

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

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ANTHONY MURFF,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 00-2827-GV
	)	
LAUDERDALE COUNTY, et al.,	)	
	)	
Defendants.	)	

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PRETRIAL ORDER

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This matter came before this court on September 12, 2002, for a final pretrial conference pursuant to Rule 16 of the Federal Rules of Civil Procedure. Present were Earle J. Schwarz, attorney for plaintiff Anthony Murff, and J. Thomas Caldwell, attorney for defendants Lauderdale County and others. Based upon the statements of counsel, upon the proposed pretrial order submitted by the defendants, and upon Murff's additions to this proposed pretrial order, the court finds as follows:

I. NATURE OF THE CASE

This is a civil rights violation lawsuit. The plaintiff, Anthony Murff, was a state prisoner in the Lauderdale County Jail at the time of the facts giving rise to this action. He initially filed this lawsuit pro se against multiple defendants, of whom Lauderdale County and certain of its employees remain. Murff

alleges that the defendants exhibited deliberate indifference to his need for medical care in violation of his Eighth Amendment constitutional right to be free from cruel and unusual punishment. He also asserts that the defendants held him in special confinement after he asserted his constitutional rights on September 7, 2000, in violation of his First Amendment constitutional right to petition the government for redress of grievances.

The defendants deny that they violated Murff's constitutional rights.

## II. JURISDICTION

Jurisdiction under 42 U.S.C. § 1983 is uncontested.

## III. PENDING MOTIONS

No motions are pending before this court.

## IV. STATUS OF PLEADINGS

The defendants' motion for summary judgment was denied by this court in an order entered September 27, 2001.

## V. STATUS OF DISCOVERY

The parties have complied with Federal Rule of Civil Procedure 26(b) governing pretrial disclosures. No later than Wednesday, September 18, 2002, the defendants will provide to Murff's counsel a list of inmates previously occupying Murff's assigned cells, and a record of whether any of those previous occupants was diagnosed with any blood-borne disease. The defendants will provide the

records under seal to preserve confidentiality of medical information.

#### VI. SETTLEMENT NEGOTIATIONS

The parties have been unable to settle this case.

#### VII. CONTENTIONS OF THE PARTIES

##### A. PLAINTIFF'S CONTENTIONS

Anthony Murff was arrested May 27, 2000, and confined in the Lauderdale County Jail pending trial on an indictment for especially aggravated robbery. He was tried and convicted of this offense on February 22, 2001. He remained in the Lauderdale County Jail continuously until after sentencing, and he was transferred to the Department of Correction on March 22, 2001. Murff contends that the defendants failed to provide him with medication prescribed by outside medical personnel, and that the defendants denied him follow-up care with his physician and additional surgery.

Murff also contends that he filed this lawsuit on September 7, 2000, and that the defendants were aware of the filing. He alleges the defendants retaliated against him by withholding his medication; by placing him in a solitary cell; by attempting to confiscate his medical request forms; and by moving him to a cell contaminated with blood from a prisoner who was HIV-positive and denying him supplies to clean the cell.

## B. DEFENDANTS' CONTENTIONS

The defendants contend that Murff was afforded extensive medical care and attention during his incarceration in the Lauderdale County Jail. They deny retaliatory conduct by county officers. They contend that Murff sustained no damages as a result of any action or non-action by Lauderdale County officials; that all Murff's medical expenses were paid by the county; and that Murff had two operations at the expense of the County for conditions that antedated his incarceration.

## VIII. UNCONTESTED FACTS

1. Murff complained of asthma, high blood pressure, and a fatty facial tumor at the time of his admission to the jail.

2. Murff was placed in a dormitory cell at the time of his admission and moved to a separate cell after a confrontation with a jailor.

3. While in the separate cell, Murff was seen by a jail nurse whenever he put in an inmate's medical request form.

4. Murff had been seen by Dr. Joe Hunt before being arrested. Dr. Hunt had taken an X-ray and referred Murff to Dr. Babin.

5. After his arrest, Murff saw Dr. Babin, who diagnosed a facial fracture that Murff had sustained in robbery attempt to his person before his arrest.

6. On June 12, 2000, Murff made a medical request because of facial pain. He was seen on June 14, 2000, by Dr. William Tucker, who prescribed pain medication. Murff told Dr. Tucker that he had been advised to see Dr. Babin.

7. On June 20, Murff again asked to see Dr. Tucker, and saw Dr. Tucker on June 21, 2000.

8. Murff saw the jail nurse by medical request form on June 27, 2000, and was told by her that he was to see Dr. Babin. Murff's medication was changed.

9. Murff saw Dr. Babin on July 6, 2000.

10. Murff filed other requests and was then seen by Dr. Zaidi at the jail. Dr. Zaidi prescribed pain medication.

11. Dr. Babin performed surgery on Murff on August 30, 2000. Murff was returned to his cell.

12. Murff was then given a job in the jail laundry.

13. Murff had a follow-up appointment with Dr. Babin on September 3, 2000, at which time Murff was found to have a lipoid tumor on his jawbone.

14. On September 9, 2000, Murff saw Dr. Zaidi at the jail. Dr. Zaidi did not think the tumor was significant, and he told Murff not to worry about it.

15. Somewhere around this time, Murff was placed in a special, two-room security cell.

16. On October 7, 2000, Murff again saw Dr. Zaidi. Dr. Zaidi iterated that the tumor was not significant. Dr. Zaidi prescribed additional medication, which Murff received. Murff took this medication for a month.

17. Murff was then placed in a separate lock-up.

18. On November 1, 2000, Dr. Duggirala removed the growth on Murff's jaw.

19. On November 19, 2000, Murff tripped on a bolt in his cell and injured his shoulder. One of the jailors assisted him.

20. Murff continued to have trouble and saw Dr. Zaidi on November 25, 2000. Dr. Zaidi X-rayed Murff's shoulder on November 30, 2000.

21. Murff had no further medical problems from November 30, 2000, until his transfer to the Department of Corrections on March 22, 2001.

#### IX. CONTESTED ISSUES OF FACT

1. Whether the defendants provided pain medication to Murff after Murff's consultation with Dr. Zaidi and surgery by Dr. Babin (see UNCONTESTED FACTS above, paragraphs 10 and 11).

2. Whether the defendants furnished medical care to Murff in the timeframe during which medical services should have been provided.

3. Whether the defendants retaliated against Murff for

filing his federal court complaint or otherwise asserting his federal rights.

4. Whether Murff sustained any damages as a result of the defendants' alleged conduct.

#### X. CONTESTED ISSUES OF LAW

1. Whether county officers were deliberately indifferent to Murff's medical needs;

2. Whether county officers intentionally took adverse action against Murff as a result of his exercise of constitutionally protected conduct.

#### XI. EXHIBITS

##### A. PLAINTIFF'S EXHIBITS

Murff anticipates introducing copies of the following:

1. Various medical request forms with responses from the defendants;

2. Jail records evidencing Murff's cell assignments; and

3. Medical records of the inmates previously occupying cells to which Murff was confined.

##### B. DEFENDANTS' EXHIBITS

Defendants anticipate introducing copies of the following:

1. Murff's records from Baptist Memorial Hospital, Lauderdale;

2. Murff's records from Independent Radiologists;

3. Murff's records from Prasad S. Duggirala, M.D.;
4. Murff's records from West Tennessee Anesthesia;
5. Murff's records from Anatomical Pathology;
6. Murff's records from Richard Babin, M.D.;
7. Murff's records from Dr. Robert, Pathologist at Memorial Hospital;
8. Murff's records from C. Ray Brunson, M.D., at Baptist Memorial Hospital;
9. Murff's records from Crain's Pharmacy;
10. Murff's records from Mays-Dunavant Pharmacy;
11. Murff's records from Lauderdale County Sheriff's Department; and
12. Murff's records from the Tennessee Department of Corrections.

## XII. WITNESSES

### A. PLAINTIFF'S WITNESSES

Plaintiff Murff will call himself to the stand, and may call any other witnesses from the defendants' witness list.

### B. DEFENDANTS' WITNESSES

1. Sheriff Louis Craig;
2. Charlie Paige;
3. Tim Bratton;
4. Wesley Ray;

5. Dottie McCadney;
6. Rhonda Mack;
7. Billie Jean Luttrell;
8. Rhonda Mullins, R.N.; and
9. Debby Cherry, R.N.

#### XIII. TRIAL

The case will be tried without a jury before United States Magistrate Judge Diane K. Vescovo. Earle J. Schwarz will represent the plaintiff. J. Thomas Caldwell will represent the defendants. The trial is expected to last one to one-and-one half days, and it is set for September 19, 2000, beginning at 9:30 a.m.

#### XIV. PRETRIAL ORDER CONTROLS

This pretrial order governs the conduct at trial and constitutes the final statement of the issues involved. All pleadings are hereby amended to conform to the pretrial order, and this order supplants the pleadings. This order may be modified at the trial of the action or prior thereto to prevent manifest injustice.

IT IS SO ORDERED September 13, 2002.

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DIANE K. VESCOVO  
UNITED STATES MAGISTRATE JUDGE