

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**MARGARET MITCHELL, AS  
ADMINISTRATRIX OF THE  
PENDING ESTATE OF ANTHONY  
DON MITCHELL,**

**Plaintiff,**

**v.**

**SHERIFF NICK SMITH, IN HIS  
INDIVIDUAL AND OFFICIAL  
CAPACITY, CORRECTIONS  
OFFICERS T.J. ARMSTRONG,  
DENZEL MITCHELL, BRAXTON  
KEE, BAILEY GAINEY,  
KATHERINE CLIGAN, JACOB  
SMITH, JEREMY FARLEY,  
RICHARD HOLZMAN,  
BENJAMIN SHOEMAKER,  
DAYTON WAKEFIELD, NURSE  
PRACTITIONER ALICIA  
HERRON, NURSE BRAD  
ALLRED, AND INVESTIGATOR  
CARL CARPENTER,**

**Defendants.**

**CIVIL ACTION NUMBER:**

**COMPLAINT**

This is one of the most appalling cases of jail abuse the country has seen. On the night of January 25 to January 26, 2023, Anthony Don Mitchell (“Tony”) froze to death while incarcerated at the Walker County Jail. This case raises an appalling

question: how does a man literally freeze to death while incarcerated in a modern, climate-controlled jail, in the custody and care of corrections officers?

The case provides contrasting examples of both the worst of humanity, and also its best. Without the malice, deliberate indifference, and failure to intervene of nearly a dozen correction officers at the jail, and the cooperation of these officers and their superiors in a scheme to deprive Tony of his civil rights and ultimately of his life, Tony could never have been killed, likely by being placed in a restraint chair in the jail kitchen's walk-in freezer or similar frigid environment and left there for hours. Nor would he have been denied the prompt emergency medical treatment that would have saved him after his removal from that frigid place. But also, without the heroism of a corrections officer who dared to preserve security camera footage on her phone and get the recordings to the Estate, it would have been impossible for the Estate to dismantle the scheme of silence and lies within the Sheriff's Department and reconstruct what happened to Tony on the morning of January 26, 2023.

Although the medical examiner has not yet released the autopsy report, it is clear that Tony's death was wrongful, the result of horrific, malicious abuse and mountains of deliberate indifference. While Tony languished naked and dying of hypothermia in the early morning hours of January 26 and his chances for survival trickled away, numerous corrections officers and medical staff wandered over to his open cell door to spectate and be entertained by his condition, as shown by the

surveillance camera screenshots included in this complaint. Any of these individuals could have saved his life by calling 911 and summoning an ambulance. No one did. Instead, corrections officers and their commanding officers worked together in a scheme to conceal the horrific abuse, delaying medical treatment for five hours, long enough to ensure Tony did not survive to tell the story of what happened to him.

The Estate, pursuant to the Substantive Due Process clause of the 14th Amendment of the United States Constitution, brings this action for redress against the corrections officers who through their abuse of Tony caused his death. The Estate brings suit against the corrections officers who failed to intervene to prevent and stop that abuse. The Estate brings suit against the corrections officers and jail medical personnel who were deliberately indifferent to Tony's serious medical needs and who failed to summon an ambulance or otherwise obtain the urgent emergency medical treatment he so obviously needed. Finally, the Estate brings suit against the officials, including the sheriff and his communications officer, who ratified these other defendants' violations of Tony's constitutional rights and who also themselves actively participated in the scheme to hide and perpetuate the horrific abuse Tony suffered. As alleged below, this scheme began hours before doctors declared Tony dead, at a time when it was still possible to save his life.

## **I. Jurisdiction and Venue**

1. This action arises under the Fourteenth Amendment to the United States Constitution and under federal law, including 28 U.S.C § 2201, 42 U.S.C. §§ 1983 and 1988.
2. This Court has original jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331 and 1343.
3. Venue is proper in the Northern District of Alabama because the injuries complained of occurred within this district consistent with 28 U.S.C. § 13912(b).

## **II. Parties**

1. Margaret Mitchell is the mother of Decedent Tony Mitchell, and the proposed administratrix of the pending Estate.
2. Sheriff Nick Smith is sued in his individual and also in his official capacity as the Sheriff of Walker County. At all times relevant at this action, Sheriff Nick Smith acted under color of law.
3. Corrections Officers T.J. Armstrong, Denzel Mitchell (no relation to Tony), Braxton Kee, Bailey Gainy, Katherine Cligan, Jacob Smith, Jeremy Farley, Richard Holzman, Benjamin Shoemaker, and Dayton Wakefield are corrections officers or former corrections officers employed by the Walker County Sheriff's Department. Each is sued in his or her individual capacity. At all times relevant to this action, each individual acted under the color of law.

4. Nurse Practitioner Alicia Herron and Nurse Brad Allred are medical care providers employed by the private medical contractor in the jail. Each is sued in his or her individual capacity. At all times relevant to this action, each acted under color of law in that each performed a traditional state function as a provider of medical care to individuals incarcerated at the Walker County Jail.

5. Investigator Carl Carpenter is an investigator employed by the Walker County Sheriff's Department. At all times relevant to this action, he acted under color of law.

### **III. Statement of Facts.**

#### **A. Introduction.**

1. Anthony Don Mitchell, known to his family as Tony, was a thirty-three-year-old man with a history of drug addiction. He was also a beloved son and brother.

2. Up until late 2022, Tony lived with his father at a house on Lost Creek Road in Carbon Hill. Tony's father died in late 2022. After his father's death, Tony lived alone in the house. Tony's mother, Margaret Mitchell, paid his power and water bills and dropped off food for him.

3. After the death of his father, in a story familiar to so many Americans, Tony appears to have spiraled into worsening drug addiction, and his physical and mental health precipitously declined.

4. Tony passed away on January 26, 2023, at Walker Baptist Medical Center while in the custody of the Walker County Sheriff's Department. He died after spending fourteen days incarcerated under hellish conditions as a pretrial detainee at the Walker County Jail, from January 12 to January 26, 2023.

5. Tony's internal body temperature was 72 degrees Fahrenheit when he arrived at Walker Baptist Hospital in the back seat of a sheriff's vehicle on the morning of January 26, 2023, brought there by sheriff's deputies who did not even bother to call an ambulance for him despite his obvious need for emergency medical treatment.

6. The emergency room physician who treated Tony, and spent over three hours trying to resuscitate him, wrote the following note in Tony's medical records:

I am not sure what circumstances the patient was held in incarceration but it is difficult to understand a rectal temperature of 72° F 22° centigrade while someone is incarcerated in jail. The cause of his hypothermia is not clear. It is possible he had a underlying medical condition resulting in hypothermia. I do not know if he could have been exposed to a cold environment. I do believe that hypothermia was the ultimate cause of his death.

**B. Tony Is Arrested in a Psychotic and Delusional State.**

7. The last member of Tony's family to interact with him was Steve Mitchell, Tony's cousin. On January 12, 2023, Tony showed up at Steve's house. Steve had last seen his cousin three months before at the time of Tony's father's burial.

8. Steve didn't initially recognize the man who appeared at his house. Tony, who was six foot three or four, had previously weighed around two hundred forty pounds.

Now, Steve at first took Tony for an old man. Tony was haggard and emaciated, weighing no more than a hundred forty or a hundred fifty pounds.

9. Wearing socks but no shoes, Tony informed Steve that he wanted to tell him a secret no one else knew.

10. Obviously delusional, Tony told Steve that he, Tony, had a brother who had been stillborn, which was true. Tony further told Steve that his parents had put the baby brother's body in a box that was hidden in the attic of his house, which was not true and was delusional. Tony believed that he needed to tear out a wall in the attic so he could find the box his baby brother's body was in.

11. Tony further believed there were two portals in his house: one to heaven and one to hell. Tony believed that he needed to put the box with his baby brother's body in the portal to heaven so his baby brother could go there.

12. Steve realized immediately that his cousin, having lost around a hundred pounds from his healthy weight, having lived evidently in complete isolation during recent months, and spouting delusions about portals to heaven and portals to hell, was in serious need of psychiatric help. This was not the Tony that Steve knew and loved.

13. Not wanting to let Tony out of his sight, Steve agreed to go with Tony to Tony's house and help him look for the box.

14. At the house, Tony continued to be delusional. Even after Steve and Steve's adult son Jacob climbed up into the attic with him and showed Tony that the box wasn't there, Tony insisted that the box with his baby brother's remains was hidden behind an exterior wall that he needed to tear out.

15. Steve and Jacob left Tony at the house, promising to return and help Tony find the portal. Steve, not knowing how else to get help for his cousin, attempted to contact the Walker County Sheriff's Department. When he couldn't reach anyone at the Sheriff's Department, Steve eventually decided he had no choice but to call 911.

16. Steve asked the 911 dispatcher if they could send someone to go check on his cousin. He told the dispatcher that Tony was talking out of his head about portals to heaven and hell, and that he appeared to be having a mental breakdown and that he was in an extremely degraded condition. The dispatcher asked if an ambulance was needed, and Steve told her that would be a good idea.

17. When Sheriff's officers arrived at Tony's house on Lost Creek Road, they encountered Tony in the same obviously delusional and psychotic state that Steve had experienced earlier that afternoon.

18. A written statement released from the Sheriff's Office on Facebook states, in part, "When Deputies arrived, they observed Mitchell in the front yard of the residence. Mitchell immediately brandished a handgun, and fired at least one shot at Deputies before retreating into a wooded area behind his home."



19. More officers arrived, including the SWAT team, and Tony was eventually arrested in the woods behind his home.

20. A picture posted by the Sheriff's Department reportedly within minutes of Tony's arrest shows Tony with his face apparently covered with black spray paint.

21. The Defendant, Walker County Sheriff Nick Smith, was personally at the scene, supervising Tony's detention and arrest. Likewise, the Defendant T.J. Armstrong, the public information officer for the Sheriff's Office, was personally at the scene.

22. In close proximity to Tony at the time of his arrest, Armstrong took the photo of Tony being apprehended and posted it from his phone at the scene to the Sheriff Department's Facebook page. Within hours, the picture of Tony with his face spray painted black spread across social media.

23. Steve Mitchell, Tony's cousin, was also at the scene with Tony's mother, Margaret Mitchell, at the time of Tony's arrest.

24. After Tony's arrest, Steve spoke with Defendant Armstrong. Armstrong told him that Tony was alive, although a little "roughed up," that he'd taken a shot at the officers, and they were planning to charge him.

25. At the time of his arrest, Tony suffered from serious medical and psychiatric needs, including but not limited to severe drug addiction, psychosis, and malnourishment.

26. Armstrong and every other officer at the scene were consciously aware of Tony's serious medical needs. Showing this, Armstrong told Steve that they were going to set Tony's bond high enough that he would not be able to bond out, and assured Steve that Tony would receive medical evaluation and treatment in jail. Armstrong told him, "We're going to detox him and then we'll see how much of his brain is left," or words to that effect.

27. After observing Tony in a Sheriff's Department vehicle with what appeared to be black residue on his face, Steve asked Defendant Armstrong why his face looked like that.

28. Armstrong and every other officer at the scene were consciously aware of Tony's serious medical need for acute psychiatric treatment. Showing this, Armstrong told Steve that Tony had informed the deputies that he had spray painted his own face black because he was planning to enter a portal to hell located inside his house.

**C. Tony Is Housed Naked in a Bare Concrete Isolation Cell.**

29. Tony was housed as a pretrial detainee at the Walker County Jail from January 12, 2023, until his death on January 26, 2023.

30. For the duration of his stay at the jail, Tony was kept in an isolation cell in the booking area. These cells are not intended for housing of detainees, but rather are meant to hold detainees temporarily during the booking process.

31. The cell lacked a bed or other furnishings. There was only a drain in the floor that could be used as a toilet. The cell was bare cement, the equivalent of a dog kennel. But unlike a dog, Tony was not even given a mat to sleep on.

32. Tony had no cloth uniform, possibly as a result of the jail's "suicide watch" protocol. In every video clip on which he appears during his incarceration, until deputies at last dress him in a jail uniform just prior to transporting him to the hospital on January 26, Tony appears completely naked.

**D. Tony's False Teeth Were Confiscated After He Was Tazed.**

33. As a result of years of methamphetamine abuse and personal neglect, Tony had lost his teeth, and he used a set of false teeth to eat. He was wearing the teeth at the time of his arrest. Without his teeth, he would have been unable to chew solid food effectively.

34. One of the first video clips that the Estate's lawyers have of Tony, thanks to the heroism of the corrections officer who wanted his family and the public to know what happened to him, shows Tony, naked, being dragged out of holding cell number five, likely on or around January 15, 2023, and tazed by Braxton Kee. (Kee is still inside the cell and not yet visible in the screenshot below).



35. The corrections officer in the black shirt supervising the tasing is Captain Alicia Jottie Tidwell.

36. The tasing caused Tony's false teeth to pop out. Instead of being returned to Tony, the teeth were evidently recovered and placed by deputies in a property bag. After Tony's death, his mother received the teeth in a sealed property bag bearing a date of 1/15/2023, indicating that Tony's teeth were placed in the bag by jail personnel on that date.



37. After January 15, 2023, to the extent he was provided solid food at the jail, Tony would not have been able to chew it effectively.

38. Another clip shows Braxton Kee and Morgan Madison dragging Tony from the shower located in a bathroom in the booking area.



39. Tony continued to suffer from serious medical and psychiatric needs while incarcerated as a pretrial detainee at the jail. These needs were obvious to every corrections officer and all jail personnel who came into contact with him.

**E. Attempting to Cover Up the Truth, T.J. Armstrong Releases a False Statement that Tony Was “Alert and Conscious” When He Left the Jail and Lies to Tony’s Family about his Condition.**

40. Defendant Armstrong, the Sheriff’s communications officer and his authorized agent for making statements to the public, provided a statement to news media regarding Tony’s death, quoting in part as follows: “On Thursday, January 27th, an inmate in the Walker County Jail was provided a routine medical check by jail medical staff. Medical staff determined the inmate needed to be transported to the hospital for further evaluation. The inmate was alert and conscious when he left the facility and arrived at the hospital. Shortly after arrival at the hospital, the inmate

suffered a medical emergency and became unresponsive. Life saving efforts were performed by hospital staff and the inmate was ultimately revived. Unfortunately, a short time later, the inmate passed away.”<sup>1</sup>

41. This statement is false, as Tony was not “alert and conscious when he left the facility and arrived at the hospital.”

42. Tony was declared dead on Thursday, January 26, 2023, at 1:15 PM at Walker Baptist Medical Center.

43. At some point that day, Steve Mitchell, Tony’s cousin who had called 911, received a call from Defendant Armstrong, who was at the hospital with Tony.

44. Armstrong told Steve that for the last week and a half “we’ve had a time with Tony.”

45. Armstrong told Steve that Tony had refused to eat, that he had refused to speak with jail personnel, and that he had allegedly refused to consent to a psychiatric evaluation. Armstrong described an incident when Tony had allegedly thrown feces at jail personnel.

46. Armstrong further told Steve that it was “the worst case of addiction we’ve ever seen.”

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<sup>1</sup> <https://www.cbs42.com/news/local/an-alabama-man-was-arrested-during-a-welfare-check-two-weeks-later-he-was-dead/>

47. Showing that Armstrong was aware that Tony had been hypothermic prior to his transportation to the jail, Armstrong told Steve that Tony's body temperature had started dropping that morning and that they'd had to carry him to the hospital.

48. The only way for Tony's body temperature to have "started dropping" to 72 degrees in such a short period of time was for him to have been placed in a restraint chair in the jail kitchen's walk-in freezer or similar frigid environment and left there for hours.

49. Armstrong asked Steve to carry Tony's mother to the hospital, because in Armstrong's words, "Tony's not going to live."

50. Armstrong also falsely told Steve that when deputies got Tony to the hospital, the doctor had asked Tony to sit up, and Tony had sat up, and that at this point, he had a massive heart attack, but that for now they were keeping him alive.

**F. Surveillance Video Shows that Tony Was not "Alert and Conscious" When He Left the Jail.**

51. Contrary to the statement Armstrong issued to the press, Tony was not "alert and conscious when he left the facility and arrived at the hospital."

52. A video clip from the jail's security camera system shows jail transport officers Jeremy Farley and Richard Holzman carrying Tony's limp body into a garage area at the jail on the morning of January 26, 2023, while Benjamin Shoemaker and Dayton Wakefield assist them with opening and closing doors.



53. No medical personnel appear in this portion of the security camera footage. Clearly in no hurry, Farley and Holzman move without urgency as they carry Tony through a doorway into the loading and unloading area. Tony is not handcuffed.

54. Ahead of them, Benjamin Shoemaker opens the rear door of a sheriff's department prisoner transport SUV.

55. The deputies carry Tony with one on either side, each holding him by the jail uniform at the shoulder and hips. Tony's shackled legs remain bent in the air.



56. As the deputies near the SUV, they lay Tony on the ground beside the SUV, letting the head fall back on the cement while they stand around, seeming to deliberate how best to place the body in the vehicle. Tony lies between them on the cement floor next to the SUV's open rear passenger door as the deputies confer.



57. The deputies lift Tony's body and place it, still in the same bent seated position, across the backseat of the Sheriff's Department SUV. The deputies appear to push the body into the SUV, adjusting its position, before closing the door.

58. Again moving with no particular urgency, the deputies walk around to get into the SUV, and the clip ends.

59. This video clip captured events that took place at around 8:55 AM on January 26, 2023, after Tony had languished for five hours or more on a bare cement floor as his life trickled away, to the complete indifference of numerous corrections officers and medical staff, as explained in greater detail below.

**G. Tony's Heart Stopped Before He Arrived at the Hospital and Never Restarted.**

60. Doctor Timothy Jordan, the ER Provider, made the following note that is contained in Tony's medical records:

I have limited information on this patient other than was provided by sheriff deputies that accompanied the patient to the hospital. I was told by one of the deputies that the patient has been incarcerated since January 12th. I was also told by the deputies that the patient has not been eating or drinking for several days. He was brought to the emergency room by sheriff deputies in a car for evaluation. One of our nurses noted the sheriffs moving the patient out of the vehicle and putting him in a wheelchair and he went outside and offered to move him to a stretcher. At that point he was noted to have agonal respirations breathing 2-4 times a minute. He was rushed into the ER and moved to our stretcher. He was unresponsive apneic and pulseless and cold to the touch. CPR was started and handcuffs were removed. His mother arrived in the emergency room about 3-1/2 hours into resuscitation and gave additional history. She said her son has been drug addicted for years. He has developed multiple abscesses. He has been suicidal. He is recently been confused. She is not heard from him in weeks. She requested that we not continue resuscitation.

61. Another note in the file states that during the attempted resuscitation, "Patient was unresponsive but occasionally made some agonal movements including swallowing and minor movements of an arm or leg. This is while CPR with external compression devices in progress. Initial rectal temperature was 72° F 22° centigrade. He appeared to have vomitus on his uniform."

62. Contrary to Armstrong's false statement to Steve, at no point do the medical records indicate that Tony sat up, or that he had a heart attack while at the jail.

63. Rather, the notes state, “Pupils were initially fixed and dilated but became responsive after CPR was initiated” and “The patient remained in asystole PE a and occasionally VFib. No spontaneous pulse was ever palpated.”

64. The doctor’s notes further state, “There was never any purposeful movement or response to pain.”

65. As quoted above, the doctor’s notes state, “I am not sure what circumstances the patient was held in incarceration but it is difficult to understand a rectal temperature of 72° F 22° centigrade while someone is incarcerated in jail. The cause of his hypothermia is not clear. It is possible he had a underlying medical condition resulting in hypothermia. I do not know if he could have been exposed to a cold environment. I do believe that hypothermia was the ultimate cause of his death.”

**H. No Explanation Other than Spending Hours in a Freezer or Similar Frigid Environment Explains Tony’s Body Temperature Dropping to 72 Degrees Fahrenheit.**

66. The heroic corrections officer who preserved the security camera footage after Tony’s death last saw him alive at 6:00 AM on the morning of Wednesday, January 25, 2022, when she went off her shift.

67. At that time, Tony was awake and talkative in the isolation cell in the booking area and not in any evident distress.

68. 72 degrees is approximately room temperature in the Walker County Jail.

69. The only way for a living person's body temperature to fall to near room temperature, and for the person to still be marginally alive as indicated in the medical records, and not a corpse that has cooled to match the temperature of its surroundings, is for that person to have been exposed to frigid temperatures for an extended time.

70. Based on these circumstances, it appears that Tony was strapped into a restraint chair during the night of January 25 to January 26 and placed in the jail kitchen's walk-in freezer or similar frigid environment for an extended time, possibly as punishment for deputies who had "had a time with Tony," or as punishment for allegedly shooting at deputies.

71. Security footage from the kitchen area still exists showing what happened to Tony there during the night of January 25 to January 26.

72. However, the heroic corrections officer who viewed and captured the security footage on her phone did not review footage from before 4:00 AM, at which point Tony had already been returned to his isolation cell in the booking area, nor did she know to check the footage from the jail kitchen overnight.

**I. At Least Five Hours Passed from the Time Tony Was Removed from the Frigid Environment Until He Was Transported to the Hospital.**

73. Denzel Mitchell was the jail supervisor on duty overnight from January 25 to January 26, 2023. The other corrections officers on duty that night include Braxton Kee, Bailey Gainey, Catherine Cligan, and Jacob Smith.

74. Each of these corrections officers knows exactly what happened to Tony during that horrific night. Each of them was deliberately indifferent to his obvious serious medical needs. Each of them, at a minimum, failed to intervene in an act of horrific abuse committed by one or more of their fellow corrections officers.

75. According to incident reports viewed by the correction officer who preserved the videos, Jacob Smith and Braxton Kee claim to have “found” Tony unresponsive at feeding time, i.e. around 4:00 AM. The jail kitchen typically is opened at 3:00 A.M. to prepare food for the morning breakfast run.

76. This means that after Tony was removed from the walk-in freezer or other frigid environment, at least five hours passed before he was transported to Walker County Medical Center, despite his obvious serious medical need for emergency medical treatment throughout that time.

77. Hour by hour, Tony’s chances of survival dwindled, as captured in a series of chilling surveillance videos preserved by a heroic corrections officer so that Tony’s family would know what happened to him.

**J. Security Footage from 4:00 AM Shows Tony Lying on the Cement Floor of His Cell As Corrections Officers Kee and Mitchell Laugh at His Condition.**

78. The first video that the Estate has from the morning of January 26, 2023, was captured at approximately 4:00 AM. This is after Tony has been returned to the isolation cell in the booking area from the freezer or other frigid environment.

79. The video shows Braxton Kee leading Alicia Herron, the jail's nurse practitioner, to the holding cell in which Tony can be seen lying on the bare cement floor. Supervisor Denzel Mitchell is also present and supervising.

80. At various points, Kee and Mitchell can be seen clowning and laughing as Tony lies motionless and naked on the bare cement floor in the open cell behind them, obviously in severe medical distress and in need of immediate emergency medical treatment.



81. Alicia Herron, the jail nurse practitioner, enters the cell and spends a minute or two inside with Tony, but appears to provide no medical treatment, and does not summon an ambulance even though Tony's severe medical distress is obvious.



82. At the end of this first video from around 4:00 AM, Tony, lying naked among what appears to be piles of trash on the floor of the isolation cell, can be seen raising his head, peering out at deputies as if pleading for help. But Braxton Kee closes the door of the cell and turns out the light, leaving Tony alone in the dark.





**K. Security Footage from around the Time of the 6 AM Shift Change Shows Multiple Corrections Officers and Medical Personnel Exhibiting Deliberate Indifference.**

83. The next video provided to the Estate appears to have been taken around the time of the 6:00 AM shift change. It shows Deputy Shoemaker opening the door of the cell and peering inside.

84. In a subsequent video from around the same time, Shoemaker and Morgan Madison can be seen entering the cell with a sleeping mat.

85. The morning of January 26, as Tony lay dying of hypothermia, appears to be the first time he was provided any kind of padding to lay down on during his two weeks of incarceration at the Walker County Jail. Prior to this, he had had only the bare concrete floor of the isolation cell.

86. In this video taken between 6:00 and 7:00 AM, Nurse Brad Allred stands at the door of the cell looking in at Tony but provides no medical treatment, though Tony's need for emergency medical intervention is obvious.

87. Instead of calling an ambulance or providing Tony with medical attention, Benjamin Shoemaker and Morgan Madison focus their energies on sweeping trash out of the cell, in which the lights are now turned off, and cleaning it, evidently sweeping or mopping around Tony as he lies dying on the floor, removing signs of the squalor in which Tony was forced to spend his final days.

88. In a subsequent video taken that morning, Shoemaker and Madison can be seen entering the cell, where the lights have now been turned on. Josh Jones stands outside the cell looking in. Haley Tidwell, the daughter of Captain Alicia Jottie Tidwell, also stands looking in at Tony. Captain Tidwell, wearing a black shirt, is also present and spends several minutes inside the cell. A female nurse, as yet unidentified, stands at the door of the cell looking in but does not enter.

89. The video subsequently shows Morgan Madison entering the cell carrying an orange jail uniform. This likely occurs at approximately 7:45 AM.

90. Brad Allred, the nurse, can be seen passing with the “pill call” cart.

91. None of these individuals calls an ambulance or otherwise takes steps to provide Tony with the immediate emergency medical treatment he so obviously needs.

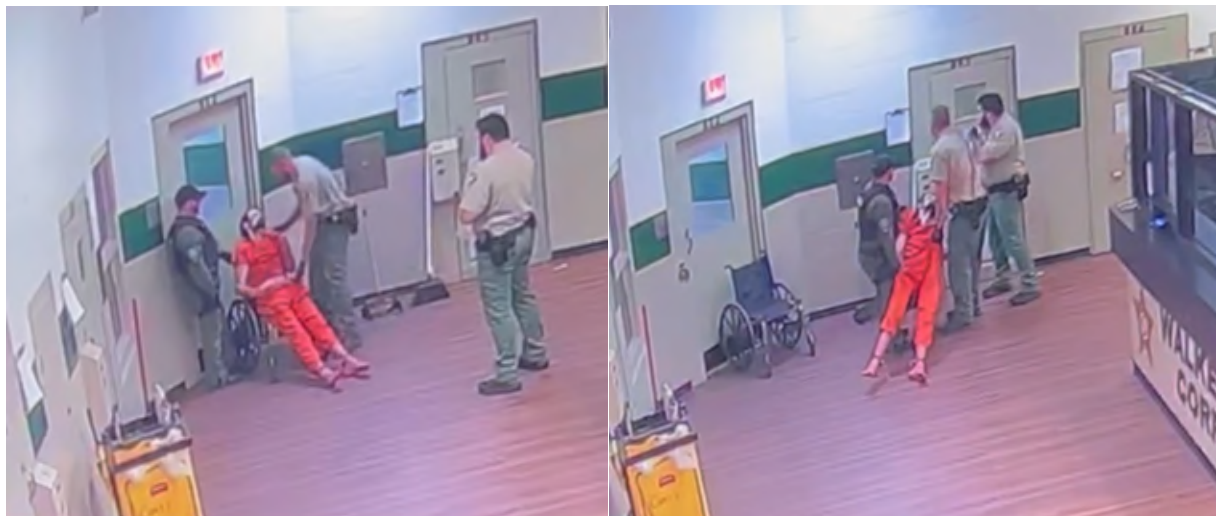
**L. At around 8:30 AM, Corrections Officers Remove Tony from the Cell, then Return Him to the Cell to Conceal His Presence as a Woman is Booked.**

92. In the penultimate video taken around 8:30 AM, Shoemaker rolls a wheelchair into the cell. Shoemaker, with the help of either Forley or Holzman, then brings Tony out of the cell in the wheelchair.

93. For the first time in any of these videos taken over two weeks of detention, Tony is now dressed. Deputies have placed an orange jail uniform on him.

94. Tony's body falls out of the wheelchair outside the cell. The deputies lift him back into it. Deputies can be seen shackling Tony's feet as his body makes slow, seemingly spasmodic movements. Tony is still alive at this point.

95. After initially placing him in the chair, deputies pick Tony up and drag him back inside the cell, evidently to conceal his presence as a new female detainee is brought into the booking area and processed, further delaying Tony's access to the emergency medical treatment he obviously urgently requires. Again, none of the deputies—Shoemaker, Wakefield, Forley, or Holzman—calls for an ambulance.



96. Even after the female detainee has been processed, Shoemaker, Wakefield, Forley, and Holzman show no urgency, but stand around talking outside the closed cell door for a while.

97. At long last, the four deputies finally bring Tony out again and carry him through the door to the sally port to place him in the sheriff's department SUV for transport to the hospital, as described above.



**M. Tony's Heart Has Stopped by the Time Deputies Reach the Hospital, Over Five Hours After His Removal from the Frigid Environment.**

98. By the time deputies arrived with Tony at the hospital at 9:23 AM—over five hours after deputies first were captured on video laughing and joking while Tony lay naked on the cement floor of his cell in obvious need of emergency medical treatment—he had no pulse and only agonal respirations of 2-4 breaths per minute.

99. Deputies did not inform hospital staff that Tony had been placed in a freezer or other frigid environment or that he was hypothermic. Doctors learned Tony was hypothermic only when they took his temperature after beginning emergency resuscitation efforts. Learning that Tony was hypothermic caused physicians to immediately change their course of treatment, as the measures they had initially employed were inappropriate to resuscitate a person who is severely hypothermic.

100. Despite the heroic efforts of emergency medical personnel at Walker Baptist Hospital to warm Tony's body and over three hours of continual attempts to resuscitate him, Tony was pronounced dead at 1:15 PM that afternoon.

**N. The Sheriff Has a Policy or Practice of Deliberate Indifference to Serious Medical Needs and Excessive and Unreasonable Force.**

101. The sheriff has a policy or practice of deliberate indifference to the serious medical needs of those incarcerated in its jail, and a policy or practice of using excessive force and inflicting unnecessary physical harm on inmates housed there.

102. As a further example of the policy or practice of deliberate indifference to medical needs at the jail, a woman named Autumn Harris passed away in the Walker County Jail on December 5, 2018, of untreated pneumonia, after being incarcerated for 22 days, without corrections officers obtaining emergency medical treatment.

103. As an example of the policy or practice of using excessive force and inflicting unnecessary and even sadistic harm on inmates housed there, a video obtained by the individual who preserved the videos of what happened to Tony shows the use of unnecessary and unreasonable force against another inmate, Jaymal Scott. The video depicts an officer, Defendant Richard Holzman, using his fist to strike an inmate who was handcuffed and under officers' complete control, after the inmate had been sprayed with chemical irritant, beaten with a baton, and was bleeding profusely.



104. In a further example of a policy or practice of using excessive force and inflicting unnecessary and sadistic harm on inmates, an inmate named Hollis Chadwick Smith filed a 1/17/2023 habeas corpus petition alleging that Jacob Smith and Denzel Mitchell “sexually assaulted me by punching me in the penis, and Sgt. Mitchell crab [sic] my penis twisted as c/o kicked me in my anal ‘butt.’”

105. In a further example of a policy or practice of deliberate indifference to serious medical needs of inmates, Hollis Chadwick Smith filed a second 2/08/2023 habeas corpus petition alleging that “I have cancer and was stated [sic] to make app with oncology ... been locked up two months medical refuses treatment,” and complaining that he is “loosing weight, can’t hardly walk, can’t eat. Dying.”

**O. The Sheriff and T.J. Armstrong Participated in the Scheme to Violate Tony’s Constitutional Rights and Ratified the Conduct of Deputies.**

106. Sheriff Nick Smith and communications officer T. J. Armstrong participated in the scheme to deny Tony's constitutional rights and ratified the conduct of the deputies who violated Tony's constitutional rights by issuing a false statement to news media regarding Tony's death, quoting in part in news media as follows: "On Thursday, January 27th, an inmate in the Walker County Jail was provided a routine medical check by jail medical staff. Medical staff determined the inmate needed to be transported to the hospital for further evaluation. The inmate was alert and conscious when he left the facility and arrived at the hospital. Shortly after arrival at the hospital, the inmate suffered a medical emergency and became unresponsive. Life saving efforts were performed by hospital staff and the inmate was ultimately revived. Unfortunately, a short time later, the inmate passed away."

107. Armstrong also participated in the scheme to deny Tony's constitutional rights by giving false information to the family about his condition, including telling Tony's cousin Steve that when deputies got Tony to the hospital, the doctor had asked Tony to sit up, and Tony had sat up, and that at this point, he had a massive heart attack, but that for now they were keeping him alive.

108. Sheriff Nick Smith, Investigator Carl Carpenter, and T.J. Armstrong participated in the scheme to deny Tony's constitutional rights and ratified the conduct of the deputies who violated Tony's constitutional rights by investigating the corrections officer who preserved the video of Tony being carried into the

sallyport, along with the other videos referenced above, and retaliating against that person by interrogating her, confiscating her phone and imaging its contents, suspending her, terminating her employment for allegedly leaking the video contradicting Armstrong's statement, and sending an officer to intimidate her.

109. The remainder of the named defendants participated in the scheme to deny Tony's constitutional rights by delaying seeking medical treatment and failing to intervene for nearly five hours as Tony lay dying on the concrete floor of the cell, ensuring that Tony did not survive to tell the story of what happened to him.

110. Sheriff Nick Smith ratified the conduct of Morgan Madison by selecting him as the "Corrections Officer of the Month" immediately after these events.

**First Cause of Action: Wrongful Death – Substantive Due Process Clause of the Fourteenth Amendment to the United States Constitution via 42 USC §1983 – All Defendants Are Sued in their Individual Capacities.**

111. As discussed above, corrections officers on duty during the overnight shift from January 25 to January 26, 2023 intentionally exposed Tony to frigid temperatures for a substantial period of time during the night of January 25 to January 26, 2023, most likely by placing him in a restraint chair in the jail kitchen's walk-in freezer or similar frigid environment and leaving him there for hours. The severity and duration of the exposure to the extreme cold temperature, sufficient to lower Tony's body temperature to seventy-two degrees Fahrenheit or lower, represented a substantial risk of harm to Tony's safety and health, violating his



substantive due process rights as a pretrial detainee under the Fourteenth Amendment of the United States Constitution. The corrections officers acted with deliberate indifference and malice in intentionally exposing Tony to such conditions.

112. Denzel Mitchell was the jail supervisor on duty overnight from January 25 to January 26, 2023. The other corrections officers on duty that night include Braxton Kee, Bailey Gainey, Catherine Cligan, and Jacob Smith. To the extent that each of these defendants did not actively participate in intentionally exposing Tony to frigid temperatures for a substantial period of time during the night of January 25 to January 26, 2023, each is liable for failure to intervene to stop the violation. Each had the opportunity to intervene and summon an ambulance to take Tony to the emergency room at a time when such intervention would still have been effective.

113. Bailey Gainey, Katherine Cligan, Jacob Smith, Jeremy Farley, Richard Holzman, Benjamin Shoemaker, Dayton Wakefield, Nurse Practitioner Alicia Herron, and Nurse Brad Allred are liable for being deliberately indifferent to Tony's obvious serious medical need for immediate emergency medical assistance by failing to call an ambulance and failing to intervene in the nearly five hours when Tony lay dying of hypothermia on the floor of the isolation cell in the booking area. Each had the opportunity to intervene and summon an ambulance to take Tony to the emergency room at a time when such intervention would still have been effective.

114. Sheriff Nick Smith and communications officer T. J. Armstrong participated in the scheme to deny Tony's constitutional rights and ratified the conduct of the deputies who violated Tony's constitutional rights by issuing a false statement to news media regarding Tony's death, quoting in part in news media as follows: "On Thursday, January 27th, an inmate in the Walker County Jail was provided a routine medical check by jail medical staff. Medical staff determined the inmate needed to be transported to the hospital for further evaluation. The inmate was alert and conscious when he left the facility and arrived at the hospital. Shortly after arrival at the hospital, the inmate suffered a medical emergency and became unresponsive. Life saving efforts were performed by hospital staff and the inmate was ultimately revived. Unfortunately, a short time later, the inmate passed away."

115. Armstrong also participated in the scheme to deny Tony's constitutional rights by giving false information to the family about his condition, including telling Tony's cousin Steve that when deputies got Tony to the hospital, the doctor had asked Tony to sit up, and Tony had sat up, and that at this point, he had a massive heart attack, but that for now they were keeping him alive.

116. Sheriff Nick Smith, Investigator Carl Carpenter, and T.J. Armstrong participated in the scheme to deny Tony's constitutional rights and ratified the conduct of the deputies who violated Tony's constitutional rights by investigating the corrections officer who preserved the video of Tony being carried into the

sallyport, along with the other videos referenced above, and retaliating against that person by interrogating her, confiscating her phone and imaging its contents, suspending her, terminating her employment for allegedly leaking the video contradicting Armstrong's statement, and sending an officer to intimidate her.

117. The remainder of the named defendants participated in the denial of Tony's constitutional rights by delaying seeking medical treatment for nearly five hours as Tony lay dying on the concrete floor of the cell, ensuring that Tony did not survive to tell the story of what happened to him.

118. Sheriff Nick Smith further ratified the conduct of Morgan Madison by selecting him as "Corrections Officer of the Month" immediately after these events.

119. Each of these defendants acted with malice and/or with deliberate indifference. Tony's death of hypothermia was the direct and proximate result of these defendants' deliberate indifference or malice, and of their ongoing denial of Tony's constitutional rights under a scheme that continued to operate after his death through the issuance of false statements to family members and the media and the investigation of and retaliation against the person who preserved the videos to prevent the public from learning the truth and to thwart justice from being done.

**Second Cause of Action – Wrongful Death – Policy or Practice Claim – Sheriff in His Official Capacity.**

120. The Walker County Sheriff has established a policy, practice, and/or custom of improperly training, re-training, instructing, supervising, disciplining, and/or

allowing or encouraging its corrections officers to administer the Walker County Jail without regard to the constitutional rights of detainees housed there to be free of excessive and/or gratuitous force or gratuitous and/or sadistic infliction of pain and to receive prompt medical treatment for their serious medical needs, including but not limited to emergency medical treatment and transport to the emergency room.

121. Due to these policies, practices, and/or customs, acts of misconduct amounting to excessive and/or gratuitous force or gratuitous and/or sadistic infliction of pain and deliberate indifference to inmates' medical needs are tolerated by the Sheriff and his deputies, and the sheriff has a policy or practice of covering up such acts of misconduct rather than disciplining the officers involved. As such, officers believed they were free to engage in such acts and ignore serious medical needs without regard to the rights of detainees at the jail and without any fear of consequences or discipline.

122. The above-described policies, practices, and customs demonstrate deliberate indifference by the Sheriff toward the rights of individuals in custody in general, including but not limited to Tony.

123. The above-described policies, practices, customs and deliberate indifference of the Sheriff were the moving force that directly and proximately caused Tony's death.

**Request for Relief**

Plaintiff seeks the following relief:

Award judgment in her favor against Defendants jointly and severally in an amount to be determined by the jury for compensatory damages;

Award punitive damages against Defendants sufficient to punish them and to deter further wrongdoing;

Award Plaintiff reasonable attorney's fees and costs pursuant to 42 USC §1988;

Award Plaintiff all litigation expenses, costs, and pre-judgment and post-judgment interest at the maximum daily interest rate allowable by law; and

Such other relief as the Court deems just and proper.

**Jury Demand**

The Plaintiff demands a trial by struck jury on all issues so triable.

Respectfully submitted,

/s/ Jon C. Goldfarb

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