

21-7179

No.20-14718-GG

District Court Docket No:1:20-cv-00102-JRH-BKE

IN THE

SUPREME COURT OF THE UNITED STATES

Precious Wiley-PETITIONER

vs.

United States Government, Eisenhower Army Medical Center

Department of Veterans Affairs,et al-RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

Precious Wiley

628 Martin Luther King Street

Thomson, Georgia, 30824

706-466-6085

ORIGINAL

Supreme Court, U.S.
FILED

NOV 30 2021

OFFICE OF THE CLERK

RECEIVED

FEB 23 2022

OFFICE OF THE CLERK
SUPREME COURT, U.S.

RECEIVED

JAN - 6 2022

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

1. Why did the district court, order suasponete dismissing the appellant Precious Wiley Pro-se complaint under the Federal Tort claims Act alleging the wrongful death of her husband, Mr. Randy B. Wiley, due to an Eisenhower Army Medical Center Employees negligence.
2. Why was in her husband medical records was another person with someother kind of treatment other than what her husband was there for.
3. Why did the district court found that Mrs. Wiley failed to effectually proper service on Eisenhower Army Medical Center(EAMC) and the other Defendants, the appellant Wiley used the Address that was provided to her, she mail the Complaint with all the proper Documents.
4. Why was the Defendants did not respond to the documents, that she served each of the defendants with a copies of the complaint by certified mail and mail copies of the certified notices to the Veterans Affairs office and the United State Attorney for the Southen District of Georgia.
5. Why did the Defendants did not Responded to the appellant complaint after placing a copy of the summons and complaint in the U. S. Postal service.

LIST OF PARTIES

PRECIOUS WILEY, Surviving spouse of RANDY B. WILEY

Appellant:

UNITED STATES GOVERNMENT, DEPARTMENT OF VETERANS AFFAIRS:

EISENHOWER ARMY MEDICAL CENTER;

Appellee's:

RELATED CASES

1. 13 MILLION--- POOR POST OPERATIVE CARE: A SETTLEMENT RECEIVED IN A CASE AGAINST A U.S. GOVERNMENT- EMPLOYED HEALTHCARE PROVIDER IN HAWAII WHOSE POOR POST OPERATIVE CARE RESULTED IN BRAIN DAMAGE AND CEREBRAL PALSY.
2. 24.25 MILLION FAILURE TO DIAGNOSE: A RECORD BREAKING MEDICAL MALPRACTICE JURY VERDICT IN THE DISTRICT OF COLUMBIA, OBTAINED FOR A CHILD WHO SUFFERED BRAIN DAMAGE AND CEREBRAL PALSY BECAUSE HER DOCTORS FAILED TO PROPERLY DIGNOSE AND RESPOND TO AN AIRWAY OBSTRUCTION.

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TABLE OF AUTHORITIES CITED

CASES:

1. 13 million poor post operative care: a settlement received in a case against a U. s. Government-employed healthcare provider in Hawaii whose poor post-operative care resulted in brain damage and cerebral.
2. 24.25 million failure to diagnose: a record breaking medical malpractice jury verdict in the District of Columbia. Obtained for a child who suffered brain damage and cerebral palsy because her doctors failed to properly diagnose and respond to an airway obstruction.

STATUTES AND RULES:

Loved ones of family members who died because of medical errors can pursue a wrongful death claim on behalf the victims estate and beneficiaries. the potential recovery for wrongful death and other damages is governed by State law and will vary from state to state. Victim of Veterans administration medical malpractice may also qualify to receive benefits from a section 1157 disability claim as well: in contrast to an FTCA claim, a section 1157 claim can only be filed for if the injury took place at the veterans administration hospital outpatient clinic or during a medical examination or surgery. typically, these require less evidence than what is required for an FTCA claim would. A veteran can be awarded both an FTCA settlement and section 1157 benefits, however the veterans administration will hold any disability payment until the a offset the total amount paid in a Federal Tort Claim settlement, also unlike disability compensation, any compensation received from your FTCA claim is paid in one Lump Sum rather than in monthly payments.

OTHER:

The Department of Veterans Affairs expanded veterans access to prival healthcare facilities through the VA mission Act. Claiming that this would increse the number of veterans eligible to received such access from 8% to 40%. veterans who received substandard care at one of these Non-VA Facilities: known as community care providers, may still be eligible to file a lawsuit to recover damages. ie Negligent VA Care: the effect such inquiries have on overall physical health and well-being physical pain and mental anguish loss of enjoyment of life. disfigurement and associated humiliation or embarrassment medical and other expenses, loss of earning and earning capacity.

**IN THE
SUPREME COURT OF THE UNITED STATES**

PETITION FOR WRIT OF CERTIORARI

Petitioner Respectfully Prays that a Writ of Certiorari Issue to Review the judgment below:

OPINIONS BELOW

For cases from Federal Courts:

The Opinion of the United States Court of Appeals at Appendix A to the petition and is has been designated for publication but is not yet reported:

The Opinion of the United States District Court Appeals at Appendix B to the Petition and is has been designated for publication but is not yet Reported:

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Medical Malpractice occurs when a health care professional or provider neglects to provide appropriate treatment, omits to take an appropriate action or gives substandard treatment that causes harm, injury or death to a patient, the malpractice or negligence normally involves a medical error. This could be diagnosis, medication dosage, health management treatment. Medical malpractice law makes it possible for patients to recover compensation from any harms or death that result from sub-standard treatment. According to the medical Malpractice Center in the United States, there are 15,000 to 19,000 medical malpractice suits against doctors every year. The standard and regulation for medical malpractice can differ between countries and states. Professionals are legally responsible if the patient experiences harm or death because the healthcare provider deviated from the quality of care that is normally expected in similar situations.

FAILURE TO PROVIDE A PROPER STANDARD OF CARE:

Standard that healthcare professionals adhere to certain standards or potentially, face an accusation of negligence. An injury must have damaging consequences, if a patient feels the provider was negligent, they must prove that negligence caused injury, harm or death and that without the negligence it would not have happened.

THE INJURY MUST HAVE DAMAGING CONSEQUENCES:

The patient must show that the injury, harm or death caused by the medical negligence resulted in considerable damage or death.

1. a professional duty owed to the patient.
2. breach of such duty.
3. injury caused by the breach.
4. resulting damages this includes doing something, this may be considered an Act of omission or a negligence.

The first step is to file an Administrative Claim with the Veterans Affairs Regional Counsel where the Malpractice took place.

A properly completed, signed form 95, claim for damages, injury or death must be received by the appropriate government office within two years after the Malpractice is committed if the claim is denied by the Veterans Affairs at the Administrative level, you only have six months to file a suit in Federal Court.

The form 95 Claim form provides an overview of your case, as well as outline your injuries or death and the amount of compensation that you are seeking.

In contrast to an FTCA Claim, a Section 1157 Claim can only be filed for if the injury or death took place at the Veterans Affairs Hospital, Outpatient Clinic or during a Medical Examination or surgery, typically, these require less evidence than what is required for an FTCA Claim and cover less Negligent Acts than a FTCA Claim would. A Veteran can be awarded both an FTCA Settlement and Section 1157 benefits, however, the Veterans Administration will hold any disability payment until they can offset the total amount paid in a Federal Tort Claim Settlement any compensation received from your FTCA Claim is paid in a one lump sum rather than in monthly payment.

Other proof can also be submitted also with your claim, any information on any future expected medical expenses, proof of anticipated lost of future income, an employers statement about missed work days. A statement from your doctors and treating physician and relevant medical records.

After the claim is initially submitted, Lawyers for the Veterans Affairs will OFTEN request an in person interview with the claimant or in the case of a wrongful death claim, the Estate Representative. It is important that the claimant have their own Attorney present for any interviews.

After the claim is fully submitted, the veterans affairs will have six months to issue a respond to your administrative claim and will either accept an offer to settle or deny the claim.

The effect of such injuries have on overall physical health and well-being, physical pain and mental anguish, loss of enjoyment of life, disfigurement and associated humiliation, embarrassment, medical and other expenses, loss of earning and earning capacity and finely death.

The department of Veterans Affairs expanded Veterans access to prival healthcare facilities through the Veterans Affairs Mission Act. Claiming that this would increase the of veterans eligible to receive such access from 8% to 40%. Veterans who received substandard care at one of these non-Veterans Affairs Facilities: known as community care providers, may still be eligible to file a lawsuit to recover damages.

While active service members can now file claims with the Department of Defense, they are still barred from filling in Federal Court. However, Military Families and Veterans may file a claim in Federal Court under the FTCA.

Notice must be presented to the appropriate Federal Agency. Such as the department of the Army, Navy, Marines or Air Force or The Veterans Administration.

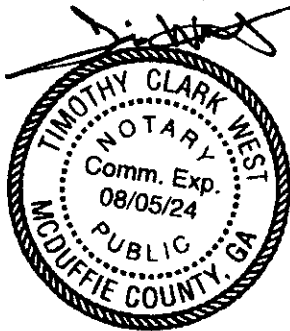
Compensation in wrongful death cases may be available for:

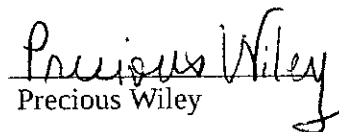
The deceased, Pain, suffering and lost of earnings. For certain survivors, mental anguish and lossof love ones, companionship and financial support. Under the Feres Doctring Active service members and Veterans have long been unable to bring medical malpractice Claims against the government Noe, as a Result of SFC Richard Stiayskal, Military Medical Accountability Act.

This law allows Active duty Military members and Veterans to bring Administrative claims for Compensation for their injuries caused by Medical Malpractice. Loved of family members who died because of medical errors can pursue a wrongful death claim on behalf of the Victims Estate and beneficiaries, the potential recovery for wrongful death and other damages is governed by State law and will vary from state to state. Victim of Veteran Affairs Medical Malpractice may also qualify to receive benefits from a section 1157 disability claim as well. The Veterans written denial of your claim or failure to issue a response within six month. Which is considered a constructive denial, will allow you to file a lawsuit in Federal Court. After the Lawsuit is Started the case will undergo a mandatory settlement conference. Claims often resolve at this stag. Sometime cases need to be tried to conclusion by presenting live witness and expert testimony in court.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on This 13 day of November 2021




Precious Wiley

STATEMENT OF THE CASE

The plaintiff Precious Wiley is an African American Female, who is the Surviving Spouse of Randy B. Wiley a United States Army Veteran.

The plaintiff have fulfilled all conditions precedent to the institution of this action under Title of this action under Title VII of the Act of Congress known as the Civil Rights Act of 1991, the plaintiff timely filed Her complaint of Wrongful Death and Neglect with Government of(OOCC) and the Government(FTCA).

The defendant, the United States Government, Hereinafter known as the Veterans Affairs and Eisenhower Army Medical Center. Is an entity subject to suit under Title VII of Congress known as the Civil Rights Act of 1964, as Amended by the Civil Rights Act of 1991 and the FTCA.

Randy B, Wiley, was never the same person that left Thomson, Georgia in 1972 after servicing in Vietnam he was never the same. Years later he found out that he was Exposed to Agent Orange Radiation and Ionizing and was highly Exposed to these Substance during his time in Vietnam in 1972, that were later found to be Cancer that he had.

Randy suffered from PTSD, he was in and out some days he had several horrible experiences at night, talking about what he had to go through to get back home safe to his family.

We reach out to the Veterans Affairs in the Agent Orange and Ionizing Radiation Clinic without any successful help, something could and should have been done years ago, My Husband was Neglected in the Care of the United States Government.

After meeting with the Doctors at the Veterans Affairs Hospital, Randy B. Wiley, my Husband was diagnose with Cancer, we were told that we would be hearing from someone at Eisenhower Medical Center soon to set up an Pre-Opt Evaluation. Two weeks passed and we had not heard from Eisenhower Medical Center at Fort Gordon Georgia.

Finally I reached someone that told me that "the reason why anyone have not got back with me is because no was there because they celebrated Friday through Monday Veteran Day" that is the reason they could not find out if he was scheduled for Surgery and was because someone,Dropped the Ball.(ie) I was told that someone would get with us on Tuesday after waiting for a call, I called them myself and they inform me that I would be hearing from them soon. The plaintiff got a ROBO call on Wednesday stating that Randy needed to be there on Thursday for pre-opt, he had to have all test done in one day and return home the same day, before the surgery the next day on Friday, some tests that he needed to be done was to late, when he should have stayed over-night. The next day after returning to Eisenhower Medical Center he had Surgery, the surgery and everything went well he went to ICU for two days. And he was doing well; was eating well so he was moved to the floor when he got to the floor he was eating and talking well getting IN and Out of bed doing well.

The night before he developed a temperature, the staff put a patient in the room with Randy that patient had a fever, this patient stated to the nurse that was on duty that, he felt like he did when he Contracted Blue Mountain Fever,they knowingly put an patient in the room with my husband that had a fever, when my husband who just had surgery, that is unheard of the next day the patient was moved, now the same male nurse(name unknown) that had been taken care of that patient with the high fever is now taking care of my husband the very next day.

After being on the floor for days with my husband I notice that his incision did not have a dressing on it and it was RED and that it had some dropping coming from it, I inform the nurses at the nurses station that was on duty at the time, they seem to not care about what I was informing them about and what I saying and wanted to show them about my husband they seem to think nothing was wrong, it do sometimes(ie). The night before my husband developed a Temperature, the defendants at Eisenhower Army Medical Center place a patient in the room with my husband that had a fever, my husband was neglected. This patient said to the nurse that was on duty that he felt like he did when he contracted Blue Mountain fever they place this patient in the room with my husband knowing that he had a high

fever. The defendant refused to put on a dressing where the incision was, two(2) days after being on the floor I notice that my husband incision did not have a dressing on it and it was red and that it had some dropping draining from it.

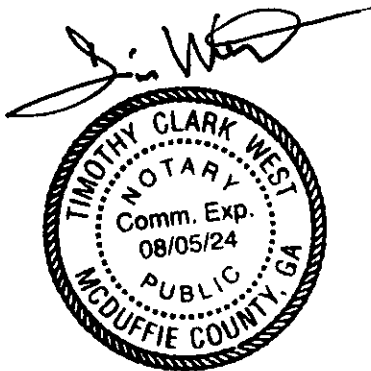
Sometime afterward Randy develop a High temperature which they said it was "99", but about an hour later I was standing beside my husband and his Body was overly Hot as fire. I asked the nurses on duty would someone take his temperature again, they did not want to, I asked them again if they(ie) the nurses on duty if they did not mind, after asking them a number of times to do so, a nurse came in to do so, then the nurse said it was '102" the same male nurse finally came into my husband room where I had been waiting and sitting for over three hours before he even came into the room to check on my husband that morning, he said to me, why was I not making my husband blow into the Spirometer that was at the bedside. He said that he should have been blowing into it every half hour to an hour, I stated to him, I did not know that I was the one to do that, that it was the nurses on duty to do that so he could prevent him from getting Pneumonia, I told the male nurse, I had no idea how often he was supposed to be blowing into it. The nurse attitude was not professional and I was very dissatisfied and I was unsatisfied with the care that was been given to my husband, he became very disoriented, they gave him a shot of Ativan and my husband got worse, I asked them not to give him another shot of Ativan, but that did not matter what I said, the Doctor stated that is what my husband needed, I said to the doctor, that I do not know what has gone wrong, but something has gone terribly wrong with my husband, the doctor also said to me that, he think the reason all of this was happening was because my husband was going through DT's.i stated to the doctor "you do not think that my husband might have an infection, because he has all the symptoms(ie) the fever and all. The doctor said "they both have the same symptoms, when they finally checked my husband for infection, the incision was 100% infected, the Lungs and his organs everything my husband had become septic and developed Pneumonia, now my husband had to go back into surgery again. Doctor Kilbourne

and the I decided to move my husband to Augusta University because the doctors at Eisenhower Army Center said that my husband had two stokes and Eisenhower Army Medical Center did not have the proper Equipment needed to take care of my husband and that my husband was in extremely critical condition, when he got to Augusta University Medical Center. After the Doctors and Nurses on call at Augusta University checked my husband, my husband never even had a strokes as the doctor had stated at Eisenhower, the doctor at Augusta University was able to get my husband awake after being out for days. After 84 days in ICU and 9 surgeries, I was so Greatful that a casualty notification Team did not have to come to notify me. Because I watched my husband go from a vibrate strong loving man that love life to the fullness, to a weak depressed, disoriented and stressful man, to skin and bone. My husband was in Isolation in ICU the whole time at Augusta University, my husband expired(died) February 3, 2020 after 93 day in both Hospitals. The defendant has refused to give proper Treatment to my husband sometimes afterwards my husband had develop a Temperature which they said it was "99", but about an hour later I was standing beside my husband and his body was overly hot a fire. So the plaintiff asked the nurses that was on duty wound they take her husband temperature again, they did not want to, the plaintiff asked a number of times if they did not mind after asking them a number of times to do so, the nurse stated that my husband temperature was 102. by refusing to take my husband temperature the same male nurse finally came into the plaintiff room where I had been waiting for over three hours before anyone even came in to check on my husband that morning. This is neglect. The defendant engaged in neglecteful practices, the nurse ask the plaintiff why was I not making my husband blow into the spirometer that was at the bedside. He stated that he should have been doing it every half a hour to an hour. The plaintiff inform the nurse it was the nurses on duty to do that so my husband could prevent my husband from getting pneumonia, it was the nurses on duty to take care of my husband. The negligence and wrongful death, the defendants engages in patterns and practices of negligence they gave my husband a shot of ativan and he got worse and became very disoriented. I repeatedly requested not to give my husband another shot of ativan, but the doctor gave my husband

another shot. She stated that she did not know what has gone wrong but that something had gone terribly wrong with my husband. I also stated that, I think that my husband might have had an infection, because my husband has all the symptoms, when the defendant finally checked my husband for infection, the incision was 100% infected the lungs and all of my husband organs, my husband had become septic and had developed Pneumonia. The doctor stated that my husband needed to be moved to Augusta University Medical Center, because the doctors at Eisenhower Army Medical Center thought that my husband had two(2) stokes and that Eisenhower Army Medical Center did not have the proper equipment needed to take care of my husband, The Doctor on duty stated that my husband was in extremely critical condition, when my husband got to Augusta University Medical Center, after the doctor on duty checked my husband stated that my husband never had two strokes, the doctor at Augusta University was able to get my husband awake after being out for days at Eisenhower, after 84 days in ICU and 9 surgeries, I watched my husband go from this vibrant strong loving man that enjoyed life to the fullest to a weak depressed, disoriented and stressful man, to skin and bones. My husband was in Isolation the whole time in an ICU at Augusta University, my husband expired(died) February 3, 2020, after 93 days in both hospital, I reach out to the Veterans Affairs in the Agent Orange/Ionizing radiation clinic without success. Something could and should have been done years ago, this is why the Plaintiff is filling this civil action because my husband was neglected in the care of the U. S. Government, and this was Medical malpractice that cause my husband Wrongful Death.

I declare under penalty of perjury that the foregoing Statement is true and correct.

Executed on This 13 day of November 2021



Precious Wiley
Precious Wiley

REASONS FOR GRANTING THE PETITION

The Petitioner have suffered Mental distress, emotional pain and anguish and the consequence of the defendants unlawful conduct of neglected and Medical Malpractice and Wrongful Death of her husband Randy B. Wiley.

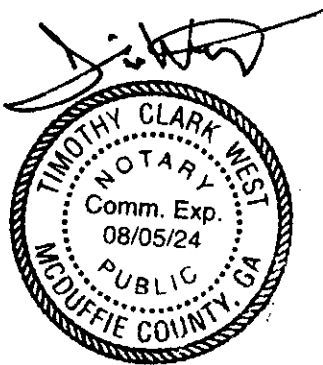
WHEREFORE, the Petitioner pray that this Petition be Granted and assume Jurisdiction of this Action and issue a declaratory Judgment that the Neglected and Medical Malpractice and Wrongful Death policies and practices and procedures and condition and custom of the defendants are violative of the right of the petitioner husband civil rights secured by 42 U.S.C.1964 and Title VII of the Act of Congress known as the Civil Rights Act of 1991. 42 U. S.C. 200 et seq.

Grant the petitioner a permanent injunction enjoining the defendants its agents, successors, employees, attorneys and those acting in concert with the defendants. And at the petitioner request from continuing to violate 42 U.S.C. Title VII.

Enter and order requiring the defendants to back date the petitioner pension for Agent Orange/Ionizing Radiation, by awarding the petitioner back pay(plus interest) damages, lost seniority, all Burial Benefits, lost of pension, liquidated damages, compensatory damages and punitive damages. The petitioner further pray for such other relief and benefits as the cause of justice may requires including, but not limited to an Award of costs of filling fee and other expenses.

I declare under penalty of perjury that the above information is true and correct understand that false statements may result in a dismissal of my claim and action.

This 13 day of November 2021



Respectfully Submitted
Precious Wiley
Precious Wiley-Pro-se