



Denied Treatment for His Cancer, This Kentucky Man Died in Prison After Vomiting Blood

In a lawsuit, Marc Crawford's widow says the state refused to give him his prescriptions and his chemotherapy.

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Marc Crawford was booked into a Kentucky jail in May 2017. Just shy of a month later, he left state custody in a body bag. He had succumbed to a previously diagnosed case of lung cancer, one for which state officials and health care contracting companies reportedly failed to provide him basic treatment.

Specifically, according to a suit filed by Dawn Crawford, Marc's widow: Correct Care Solutions LLC, one of those contracting companies, refused to ensure Crawford received his scheduled chemotherapy treatments, and staff at the Madison County Detention Center (MCDC) declined to give Crawford his prescriptions, took off his pain-medication patch, and put him on psychoactive medications that did not properly treat his illness. MCDC staff allegedly neglected to administer treatment even as Crawford vomited blood, and senior staff reportedly rebuffed several requests from a lower-level employee to give him more intensive care.

Crawford was arrested for first-degree wanton endangerment and fleeing the scene of an accident. Six days later, he was transferred from the MCDC to the Kentucky State Reformatory (KSR), a prison, allegedly so he could receive better medical treatment. Instead, the suit says, he was denied his medications and chemotherapy, as well as the breathing treatments prescribed to him by a nurse practitioner.

On June 24, he died. "Marc effectively drowned with more than three liters of fluid accumulating in his lungs," wrote the U.S. Court of Appeals for the 6th Circuit in a ruling issued October 8. "Medical staff would have discovered this fluid if they had administered his prescribed breathing treatments." The state had yet to provide him with an oncologist. Two days went by before they notified the family of his death. A report by the Kentucky attorney general's office found later

that year that the MCDC had violated state law in its response to Dawn Crawford's request for public information pertaining to her husband's tenure under state care.

At press time, the Kentucky Department of Corrections has not responded to *Reason's* request for comment.

The lawsuit names James Erwin, acting commissioner for the Kentucky Department of Corrections, as one of the defendants. Erwin, she alleges, "promulgated and maintained" the KSR policies and customs that violated Crawford's Eight Amendment right to be free from cruel and unusual punishment.

That part of the suit has been rejected. Erwin could not have infringed on Crawford's constitutional rights, the 6th Circuit Court has concluded, because he did not have enough involvement or knowledge of the situation to be held liable. He is thus protected by qualified immunity, a legal doctrine that gives certain government officials a shield against various civil suits.

"At most, Dawn's complaint alleges the following: Erwin accepted Marc's transfer to KSR. Through that process, Erwin was 'made aware' of Marc's medical conditions," wrote Circuit Judge John Nalbandian. "Erwin knew that Correct Care's deficient policies and customs posed risks to Marc. Erwin never tried to alleviate these risks. And the combination of these actions and inactions proximately caused Marc's injuries. That's it. Even charitably construed, this is all the activity that Dawn's amended complaint attributes to Erwin." As such, it cannot survive, said the 6th Circuit.

The ruling "is not especially egregious, and supervisory liability can be a tricky theory," says Clark Neily, senior vice president for legal studies at the Cato Institute. "That said, it strikes me as quite remarkable that a system that will entrust juries with the decision whether to take a human life in death penalty cases—often on the basis of complicated scientific evidence—is so unremittingly distrustful of juries when it comes to their ability to decide much lower-stakes cases like whether a particular government official committed misconduct and if so whether they should be financially liable to the person they harmed."

Correct Care has been the subject of quite of bit of scrutiny in recent years, with several stories resembling Crawford's. In 2018, for example, an inmate in Marion County, Indiana, sued the company after being denied a prescribed chemotherapy drug for more than a month. He had been given ibuprofen instead.

There are dozens of such lawsuits, dating years back. In 2019, a CNN report outlined a slew of preventable deaths for which Correct Care was allegedly responsible. "Doctors who studied a subset of those cases contended that 'proper care' could have prevented about half of the deaths

they examined," notes Judge Nalbandian. But because that report was published two years after Crawford's death, he concludes, "Erwin cannot have learned anything relevant" from it.

The ruling does not address the officials and health care companies that had more direct involvement in Crawford's demise, so the widow still might receive some sort of just compensation. Whether the state will take a cue from the years of alleged abuse at Correct Care's hands remains to be seen.