

<https://www.usatoday.com/story/news/nation/2023/04/12/jail-reform-mentally-ill-man-dies-after-solitary-confinement/11566175002/>

A man with mental illness died after 20 days in solitary confinement. Did the jail system fail him?



Tami Abdollah

USA TODAY

When Joshua McLemore's mother couldn't reach her son several states away in Indiana during the summer of 2021, she grew worried. McLemore, 29, had struggled with mental health problems and drug abuse since high school, and had been ultimately diagnosed with schizophrenia.

But what began as a welfare check on her son quickly evolved overnight from him heading to the hospital to him getting booked into jail instead, after McLemore yanked a nurse's hair at the emergency room and police were called.

Because of McLemore's mental state, no initial hearing was held. McLemore was also never photographed, fingerprinted or asked any medical questions for new arrivals; instead, he was taken directly to a padded cell.

For 20 days, Jackson County officials kept McLemore in "PAD7," a windowless room, where he was alone and naked, with nearly no human contact, and no medical or mental health treatment, according to a federal civil rights complaint filed Wednesday.

While in custody, McLemore rarely slept, ate or drank. He would behave erratically, destroying dinner bags dropped off for him and dumping food on his cell floor. Drinks would often end up on the floor, mixed with food, trash,

his feces and urine. On Aug. 10, 2021, after losing nearly 45 pounds from what had been his 198-pound body, McLemore was declared dead.

His cause of death, per the autopsy, was "multiple organ failure due to refusal to eat or drink with altered mental status due to untreated schizophrenia."



Corrections experts say claims of medical neglect and mistreatment of people with mental illness are a problem endemic to the U.S. penal system, which was never intended or equipped to deal with them. In 44 states, a jail or prison holds more people with a mental illness than the largest remaining state psychiatric hospital, according to the Treatment Advocacy Center, a nonprofit that aims to eliminate barriers to treatment for people with severe mentally illness. Those with psychiatric health conditions like schizophrenia and bipolar disorder are 10 times more likely to be in a jail or prison than in a hospital bed. Research has found that people with serious mental health conditions were more likely to be victims of violence than to be violent themselves.

In this case, the Indiana jail at the center of the lawsuit has seen other deaths linked to a lack of medical care. In one case, four days prior to McLemore's arrival at Jackson County Jail, pretrial detainee, Ta'Neasha Chappell, died "as a result of the same practices," the complaint alleges. Chappell, 23, pleaded with staff for medical care for nearly 16 hours, as she repeatedly vomited blood and grew dehydrated. Her family filed a federal wrongful death lawsuit alleging cruel and unusual treatment by jail staff.

Another prison death:This mentally ill man was pepper-sprayed, choked and hooded before dying



"When a jail takes custody of a person, particularly pretrial, that person becomes 100% dependent on the people who are confining them, who hold the keys to the jail cell, to make sure their basic needs are met," said Edwin Budge, an attorney who represents McLemore's estate in the federal lawsuit. "It's the same thing if somebody went into the jail with a heart condition and was complaining about heart trouble."

The federal complaint filed in the U.S. District Court for the Southern District of Indiana alleges that McLemore's 14th Amendment rights were violated by Jackson County, its sheriff, jail commander, night-shift sergeant, jail medical staff, and the Tennessee-based private contractor Advanced Correctional Healthcare, Inc.

Jessica K. Young, president and chief executive officer for Advanced Correctional Healthcare, said in an emailed statement that the company cannot discuss McLemore's case because of federal health privacy and confidentiality laws. ACH manages contracts to care for more than 34,600 patients in more than 370 correctional facilities across 21 states.

None of the remaining defendants responded to requests for comment.

The Jackson County prosecutor's office found "no crimes were committed by employees of the Jackson County Jail" related to McLemore's death, according to his written report.

"No single person committed an act or omission that constituted a crime. Mr. McLemore most likely died due to a prolonged lack of attention by Jackson Jail staff as a group," wrote Jeffrey Chalfant, Jackson County's prosecuting attorney.



The lawsuit alleges that county officials and medical staff were deliberately indifferent to McLemore's medical and mental health needs, and that Advanced Correctional Healthcare failed to provide services that met minimum constitutional requirements.

"Josh suffered and died because of multiple failures by county staff and supervisors, as well as systemic deficiencies and unconstitutional customs, practices, and conditions at the Jackson County Jail," the complaint states. "His condition was treatable, and his death was preventable."

Jail failed to follow its own policies

The lawsuit alleges that the county failed to adopt adequate policies and procedures to protect people in its custody with serious medical or mental health issues, that it failed to provide adequate medical and mental health staffing and services, and failed to adequately train staff on how to manage people with severe mental illness.

The jail was cited in 2019, 2020 and June 2021 by the Indiana Department of Corrections for being out of compliance with a state law requiring it to

arrange for 24-hour emergency psychological care, including a written plan with arrangements for the use of appropriate health facilities.

And despite jail policy requiring a medical and mental health screening for all people booked into jail, no such evaluations were ever done for McLemore, the complaint alleges.

While McLemore was placed on "medical observation" for the entirety of his time at the jail because of the mental state he arrived in, he received virtually no medical monitoring or care during his confinement, the complaint alleges.

In fact, the county jail's nurse appeared to ignore McLemore's screams and barely interacted with him, the complaint alleges. The logs, which were required to include 15-minute observations, were only maintained for seven-and-a-half days.

McLemore rarely allowed out of cell

Despite Indiana law and Jackson County Jail policies that require people in solitary confinement be allowed out of their cell at least one hour a day, jail employees rarely allowed McLemore to leave his padded cell during the 20 days he was there, McLemore's attorneys, who reviewed roughly 400 hours of videotape of McLemore's time in jail, say.

Between July 20 and Aug. 8, McLemore was only removed from his jail cell three times for staff to clean it and two of those times to allow McLemore to be wheeled into a shower. And while his cell had a restroom attached to it, the door was locked and only opened once during those 20 days.

On the morning of July 25, guards opened McLemore's cell, put him in a chokehold and pinned him to the floor with his hands tied behind his back. Then they placed McLemore, who was not resisting at the time, into a restraint device that binds his legs and ankles together tightly, harnessed him in a sitting position and put a helmet on his head, according to the complaint.

McLemore sat there for roughly 15 minutes while staff had another prisoner clean his cell, then guards carried him back in and put him on the floor still in the same bindings.

McLemore was kept in the bindings for four-and-a-half hours, mostly while he was alone in his cell, in violation of jail policy and his constitutional rights to be free from excessive force or unreasonable restraint, the complaint alleges.



According to the complaint, one guard claimed to have seen McLemore punching himself in the head and slapping his own stomach, which was why the restraints were allegedly necessary; however, a review of the video from that time doesn't show McLemore doing anything to hurt himself, the complaint states.

On July 27, McLemore was removed from his cell and strapped naked into a restraint chair as his cell was being cleaned by another detainee. The chair was put under a shower with the water turned on and McLemore was helpless to wash himself, per a review of the video; a guard walked in with a couple paper cups of liquid soap, poured them on McLemore's body and walked away.

McLemore was removed again on July 31, to clean his cell and put him in the shower, again, in a restraint chair.

"Because the jail had no mental health professional, and because the guards were not trained or equipped to engage with a severely mentally ill person in a safe and humane manner, events unfolded similarly," the complaint states, with the guards resorting to force and restraint.

Medics found McLemore naked under a urine-covered blanket

On Aug. 8, McLemore's last day at Jackson County Jail, he skipped breakfast and lunch, before being offered a bottle of orange Gatorade. McLemore couldn't reach it and was too weak to hold the bottle to drink it. The jail's nurse got a straw and held the bottom up so McLemore could drink.

It was one of 19 or so drinks McLemore would receive during his roughly 20 days of confinement in a small Styrofoam cup or Gatorade bottle — much of which ended up spilled, according to the complaint.

Then a little later, guards dragged McLemore out of the cell by his arms, hoisted him in a restraint chair and wheeled him away so that McLemore could get cleaned up for the ambulance, the complaint states. Even though McLemore couldn't stand or bear weight because he was so weak and ill, they handcuffed his wrists to the chair, the complaint states. An ambulance wasn't called for at least another hour.

When medics finally arrived at Jackson County Jail to take McLemore to the hospital, they found him lying naked on a mat with a urine-covered blanket and urine all over the floor around him, according to the ambulance service's patient care report.

"The patient was lethargic and had an altered level of consciousness," the report notes, describing how McLemore would look at the medic and then doze off. When asked questions, McLemore would stare and shake his head.

Late that night, an emergency room doctor noted that McLemore was suffering from low levels of oxygen in his tissues, as well as acute renal failure, the breakdown of his muscle tissue, excess sodium in his blood often caused by severe dehydration, and altered brain function.

He'd shown up lethargic and "ill-appearing" and looked like his body was wasting away, with sunken eyes, the emergency room doctor wrote per the Aug. 8 medical record. Because the local hospital now lacked the resources to treat McLemore, he was airlifted to a larger hospital in Ohio.



Before he could be airlifted, McLemore was released on his "own recognizance" for the alleged assault he committed three weeks earlier. The release paperwork reviewed by USA TODAY included a "promise to appear" in court on Sept. 8 at 1 p.m. The defendant, McLemore, was "unable to sign," the record shows.

Two days after he arrived intubated at Mercy West Hospital in Cincinnati, McLemore was declared dead with his mother by his side. The cause of death was "multiple organ failure due to refusal to eat or drink with altered mental status due to untreated schizophrenia," according to the autopsy report.

McLemore's history of methamphetamine withdrawal was cited as a contributory cause of death.

'Poor woman, she died of a broken heart'

McLemore's mother, Rhonda, had raised her son as a single mom and member of the U.S. Navy. When her son died, she was "utterly devastated," the family's attorney, Budge, recalled.

Rhonda McLemore retained Budge, then died 16 months after her son due to health issues. He now represents her sister, and Joshua McLemore's aunt, Melita Ladner, in the case against the county, its officials, medical staff and the private medical contractor.

Ladner declined through counsel to be interviewed but provided written comments.

"In America, jails are supposed to be humane. But what happened to Josh was cruel and senseless," Ladner said. "Jackson County and the people who were responsible for Josh need to be held accountable. This should never happen to anyone else."



Rhonda McLemore had grown close to Susan Wildin, whose daughter Abby Smith was engaged to and living with Joshua McLemore when she died in a car accident in 2019.

"He was just the apple of her (Rhonda's) eye, and they just loved each other," Wildin said. "She helped him through Abby's death, she was there for him. I just got the feeling that she was helping hold him up at the funeral."

But later, Wildin said, Rhonda McLemore told her her son had quit taking his medications and McLemore didn't know how to help him anymore. McLemore was frantic when she couldn't reach her son and then very grateful when Wildin helped locate him and get him to the hospital. The next day, McLemore learned her son was actually in jail.

McLemore called the jail and waited days for somebody to call her back.

"She felt guilty because Josh had had some sort of issue with the police in Indiana for something else, like a few months before, and she told him, 'Josh,

don't you ever call me from jail," Wildin said. "So that stuck with her, poor woman, she died of a broken heart."

Budge said McLemore eventually spoke to the jail commander about her son's mental health issues, expecting the information would be acted upon. But she only learned the reality of the situation when she got a call from the Cincinnati hospital informing her of her son's condition.



"Nobody deserves what happened to that child," said Wildin, remembering the disturbing images Josh's mother sent her from the hospital of him with blackened body parts and a blank stare.