



Suit: Negligent police agencies, prosecutors liable in boy's death

By T. S. Last / Journal Staff Writer

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SANTA FE – An Albuquerque attorney last week filed a wrongful death suit alleging that “systemic failures” by police agencies and prosecutors helped lead to the death of Jeremiah Valencia, the 13-year-old boy whose body was found stuffed in a plastic container and buried down the road from where his family group was living in Nambé.

The boy's estate and the guardian for Jeremiah's little sister are plaintiffs in the case that names as defendants the Santa Fe County Commission, the county Sheriff's Department, the city of Santa Fe and two of its police officers and District Attorney Marco Serna and Deputy D.A. Michael Nunez.



Jeremiah Valencia

“This case presents a tragedy that resulted from a toxic blend of apathy, understaffing, negligent operation of a building and equipment, bad police training and supervision, investigation and follow-up, and systemic failures by agencies whose purpose is to provide public safety,” says the lawsuit filed by attorney Frances Carpenter.

Jeremiah died in November 2017 while his mother was in jail and he was in the care of his mother's boyfriend, Thomas Ferguson, and his 19-year old son, Jordan Nunez. The lawsuit notes the alleged abuse that police have said the boy suffered in the weeks prior to his death, including being beaten with brass knuckles and a five-pound

hammer, lifted upside down and dropped on his head, poked with a spear, deprived of food, kept locked in a dog crate, and being urinated on by Ferguson.

The autopsy revealed that Jeremiah had multiple jaw fractures, a fractured hand, an eye partially displaced from its socket, and methamphetamine in his system.

Ferguson committed suicide while being held in jail on murder charges. Nunez, who is charged with numerous counts of child abuse and tampering with evidence, is in jail awaiting trial. Prosecutors now say Nunez delivered the fatal blow when he was flipping over the dog crate that Jeremiah was locked in.

Jeremiah's mother, Tracy Pena, has accepted a plea deal that calls for her to spend 12 years in prison in exchange for testifying against Nunez.

The lawsuit outlines a series of breakdowns that the suit says could have prevented Jeremiah's death by putting Ferguson behind bars or alerted authorities to the way Jeremiah was being treated. Among them:

- At a 2016 probation hearing, Ferguson avoided being sent to jail because a judge was not told that Ferguson had been charged with a major probation violation, battery against a household member, two years earlier, as first reported by the Journal.
- Probation officers checking on Ferguson left the home in Nambé because they encountered dogs in the yard, and the officers never came back.
- Santa Fe police officers once took Pena into custody for failing to show up for a court hearing, but let Ferguson go despite his having an expired driver's license, a vehicle registration that didn't match the car he was driving, and being on probation. Video obtained by the Journal shows that Pena mentioned having a daughter several times, but the officers wrote in their report that she was not caring for any children and didn't raise any red flags with child welfare authorities about Ferguson being the caregiver with Pena in custody, despite his criminal record that included a child abuse/abandonment charge.
- The Sheriff's Office failed to follow up on at least six calls to check on the Nambé residence, including one from the homeowner who said she believed someone was living there without her permission.
- A bench warrant ordering Ferguson to be held without bond and that his probation be revoked, which would have sent him to jail, wasn't filed by the District Attorney's Office until three months after it had been requested by a judge and just days before Jeremiah's death, as shown by a Journal investigation.

The lawsuit quotes District Attorney Serna's comments from a Journal article acknowledging that his office should have filed the motion to revoke Ferguson's probation earlier, but it "fell through the cracks." A spokesman for the DA's Office said Monday that it has not seen the lawsuit, "therefore it would be inappropriate to comment," Spokespeople for Santa Fe County, the Sheriff's Office and the Santa Fe Police Department also declined to comment.

Contact the writer.