



DATE: June 1, 2023

TO: Civil Action Investigation Committee

FROM: Office of the City Attorney

SUBJECT: *Estate of Cristo Jesus Canett, by and through its personal representative Elizabeth Naranjo v. WellPath, LLC, Board of County Comm'rs, Sheriff Joseph Roybal, Anthony Lupo, Michelle Silva, Makayla Patterson, and Jenene Scott*
United States District Court Case No. 1:23-cv-01211

This memorandum outlines the Estate of Cristo Jesus Canett's ("Canett") allegations against Jennene Scott ("Scott") to assist in considering those claims.

Nature of the Case

On April 24, 2022, Canett and Elizabeth Naranjo ("Naranjo"), Canett's sister and current personal representative, were fighting because Canett had been using Naranjo's automobile without her permission or knowledge. Naranjo called CSPD to report her stolen automobile and tracked her automobile and brother down to St. Francis Medical Center ("St. Francis"). Canett was at the ER seeking treatment for prolonged back pain.

Upon Naranjo's call, Scott, along with three other officers and an officer trainee, responded to the domestic disturbance at St. Francis. Scott met Canett in the ER waiting room, where he was awaiting further medical treatment for his back pain. During the investigation into the automobile's ownership, Scott and the other officers learned that Canett had an active felony warrant for his arrest. After confirming the validity of the warrant, the CSPD officers arrested Canett, without incident, on his outstanding felony warrant. Scott did not arrest Canett or transport Canett to the Criminal Justice Center but did notify St. Francis' ER that Canett was being taken to jail. Canett ultimately died from a perforated duodenal ulcer while incarcerated on April 26, 2022.

Based upon these allegations, Canett filed a complaint in the United States District Court for the District of Colorado. Canett alleges that Scott violated his constitutional rights when he was arrested and removed from the ER waiting room before being treated for his back pain. The complaint asserts two claims for relief pursuant to Colo. Rev. Stat. Ann. § 13-21-131: cruel and unusual punishment and the deprivation of due process. Based upon these alleged constitutional violations, Canett seeks general, special, and punitive damages.

Recommendation

At the time of this incident, Scott was a public employee acting within the scope of her employment. At this stage of the case, there is no evidence suggesting that Scott's actions were willful or wanton. Under these circumstances, the Colorado Governmental Immunity Act, Peace Officer's Liability Act, and City Code § 1.4.302 require the City to represent Scott. As usual, the City should reserve the right to decline payment of any award of punitive damages.