

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MOTION TO APPOINT SPECIAL ADMINISTRATOR FOR DECEASED PLAINTIFF

Margaret Thomas, by counsel, moves the Court to appoint her as Special Administrator of the Estate of Nephus Thomas, her deceased brother.

Grounds for this motion are as follows:

1. Nephus Thomas filed this lawsuit on January 7, 2019. This case
is part of the Watts Coordinated Pretrial Proceedings, 19-cv-1717, a group
of 73 cases that are coordinated for pretrial proceedings.

2. Mr. Thomas died on October 17, 2020.

3. The Section 1983 claims advanced in the complaint survive the
death of Mr. Thomas.

4. Margaret Thomas is Mr. Thomas's sister and has expressed a
willingness to continue this suit for the benefit of her brother's estate.

5. An estate has not been opened for Mr. Thomas, whose assets at the time of his death consisted only of o this lawsuit.

6. Mr. Thomas was never married. His mother predeceased him and his father is believed to be deceased. Mr. Thomas left six living siblings and one child also named Nephus Thomas.

7. The Seventh Circuit held in *Anderson v. Romero*, 42 F.3d 1121 (7th Cir. 1994) that a federal court has the power to appoint a special administrator to continue the prosecution of a Section 1983 action, as long as that action survives the death of the plaintiff.

8. The Court of Appeals applied *Anderson* in *Stewart v. Special Adm'r of Estate of Mesrobian*, 559 F. App'x 543, 548 (7th Cir. 2014) and in *Gilliam v. City of Chicago*, No. 17-1679 (7th Cir. December 6, 2017).

9. Several judges in this district have also applied *Anderson* in cases where the plaintiff died during the pendency of a Section 1983 case. *Smith v. Chicago*, 14-cv-7718, ECF No. 102 (Wood, J.); *Elizarri v. Sheriff*, 17-cv-8120, ECF No. 73 (Durkin, J.); *Lepinay v. City of Chicago*, 16-cv-10695, ECF No. 27 (Feinerman, J.); *Gray v. Village of Riverdale*, 16-cv-4856, ECF No. 17 (Bucklo, J); *Medved v. Butkovic*, 09-cv-3699, ECF No. 16 (Gottschall, J.); *Smentek v. Sheriff*, 09-cv-529, ECF No. 484 (Lefkow, J.)

It is therefore respectfully requested that the Court appoint Margaret Thomas as special administrator of the Estate of Nephus Thomas.

Respectfully submitted

/s/ Joel A. Flaxman
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