

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

VICKI BANKHEAD, Individually, and as )  
Representative of the ESTATE of )  
AMY LYNN COWLING, deceased, and )  
DUSTAN BEAN, As Next Friend for )  
ATB, LSB and CDB, the Minor Children of )  
AMY LYNN COWLING )

Plaintiffs, )

v. )

GREGG COUNTY, )

Defendant. )

CIVIL ACTION NO 2:11-cv-00279

**PLAINTIFF'S ORIGINAL COMPLAINT**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Plaintiffs, Vicki Bankhead, Individually, and as Representative of the Estate of Amy Lynn Cowling, deceased, and Dustan Bean, As Next Friend for ATB, LSB and CDB, the Minor Children of Amy Lynn Cowling ("Plaintiffs") files this, their Original Complaint, complaining of Gregg County ("Defendant"), and for causes of action would respectfully show the Court the following:

**I.**  
**PARTIES**

1. Plaintiff, Vicki Bankhead is the biological mother of Amy Lynn Cowling and is the administrator of the Estate of Amy Lynn Cowling, by order of 115<sup>th</sup> Judicial District Court of Upshur County, Texas, who died on December 29, 2010, at the time that she was a pretrial detainee, incarcerated in the Gregg County jail, in Longview, Gregg County, Texas. Mrs. Bankhead is a resident of Upshur County, Texas.

2. Plaintiff, Dustan Bean, is the biological father of ATB, LSB, and CDB, the minor children of Amy Lynn Cowling. Plaintiffs are residents of Morris County, Texas. Plaintiffs, ATB, LSB and CDB are the minor children of Amy Lynn Cowling, who died on December 29, 2010, at the time that she was a pretrial detainee, incarcerated in the Gregg County jail, in Longview, Gregg County, Texas. Amy was 33 years of age at the time of her painful and tragic death.

3. Defendant, Gregg County, is a county of the State of Texas. Gregg County funds and operates the Gregg County jail. Defendant, Gregg County is responsible for the implementation of the policies, procedures, practices and customs, as well as the acts and omissions, challenged by this suit. Defendant Gregg County is also responsible for insuring that all of its facilities, including the Gregg County jail, and its agents and employees obeyed the laws of the State of Texas and the United States and are in compliance with Federal and State law, department or agency policies, rules, and regulations and related standards of care. Defendant, Gregg County, may be served by serving its County Judge, William K. Stoudt, 300 Courthouse, 101 East Methvin Street, Longview, Gregg County, Texas.

## **II.**

### **JURISDICTION AND VENUE**

4. The Court has original jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1343 since Plaintiffs are suing for relief under 42 U.S.C. §1983.

5. Venue is appropriate in the United States District Court; Eastern District, Marshall Division, since Gregg County was the location of the events made the basis of this cause of action.

**III.**  
**FACTS AND ALLEGATIONS**

6. Prior to the death of Amy Lynn Cowling on December 29, 2010, Amy had become addicted to certain “painkiller” medication as a consequence of past injuries. The addiction had caused Amy to become dependent on painkillers. The addiction caused Amy to feel bad and continually disrupted her lifestyle because of the nature and effects that the drugs had on her.

7. On or about the year 2003, Amy entered a methadone medical treatment program for the purpose of getting off and staying off painkillers, control her addiction and become a more productive citizen and person. Amy faithfully participated in the program, taking the methadone on a daily basis, and voluntarily submitting to regular drug screens as a condition of program participation and the dispensing of methadone medication. Amy continued in the methadone program on a daily basis up until the time of her confinement to the Gregg County jail on December 24, 2010.

8. On December 24, 2010, at approximately 9:19 a.m., Amy was confined to the Gregg County jail as a pre-trial detainee. At the time of her confinement, Amy was dependent on daily maintenance dosages of physician prescribed medication, including but not limited to methadone, without which she would suffer from severe, painful and life-threatening withdrawal symptoms. At the time of Amy’s confinement, Amy advised Gregg County jail officials and agents of her medical condition, including but not limited to, the fact that Amy was taking physician-prescribed medication, as well as other medication and was dependent on her daily maintenance dosages of methadone medication, without which she would suffer from severe, painful and life-threatening withdrawal symptoms. Amy also advised Gregg County jail officials that she was also taking the medications Alprazolom and Seroquel for various medical illnesses

and conditions that she suffered from. At the time of Amy's confinement on December 24, 2010 and at all times thereafter, the Gregg County jail officials, agents and the Gregg County medical facility officials and agents were aware of Amy's physical and emotional addiction, that she had been on the longstanding daily methadone medication program and that the failure to provide appropriate medical treatment to Amy could result in her death.

9. When Amy was confined to the Gregg County jail, the Gregg County jail officials and agents took possession of her personal effects, which included but was not limited to, some of Amy's medication bottles which identified to the Gregg County jail officials and agents the type of medication Amy was on, the dosage, the frequency at which said medication was required to be taken, the names of Amy's doctors and other pertinent information. Amy specifically requested that the Gregg County jail officials dispense the medication to her timely, pursuant to the dispensing instructions on each of the bottles. Despite Amy's advice, warnings and pleas, the Gregg County jail officials and agents failed to provide Amy with her medication that would prevent her from suffering from the life-threatening and painful withdrawal symptoms that would ultimately take her life five days later.

10. During the time that Amy was confined to the Gregg County jail, she continued to request that the Gregg County jail officials and agents provide her the physician-prescribed medication.

11. In addition, during Amy's confinement to the Gregg County jail, numerous family members and friends (one of whom is a paramedic), in person and over the telephone, advised many Gregg County jail officials and agents at the Gregg County jail that it was imperative that Amy receive her physician-prescribed medication on a timely basis and the details of her dire need for said medication. Despite Amy's repeated requests and the repeated requests of many

others, she was denied her medication. Despite Amy's physician's orders concerning the daily administration of Amy's medication, she was denied her medication. Despite Amy experiencing outward signs and symptoms of seizures, seizure-like activity and withdrawal signs and symptoms, she was never given any of her physician-prescribed medication or provided any appropriate medical care and treatment.

12. Amy, throughout her confinement repeatedly requested that she be administered her methadone medication, as well as the other physician-prescribed medications, but her requests were ignored and refused. Amy also requested that arrangements be made for her to receive her methadone treatment from the East Texas Methadone Clinic at which she was a client/patient, or from any other private clinic or source. Her requests were refused. In reality, Gregg County has admitted and acknowledged by their counsel, as well as its Sheriff, on numerous occasions, that by policy and procedure, Gregg County refused to provide methadone medication to inmates such as Amy or otherwise provide that they receive methadone from area programs in which the inmates were established clients, patients or otherwise.

13. From December 24, 2010 to December 29, 2010, while incarcerated at the Gregg County jail, Amy was permitted to progress into a state of profound withdrawal, resulting from the precipitous withdrawal of methadone and her other prescribed medications. Throughout this interval, Amy was unable to eat and began having the common and usual symptoms from the precipitous withdrawal of methadone medication, including but not limited to, visual and auditory hallucinations, seizures and seizure-like activity and other symptoms. By the evening of December 28, 2010, Amy was profoundly withdrawn. During the evening hours of December 29, 2010, Amy began to repeatedly vomit, bite her tongue and continued to experience continuous, uncontrollable symptoms from the withdrawal of her methadone medication. On

information and belief, correctional officers, as well as numerous inmates continued to express their alarm and concern over Amy's deteriorating condition to other correctional officers and to the Gregg County medical and nursing staff, but nothing was done.

14. Ultimately, Amy had progressed into such a profound state of physical and emotional withdrawal that she suffered lethal seizures which caused her death during the early morning hours of December 29, 2010 while she lie helplessly on the floor in her cold jail cell at the Gregg County jail. Sadly, Amy's death was not a quick and painless one. Beginning almost immediately after her confinement, Amy began suffering from withdrawal symptoms. Throughout her five-day macabre crucible of psychological torment, severe physical pain and suffering, and extreme mental anguish, locked away by herself in a small holding cell, Amy slowly began to perceive her impending death. As her pleas for mercy and help were dismissed by the jailers and staff, she knew that she would never see her unborn grand-daughter or her children and family again. And so it was, on the night of December 28, 2010 Amy Lynn Cowling, who had been pulled over for speeding a few days earlier which began the final tragic steps toward death, died in a solitary confinement cell on her knees, helpless and alone.

15. At approximately 12:22 a.m. on December 29, 2010, sometime after discovering Amy dead, Gregg County jail personnel called the City of Longview Emergency Medical Services for an ambulance and emergency medical personnel. When the Emergency Medical Services personnel arrived at 12:29 a.m., they found Amy's lifeless body on the floor in her jail cell, not breathing, with no blood pressure and with no neurological activity present. At approximately 12:36 a.m., Amy's body was transferred from the Gregg County jail and arrived at Good Shepherd Medical Center at approximately 12:39 a.m., three minutes later, where she was ultimately pronounced dead.

16. On December 30, 2010, an autopsy was performed by John A. Stash, M.D., a Forensic Pathologist. Said autopsy was ordered by B.H. Jameson, Justice of the Peace, for Precinct 1 of Gregg County, Texas. The autopsy was performed at the Southeast Texas Forensic Center in Tyler, Texas and Terry Mitchell, an officer with the Gregg County Sheriff's Office was present during the entire time that the autopsy was performed. Dr. John Stash concluded that Amy's death was caused due to seizures from the withdrawal from her methadone medication and Alprazolam medication, which Gregg County failed to provide to her.

**IV.**  
**CAUSES OF ACTION**

17. Plaintiffs re-allege paragraphs 1 through 16, inclusive, with regard to all causes of action.

**V.**  
**CLAIMS UNDER 42 U.S.C. §1983 AND THE 4<sup>TH</sup>, 8<sup>TH</sup> AND 14<sup>TH</sup> AMENDMENTS TO THE U.S. CONSTITUTION AS TO ALL DEFENDANTS**

18. The Defendant acting under color of law and acting pursuant to customs and policies of Gregg County deprived Amy of rights and privileges secured to her by the Fourth, Eighth, and Fourteenth amendments to the United State Constitution and by other laws of the United States, by failing to provide proper medical treatment, by failing to protect her and through indifference to her medical needs, in violation of 42 U.S.C. § 1983 and related provisions of federal law and in violation of the cited constitutional provisions.

19. On information and belief, Defendant, acting through official policies, practices, and customs and with deliberate, callous and conscious indifference to the constitutional rights of Amy, and all other detainees in the Gregg County jail, failed to implement the policies, procedures; and practices necessary to provide constitutionally adequate medical services to

Amy during her incarceration in the Gregg County jail and implemented policies, procedures, and practices which actually interfered with or prevented Amy from receiving medical services and medication. Furthermore, the conditions complained of were not reasonably related to any legitimate governmental objective.

20. These actions by the Defendant subjected Amy to confinement with constitutionally inadequate medical services, and medication care, such as:

- a. Medical records that are accurate, complete, and transmitted to the proper medical professional in the Greg County jail; and
- b. Confinement conditions that ensure safe, humane and decent conditions.

21. These actions by the Defendant further violated the rights of Amy through the Defendant's policies such as:

- a. The failure to monitor the confinement of inmates to ensure that they were receiving appropriate medical services and medication.

22. The Defendant, as applicable, intentionally, and with deliberate indifference, deprived Amy of her clearly established federal constitutional rights, including, but not limited to:

- a. her right to reasonably safe conditions of confinement;
- b. her right to receive proper medical services and medications for any serious medical conditions; and
- c. her right to be free from cruel and unusual punishment.

23. Defendant, through these actions, proximately caused the deprivation of Amy's rights to due process of law and rights to be free from cruel or unusual punishment subjecting her to periods of incarceration under unduly painful, horrifying, and dangerous conditions resulting



in the death of Amy. The actions of this Defendant were singularly, or in combination, a legal cause of death to Amy.

24. As a result of Defendant's statutory and constitutional violations, Plaintiffs have suffered serious and substantial damages and injuries for which they request the award of the following categories of damages:

- a. Mental anguish, including emotional pain, torment and suffering that Plaintiffs have separately experienced due to the death of their mother and daughter, Amy Lynn Cowling, Deceased;
- b. The pecuniary loss of care, maintenance, support, services, advise, counsel and reasonable contributions of pecuniary value that Plaintiffs have sustained and lost in reasonable probability due to the death of their mother, Amy Lynn Cowling, Deceased;
- c. The loss of society and companionship representing the positive benefits flowing from the love, comfort, companionship and society that Plaintiffs have sustained, in reasonable probability, due to the death of their mother and daughter, Amy Lynn Cowling, Deceased.
- d. Loss of inheritance sustained by Plaintiffs as a result of the death of their mother, Amy Lynn Cowling, Deceased.
- e. Physical pain and suffering endured by Amy Cowling throughout her confinement and leading up to her impending death.
- f. Mental anguish, including emotional pain, torment, and suffering that Amy Cowling endured during her five day confinement leading up to her death.
- g. Medical expenses and burial expenses incurred by Amy Cowling's estate and which were necessary for her treatment and eventual burial resulting from her death.
- h. These damages should be separately assessed by the jury with regard to each individual Plaintiff. A fair and impartial jury should listen to the evidence and award an amount for each element of damages that is just and fair based on the evidence.

25. Pursuant to 42 U.S.C. § 1983, Plaintiffs, are also entitled to recover, and hereby request the award of exemplary damages, reasonable attorney's fees and costs of court.

**VI.**  
**JURY DEMAND**

26. Plaintiffs demand a trial by jury.

**VII**  
**PRAYER FOR RELIEF**

27. For the reasons stated above, Plaintiffs Vicki Bankhead, individually and as representative of the Estate of Amy Lynn Cowling, deceased, and Dustan Bean, A/N/F of ATB, LSB, and CDB, the minor children of Amy Lynn Cowling, request that the Defendant, Gregg County, be summoned to appear and answer herein and then upon final trial or hearing, a judgment be entered in favor of the Plaintiffs and against the Defendant as follows:

- a. Awarding Plaintiffs actual damages in an amount that is within the jurisdictional limits of this Court;
- b. Awarding Plaintiffs punitive or exemplary damages in an amount that is within the jurisdictional limits of this Court;
- c. Awarding Plaintiffs reasonable and necessary attorney's fees and costs of court;
- d. Awarding Plaintiffs pre-judgment interest at the highest rate permitted by law;
- e. Awarding Plaintiffs post-judgment interest at the highest rate permitted by law; and
- f. Awarding Plaintiffs all such other and further relief, at law or in equity, to which they may show themselves to be entitled.

Respectfully submitted,

By: s/s Jimmy M. Negem

Jimmy M. Negem  
State Bar No. 14865500  
Joe M. Worthington  
State Bar No. 22009950  
NEGEM & WORTHINGTON  
440 South Vine Avenue  
Tyler, Texas 75702  
Telephone: (903)595-4466  
Telecopier: (903)593-3266 (fax)  
Email: [jimmy@negemlaw.com](mailto:jimmy@negemlaw.com)

ATTORNEY FOR PLAINTIFFS  
DUSTAN BEAN, A/N/F FOR ASB,  
LSB AND CDB, THE MINOR  
CHILDREN OF AMY LYNN COWLING

By: s/s Jarom Tefeller

Jarom Tefeller  
State Bar No. 24060705  
Todd Tefeller  
State Bar No. 19762300  
TEFTELLER, NEWSOM & TEFTELLER  
403 West Tyler Street  
Gilmer, Texas 75644  
Telephone: (903) 843-5678  
Fax: (903) 680-2310  
Email: [jt@teftellerlaw.com](mailto:jt@teftellerlaw.com)

ATTORNEY FOR PLAINTIFF  
VICKI BANKHEAD, INDIVIDUALLY  
and as REPRESENTATIVE OF THE  
ESTATE OF AMY LYNN COWLING