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Patient's family sues MHMR over death

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PAGE: B1

A wrongful death suit has been filed against Austin State Hospital by the family of a mentally ill patient who was slain there last year.

The family of Leta McClain, 76, also sued the Texas Department of Mental Health and Mental Retardation, charging the agency was negligent by failing to supervise a violent patient suspected of beating McClain to death while she sat in her wheelchair.

A housekeeper found McClain slumped over with a bleeding head wound on March 29, 1991. McClain had been left alone, records show.

McClain was in a coma for three months and died in July. Her death was ruled a homicide.

There were no witnesses to the attack, but police say the prime suspect is another mentally ill patient who was in a bedroom just across the hall. The man, who has a past conviction for involuntary manslaughter, has not been charged in McClain's slaying because police lack evidence, Austin police Lt. Andrew Waters said.

A few days after the attack on McClain, the suspect stabbed a hospital worker in the neck with a pencil. He was convicted in that attack and sentenced to 25 years in prison.

After McClain was bludgeoned, Austin State Hospital concluded there was no wrongdoing by staff. Records show the suspect was supposed to be monitored closely because of his violent nature. He had been assigned to the bedroom farthest from the nurses' station.

McClain's family alleges the state should have provided better supervision. Their lawsuit alleges inadequate staffing because it was Good Friday and some workers had gone home.

"Apparently they weren't supervising them very closely because he had time enough to take a wheelchair apart and beat her head in with it, and for a puddle of blood to develop around her," said Donald McClain of Pasadena, son of Leta McClain.

Joining Donald McClain as plaintiffs in the lawsuit are his sister and uncle.

The lawsuit does not seek a specified amount of damages. State law limits damage awards against government agencies to \$250,000.

Donald McClain said that more important than a monetary award would be a change in the MHMR system so elderly and vulnerable patients will not be left alone with violent patients.

"Certainly, a great injustice was done to the family and particularly to Ms. McClain," said Steve **Gibbins**, attorney for the family.

Adolph Supak, Austin State Hospital assistant superintendent, said: "I think we afforded her the necessary protection that would be expected in a situation like that. We followed all of our procedures and policies for close observation during that time."

However, records show the hospital later revised its policies to require a special room near the nurses' station for aggressive patients.

Meanwhile, the homicide case remains open, but police expect no charges to be filed unless "all of a sudden he decided to confess, or we got any kind of corroborating evidence (to) take it to a grand jury," Waters said.