Man crippled in 2012 beating in a New Orleans jail dies; case h prompt reform at city's lockup

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A former Marine who was brutally beaten inside the New Orleans jail five years ago, helping fuel widespread calls for changes and eventually a court order mandating improved conditions there, has died, having never regained full brain function after the attack.

Terry Smith, 71, died Saturday at the state-run nursing home that had been caring for him, said Nancy Goodwin, who had been appointed to make health decisions on his behalf.

Smith had been released three days earlier from a Baton Rouge hospital after undergoing treatment for the latest of several lung infections.

Goodwin, an advocate for the disabled, said she found it ironic that officials invested so little in keeping Smith safe inside the jail, only to end up spending "at least hundreds of thousands of dollars on barely keeping him alive" in the aftermath of the attack.

The Orleans Parish Sheriff's Office, which runs the lockup, did not immediately respond to a request for comment Wednesday.

The man charged with beating Smith — Edwin K. Lee, now 25 — pleaded guilty to second-degree battery in 2014 and received a five-year sentence.

Loyola University law professor Dane Ciolino said prosecutors will be able to charge Lee with murder if Smith's death is classified as a homicide resulting from the June 23, 2012, beating.

Ciolino said the constitutional prohibition against double jeopardy would not apply in Lee's case because Smith's death was not in consideration at the time he entered his guilty plea.

Neither the Orleans Parish District Attorney's Office nor the Coroner's Office immediately responded to a request for comment Wednesday.

Authorities first jailed Smith in 2012 for "obstructing a public way" during Mardi Gras and housed him in the psychiatric section of the now-shuttered House of Detention, infamous for violence.

One altercation left Smith with broken bones in his face, though that incident was not nearly as serious as the one that would follow, according to a lawsuit later filed on his behalf.

Officials briefly released Smith from custody in June of that year but locked him up again on allegations of trespassing and possessing the type of glass pipe used to smoke crack cocaine. The Sheriff's Office again placed Smith among a group of mentally ill inmates, in the jail building known as Templeman V.

Smith was in search of coffee when Lee — described as mentally ill and notoriously violent — struck him several times in the face and knocked him to the floor, according to the lawsuit. Having hit his head on a metal bench, Smith was left lying in a pool of blood until a deputy on a routine security round discovered him, the lawsuit said.

The attack had caused Smith's brain to hemorrhage, leaving him all but brain-dead and unable to walk or communicate, according to the lawsuit.

An investigator with the Southern Poverty Law Center filed a lawsuit on Smith's behalf. A legal team led by attorney Miranda Tait accused the Sheriff's Office of failing to protect Smith and other inmates from "a substantial risk of harm."

In approving a consent decree mandating sweeping changes at the jail, U.S. District Judge Lance Africk pointed to the attack on Smith as an example of the dangers posed by inadequate staffing and other shortcomings at the facility.

Gusman's office settled the Smith lawsuit on the eve of a trial in

2015 with an agreement involving an undisclosed amount of money to cover any of the plaintiff's medical costs that were not covered by Medicaid for the rest of his life.

Smith lived most of the rest of his days at the state's nursing home in Jackson, Louisiana. He had lost his ability to cough or swallow, leading to a build-up of bacteria in his lungs that repeatedly caused infections.

Those infections sent Smith to the hospital, where he would take antibiotics and his lungs would be pumped out, said Goodwin, his court-appointed curator.

Eventually, Goodwin and Smith's medical team decided that he should receive the same type of care found at hospice facilities, whose patients include those with terminal illnesses.

Goodwin said she did not have an opinion on how authorities should proceed with Lee following Smith's death Saturday.

"Whether (Lee) spends more time in prison or not, that isn't the issue to me," Goodwin said. "What upsets me and hurts me the most is Terry Smith was never given the safety he should've had in Orleans Parish Prison."

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