noted that Mr. Williams’ left nipple was now
17 inverted, and recommended an “urgent” consult for imaging of the mass, noting that a
18 mammogram and ultrasound were indicated.

19 14. Despite the provider’s request for an “urgent” consult, DOC inexplicably waited
20 more than a month before providing Mr. Williams with the required diagnostic tests. This delay
21 by DOC fell below the accepted standard of care.

22 15. A mammogram and ultrasound performed on July 11 confirmed the mass in Mr.
23 Williams’ left breast. The report noted that his mother had had breast cancer at the age of 30. The

1 consulting radiologist, Dr. Nancy Neubauer, concluded that the “[a]rea in the left breast is
2 suspicious,” recommended a biopsy, and notified DOC nurse practitioner Mary Gumbo of the
3 results and recommendation.

4 16. The next day, Nurse Gumbo submitted a request for a biopsy. She noted that the
5 mass in Mr. Williams’ breast was causing him pain and that he had a “significant family
6 [history] of breast cancer.” She marked the request as “urgent,” to be completed within one
7 week. But Mr. Williams did not receive the biopsy until roughly three weeks later, on August 1,
8 2018. This significant delay by DOC in providing Mr. Williams with the “urgent” biopsy in a
9 timely manner fell below the accepted standard of care.

10 17. When the “urgent” biopsy finally occurred, Mr. Williams was diagnosed with
11 invasive ductal carcinoma.

12 18. The results of the biopsy were discussed with Jaimie Arcand at DOC on August 7,
13 2018, but astoundingly, nobody from DOC bothered to notify Mr. Williams of his cancer
14 diagnosis until a week later, when he happened to visit his DOC provider because he was
15 suffering severe pain. This delay in informing Mr. Williams of his cancer diagnosis fell below
16 the accepted standard of care.

17 19. On August 17, 2018, DOC physician assistant Adelaide Horne asked for an
18 emergent CT scan to be completed within two days, noting that a recent chest x-ray showed “an
19 osseous lesion with pathologic fracture of the left 9th rib and a fracture of the 5th left rib.”

20 20. DOC ignored P.A. Horne’s “emergent” request for a full ten days before
21 approving it. Incredibly, it then allowed two more months to pass before sending Mr. Williams
22 out for the scan—a scan that was supposed to be completed within two days. DOC’s decision to
23

1 ignore P.A. Horne’s emergent request and its decision to allow two more months to pass before
2 sending Mr. Williams out for the scan fell below the accepted standard of care.

3 21. DOC finally arranged for Mr. Williams to see an oncologist on August 23,
4 2018—almost six months after Nurse Klimper first discovered the lump in his breast. DOC’s
5 gross delay in this regard fell below the accepted standard of care.

6 22. After performing an assessment, the outside oncologist wrote, “[I]t is likely [Mr.
7 Williams] has a metastatic breast cancer from the left breast.” He recommended that Mr.
8 Williams be referred to a surgeon and a radiation oncologist and that he “start chemotherapy
9 ASAP.” He also recommended a port placement, a CT scan, a brain MRI, and a bone scan.

10 23. But DOC’s inexcusable foot-dragging continued. The agency waited almost two
11 months to complete the CT scan and bone scan. It never arranged for a port placement and never
12 started chemotherapy—or any other treatment for that matter. DOC’s delays and failures in
13 regard to these recommendations fell below the accepted standard of care.

14 24. Weeks went by as the cancer continued to spread and Mr. Williams endured
15 persistent and worsening pain.

16 25. On October 2, 2018, Mr. Williams sent a written note to medical staff with the
17 following complaint:

18 The pain meds that you have been giving me are no longer taking the pain
19 away. The cancer is so bad in my ribs and my lungs and my back that I
can no longer lay down.

20 26. He filed a grievance the same day, practically begging for treatment:

21 Have not received or heard any results from the taking of water off my
22 knee, in order to find out if I have an infection that will keep me from
undergoing chemotherapy. Need to treat infection or start chemo
23 immediately. I do not have long to live according to an outside specialist
who is the fourth leading cancer doctor in the world. He told me I need to

1 start chemo aggressively right away or would not live nine months. This
2 was 2 months ago. What is taking so long?

3 27. A few days later Mr. Williams submitted yet another grievance pleading with
4 DOC to start treatment:

5 The oncologist told me on August 22nd, 2018 that I needed to start
6 aggressive chemotherapy, a.s.a.p. and said he would schedule me for the
7 following week. This was now seven weeks ago, almost two months and I
8 have not been given any reasons for the delay. I am dying, what is holding
9 up my treatment that will save my life?

10 28. As before, the DOC grievance coordinator callously ignored the substance of Mr.
11 Williams' pleas and instead responded to both grievances by citing administrative defects and
12 noting that the grievances appeared to be beyond the 20-day grievance timeline.

13 29. The grievance coordinator dismissed both grievances when Mr. Williams, now in
14 excruciating pain, failed to rewrite them.

15 30. The grievance coordinator did not take any steps to investigate or address the
16 serious treatment delay about which Mr. Williams complained. As a result, the untreated cancer
17 continued to spread, and Mr. Williams continued to suffer.

18 31. Throughout this period, Mr. Williams' family repeatedly contacted DOC officials,
19 imploring them to intervene to get their loved one the treatment he needed. But their appeals
20 went unheeded.

21 32. Mr. Williams underwent a whole-body bone scan on October 16, 2018, which
22 revealed "Multifocal skeletal metastatic disease."

23 33. A chest CT on the same day showed (1) a left chest wall mass measuring 3.3 x 2.8
cm, (2) multiple pulmonary nodules "which could represent pulmonary or pleural metastases,"
and (3) "[i]nnumerable lytic lesions throughout the entire visualized skeleton with multiple
subacute appearing pathologic rib fractures, extensive involvement of the lower thoracic and

1 lumbar spine, and a more permeative appearing lesion in the proximal right femoral shaft.” The
2 consultation report back to DOC included a recommendation that Mr. Williams be “transported
3 by stretcher in future due to severe pain issues during transfer to imaging table.”

4 34. On November 9, 2018, having been deprived of treatment for approximately eight
5 months in gross violation of the applicable standards of care, in severe pain and not wanting to
6 prolong his suffering, Mr. Williams signed a form declining treatment. The reason he cited for
7 declining treatment was “too much pain to travel.” In fact, there is no indication that DOC ever
8 actually offered Mr. Williams any treatment for his cancer.

9 35. Mr. Williams spent the last seven months of his life in a prison medical ward,
10 confined to a bed or wheelchair, in severe and near-constant pain. He died on June 12, 2019.

11 36. Mr. Williams’ death was not the result of a good-faith error in judgment by a
12 well-meaning medical provider. Rather, it was the result of systemic negligence that permeated
13 the DOC healthcare system, causing many patients with life-threatening illnesses to suffer. The
14 Washington Office of the Corrections Ombuds has identified at least thirteen cases over just the
15 past four years in which DOC failed to provide timely diagnosis and/or treatment to patients with
16 cancer, causing worsening conditions, suffering, and/or death.

17 37. Throughout most of the period of Mr. Williams’ illness, medical care at the
18 Monroe Correctional Complex was overseen by MCC Medical Director Julia Barnett. Two
19 months before Mr. Williams died, DOC fired Dr. Barnett, in part because she failed to “make
20 timely and necessary arrangements for adequate medical care to be provided to patients outside
21 of MCC; ensure that providers whom [she] clinically supervised were providing timely, adequate
22 medical care, evaluation or assessments; [and] ensure that sufficient documentation and charting
23 was occurring so that the patient’s condition could be adequately monitored.”

1 subjecting Defendant to liability under RCW 7.70.030-040 and the common law tort of
2 negligence.

3 43. The claims in this lawsuit are brought against DOC by Plaintiff on behalf of the
4 Estate of Kenneth Williams and Mr. Williams' beneficiaries, as authorized under RCW 4.20.010
5 *et seq.*

6 VI. SATISFACTION OF STATUTORY REQUIREMENTS

7 44. In compliance with RCW 4.92.100, Plaintiff submitted a tort claim to the
8 Washington State Department of Enterprise Services, Office of Risk Management on October 5,
9 2020. Plaintiff's tort claim substantially complied with the requirements of that statute. More
10 than 60 days have elapsed since Plaintiff filed the claim.

11 45. The Plaintiff does not elect to submit this dispute to arbitration pursuant to RCW
12 7.70A.020. Counsel's declaration confirming this decision is submitted with this complaint.

13 VII. REQUEST FOR RELIEF

14 Plaintiff asks this Court to order the following relief:

15 46. All compensatory damages authorized by law to the Estate of Kenneth Williams
16 for the injuries suffered by Mr. Williams as a result of the actions and inactions described in this
17 Complaint and as otherwise learned in the course of discovery.

18 47. All compensatory damages authorized by law to Mr. Williams' surviving
19 beneficiaries for the injuries they suffered as a result of the actions and inactions described in
20 this Complaint and as otherwise learned in the course of discovery.

21 48. An award of all allowable costs and attorney fees; and

22 49. Such other relief as the Court deems just and proper.

1 Dated this 29th day of April, 2021.

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