

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ESTATE OF MARQUIS ANTHONY EDWARDS	:	CIVIL ACTION
	:	
	:	
v.	:	
	:	
CITY OF PHILADELPHIA, et al.	:	NO. 97-CV-7876

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CAPRICE SHANTE EDWARDS, et al.	:	CIVIL ACTION
	:	
	:	
v.	:	
	:	
CITY OF PHILADELPHIA, et al.	:	NO. 98-CV-3347

**MEMORANDUM AND ORDER**

**J. M. KELLY, J.**

**DECEMBER 16, 1998**

Presently before the Court is the motion of the Estate of Marquis Anthony Edwards (“the Estate”) to dismiss Civil Action Number 98-CV-3347, brought by Caprice Shante Edwards (“Ms. Edwards”) (Document No. 19). For the reasons that follow, the Estate’s motion is granted.

On November 24, 1997, Anthony Morgan filed a complaint as the legal representative of his son, Marquis Anthony Edwards. Mr. Morgan brought this action “on behalf of the Estate of the Decedent and on behalf of all persons who are entitled to recover damages” under Pennsylvania’s Wrongful Death Statute. (Compl. ¶ 3.) Mr. Morgan specifically named Caprice Shante Edwards and Shakena LaShae Edwards, the daughters of Marquis Edwards, as among those on whose behalf he filed suit. *Id.* at ¶ 9.)

Ms. Edwards and her sister, however, sought out their own counsel, who filed a complaint in federal court on June 30, 1998, with Ms. Edwards and her sister as plaintiffs. This

second suit primarily differs from the first in that it names several new defendants; both complaints allege civil rights violations, common law theories of recovery, and liability under Pennsylvania's wrongful death and survival statutes. Defendants moved to consolidate these two actions, and the Court granted this motion. The Estate now moves to dismiss the second suit as duplicative, and argues that under the Pennsylvania Wrongful Death Statute, Mr. Morgan, as administrator of the Estate, is the only party that has standing to sue Defendants.

Ms. Edwards argues that she and her sister are entitled to bring individual claims under 42 U.S.C. § 1983 for their father's death, and that to the extent the Wrongful Death Statute interferes with this right, the statute should be disregarded. Ms. Edwards disregards the fact that the Estate, in fact, has brought a § 1983 action on her behalf. Far from hindering the exercise of her rights, the Wrongful Death Statute has provided an effective vehicle for her rights to be vindicated. Contra McFadden v. Sanchez, 710 F.2d 907, 911 (2d Cir. 1983) (concluding the New York wrongful death statute prohibited a punitive damages award in a § 1983 action and finding the plaintiffs could maintain a cause of action separate from the statute); Agresta v. Sambor, 687 F. Supp. 162, 167 (E.D. Pa. 1988) (holding that Pennsylvania Wrongful Death Statute did not apply where it prohibited a parent from recovering under § 1983). What it has not done, however, is permit her to bring a suit herself, because only the personal representative of the decedent may bring an action under the Wrongful Death Statute. Pa. R. Civ. P. 2202(a). Ms. Edwards argues the statute is inapplicable under McFadden and Greene v. City of New York, 675 F. Supp. 110 (S.D.N.Y. 1987), but through this argument she shows she has entirely missed

the point of those cases;<sup>1</sup> McFadden and Greene recognize that plaintiffs may bring § 1983 actions when barred by wrongful death statutes, but nowhere state plaintiffs may circumvent wrongful death statutes that do not interfere with the plaintiffs' exercise of civil rights.

Later in her memorandum Ms. Edwards correctly notes that she has sued more defendants than has the Estate (Resp. To Mot. To Dismiss, at 12), but this is irrelevant. Her belief that the suit against Defendants should be prosecuted differently does not give her standing to sue under the Wrongful Death Statute. The Court therefore grants the Estate's motion to dismiss Ms. Edwards' suit.

An Order follows.

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<sup>1</sup>Ms. Edwards cites many other cases in her memorandum, but none of those cases involves both a § 1983 claim and a wrongful death statute.

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**ORDER**

AND NOW, this 16th day of December, 1998, in consideration of Plaintiff The Estate of Marquis Anthony Edwards' Motion to Dismiss Consolidated Action No. 98-CV-3347 (Document No. 19), and Plaintiff Caprice Edwards' response thereto, it is hereby **ORDERED**:

1. The motion to dismiss is **GRANTED** in favor of the Estate of Marquis Anthony Edwards, and against Caprice Edwards and Shakena Edwards;
2. Civil Action No. 98-CV-3347 is **DISMISSED** with prejudice; and
3. Civil Action No. 98-CV-3347 is closed.

BY THE COURT:

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JAMES MCGIRR KELLY, J.