

Family of Santa Cruz man who died in jail settles with county for \$3 million

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SANTA CRUZ -- The family of a man who died in County Jail in September 2005 could receive \$3 million in compensation from the county, according to a tentative settlement reached in federal court Thursday.

The agreement also requires the county to alter the death certificate of David Anthony Cross and send a written apology to the Cross family, said Andrew Schwartz, one of the attorneys representing the family. The county Board of Supervisors could be asked to approve the settlement as soon as Tuesday.

The civil suit was set for trial in early May.

"I think both sides realized it was in their best interest" to end the case, Schwartz said. "Everybody involved in this incident feels terrible about it, both sides. The litigation was difficult because of the subject matter. Somebody died."

Sheriff's Sgt. Fred Plageman declined to discuss the case Friday.

"The matter is still under litigation and it is inappropriate for me to comment at this time," he said.

Cross, 44, of Santa Cruz lost consciousness during a struggle with jail deputies, who were trying to restrain him after he began banging his head on his cell door and thrashing on the floor.

Court documents show during the altercation, Cross repeatedly screamed "I can't breathe" and "I'm going to die."

He stopped breathing as he was being restrained and was pronounced dead at Dominican Hospital the next evening.

County coroner Dr. Richard Mason ruled his death accidental and a subsequent investigation by the District Attorney's Office concluded the correctional officers involved did not commit any criminal acts.

Information presented to the court by the county also states that Cross was a habitual drug and alcohol user whose own mother had described as being on "a self-destruct mission for many years." He had been arrested numerous times between 1993 and 2005 for alcohol and methamphetamine abuse, theft and violence, according to court documents. He was jailed on Sept. 17 -- the day of the struggle -- for domestic violence and vandalism charges.

Cross' parents, brother and daughter later filed a wrongful death suit against the county, Sheriff Steve Robbins and several County Jail correctional officers and medical personnel that alleged their conduct was "malicious, wanton and oppressive."



The suit disputed how much awareness the correctional officers had of his medical state as they restrained him, if their use of force contributed to his death and if they were negligent in summoning medical help.

A moment-by-moment account of the restraint procedure from the Sheriff's Office asserts that correctional officers used appropriate amounts of force and, according to procedure, sought medical attention for Cross after they believed he was safely restrained.

His family alleged after correctional officers used a Taser on Cross and sat on him, they allowed him to sit in a restraint chair with his head pressed tightly against his chest for several minutes, according to court documents. At that point, he had stopped resisting -- correctional officers stated in court documents that it was not unusual for inmates to switch from active to passive resistance -- something the Cross family alleged should have signaled a problem and led to an immediate medical assessment.

A nurse checked his pulse more than 16 minutes after the restraint procedure began and couldn't locate it, court documents stated. Resuscitation efforts started about a minute later.

Mason's autopsy report said that Cross suffocated due to pressure correctional officers applied to his upper torso. However, the county later retained two experts -- a forensic pathologist and a pulmonologist -- during the civil action to rebut Mason's findings. The experts agreed Cross died from cardiopulmonary arrest due to a methamphetamine overdose. Other medical issues including an enlarged heart, Cross' size -- he was 6 feet, 1 inch tall and 260 pounds -- bipolar disorder and extreme agitation contributed to his death, the experts stated in court documents.

The suit also was critical of how the Sheriff's Office communicated the emergency to the Cross family.

Cross was rushed to the hospital around 11:30 p.m. but his family was not notified until after he was pronounced dead at 6:18 p.m. the next day.

"The man who died was a real good guy," Schwartz said. "He was beloved, really beloved by his parents, his daughter, his brother and they're glad this litigation is over because now they can start what is very difficult for them, which is putting this matter to an end."

The Cross family sued for medical and burial costs, as well as punitive damages, attorneys' fees and the costs of the suit. Attorneys did not say how the \$3 million settlement was determined.

Also according to the tentative agreement, the sheriff will write a letter of apology to the family and the wording "out of control" will be deleted from Cross' death certificate, Schwartz said.

"I think it was important because we're of the opinion that out of control doesn't accurately describe the condition of David at the time he died," Schwartz said.

The lawsuit also alleged the Sheriff's Office failed to properly train and supervise correctional officers working at County Jail.

After Cross died, some procedures at the jail were altered, according to the Sheriff's Office. Most notably, a "safety officer" is now assigned to the sole responsibility of watching out for the safety and welfare of inmates and other officers.

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