

BYU-IDAHO, THURSDAY, NOVEMBER 7, 2024, AT 11:10A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

**JEFFERY BRAY and MICHELLE BRAY,)
individually, and as Personal Representatives)
of the ESTATE OF COLBY JAMES BRAY)
(DECEASED),)**

Plaintiffs-Appellants,)

v.)

**IDAHO DEPARTMENT OF JUVENILE)
CORRECTIONS; ARTHUR GREENE, an)
individual; SHALAIN KRESS, RN, an)
individual; KELLY MEACHAM, PA-C, an)
individual; LORI ANN FULLMER, LPN, an)
individual; DEBORAH LEE FLITTON, LPN,)
an individual; TERRISA LYNN PETERSON,)
LPN, an individual,)**

Defendants-Respondents,)

and)

JOHN DOES I-X,)

Defendants.)

Docket No. 50935

Appeal from the District Court of the Sixth Judicial District of the State of Idaho, Franklin County. Mitchell W. Brown, District Judge.

Bearnson & Caldwell, LLC, Logan, Utah, for Appellants.

Hopkins Roden Crockett Hansen & Hoopes, PLLC, Idaho Falls, for Respondents, Deborah Lee Flitton, Lori Ann Fullmer, Arthur D. Greene, Idaho Department of Juvenile Corrections, Shalaine Kress and Terrisa Lynn Peterson.

Hawley Troxell Ennis & Hawley, LLP, Pocatello, and Farm Bureau Insurance Company of Idaho, Pocatello, for Respondent Kelly Meacham.

On November 25, 2019, Colby James Bray died at the Eastern Idaho Regional Medical Center when he was in the custody of the Idaho Department of Juvenile Corrections (“IDJC”). Colby’s parents, Jeffrey and Michelle Bray (the “Brays”), acting as the personal representatives

of Colby's estate, filed a Notice of Tort Claim ("NOTC") with the Idaho Secretary of State in March of 2020. Then, on November 24, 2021—the day before the two-year statute of limitations was set to expire—the Brays filed a complaint in the United States District Court, for the District of Idaho. After the State denied the Bray's NOTC and the Brays agreed to a voluntary dismissal in the case before the federal court, the Brays brought suit in state court in the sixth judicial district for Franklin County on November 3, 2022, nearly three years after Colby's death. The Brays complaint asserted five causes of action: (1) a Wrongful Death claim pursuant to Idaho Code section 6-903, (2) a Negligence–Survivor cause of action; (3) a claim under 42 U.S.C. § 1983; (4) another claim under 42 U.S.C. § 1983; and (5) a Negligence Per Se claim under Idaho Code section 20-518. IDJC and the other named defendants filed motions for summary judgment. The district court granted the various motions for summary judgment, finding that the Brays' claims were barred pursuant to the applicable statute of limitations under Idaho Code sections 6-911 and 5-219(4), and entered an order dismissing the complaint with prejudice. The Brays' appeal this dismissal, arguing that (1) the district erred when it concluded that the tolling provisions of Idaho code section 5-234 did not toll time for them to file their complaint in state court; (2) the district court erred in concluding the tolling provision in U.S.C. § 1367(d) did not toll time for them to file their complaint in state court; (3) the district court erred in awarding attorney fees to the Respondents.