

ELECTRONICALLY FILED
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CLERK OF THE SHAWNEE COUNTY DISTRICT COURT
CASE NUMBER: 2019-CV-000233



Court: Shawnee County District Court
Case Number: 2019-CV-000233
Case Title: State of Kansas ex rel Derek Schmidt Atty General
vs. Shawn Parcels, et al.
Type: Order Approving Procedure for Release of
Biological Samples

SO ORDERED.

A handwritten signature in black ink, appearing to read "M E Christopher", with a long, sweeping horizontal line extending to the right.

/s/ Honorable Mary E Christopher, District Judge

Melanie Jack. Defendants appear by Eric Kjorlie. Receiver appears by Brian Vazquez, General Counsel, Kansas Department of Health and Environment.

Whereupon the Court considers Plaintiff's Motion and Memorandum, Exhibits A, B, and C, and the Court finds as follows:

1. The above-captioned matter was commenced by the State of Kansas, *ex rel.* Derek Schmidt, Kansas Attorney General, against Defendants Shawn Parcels, *et al.*
2. Plaintiff filed its Petition and Motion for *Ex Parte* Temporary Restraining Order with Memorandum in support on March 22, 2019.
3. The Court granted the *Ex Parte* Temporary Restraining Order on March 26, 2019.
4. After hearing on April 19, 2019, the Court granted the Temporary Restraining Order as requested by Plaintiff.
5. On October 25, 2019, Plaintiff filed its Motion for Appointment of a Receiver with Memorandum in support.
6. The Court granted Plaintiff's Motion for Appointment of a Receiver by Order on November 26, 2019, appointing Secretary Lee A. Norman, M.D., Kansas Department of Health and Environment ("KDHE").
7. The Receiver and/or his designees and Plaintiff entered onto the premises located at 516 SW 3rd Ave, Topeka, KS, and conducted a complete inventory of the biological samples on the premises.
8. The Receiver and/or his designees have taken into custody and possession all inventoried biological samples. These samples are now stored under the supervision and control, subject to

relevant and applicable statutes, rules and regulations, of Kansas Department of Health and Environment.

9. The Receiver and Plaintiff have proposed publication notice, Exhibit A, for effective notice by publication to allow interested persons to make a claim which will facilitate the duties of the Receiver.

10. The Receiver and Plaintiff have proposed a uniform procedure, Exhibit B, for release of biological samples; identification of authorized persons; and notice to unknown families and next of kin which will facilitate the duties of the Receiver.

11. The form "Request for Release of Biological Samples and Proof of Authority", Exhibit C, is consistent with K.S.A. 65-1734, which establishes the order of priority for disposition of human remains.

12. The Court has authority under K.S.A. 50-637 to issue such orders as necessary to effectuate the Order for Receiver, including a fair and orderly release of biological samples and publication notice to known and unknown family and next of kin with an opportunity to make a claim.

IT IS ORDERED, ADJUDGED AND DECREED that:

- A. All prior orders of the Court, including the Temporary Restraining Order and Order for Receiver remain in effect;
- B. The Receiver and/or his designees and Plaintiff shall publish notice of the Receivership in the Topeka Capital-Journal and Kansas Register as set for in Exhibit A, as soon as possible.

- C. Upon distribution of known inventoried samples the Receiver shall publish a second notice in the Topeka Capital Journal and Kansas Register, Exhibit A, including a final thirty (30) day notice to make a claim.
- D. The Receiver and/or his designees and Plaintiff, are directed to comply with the “Procedure for Release of Biological Samples” attached as Exhibit B.
- E. Consumers, next of kin, family and other interested persons are required to complete the “Request for Release” form, Exhibit C, to establish satisfactory and sufficient proof of identification and authority for release of biological samples.
- F. Defendants’ shall cooperate with the Receiver and Plaintiff and provide all information as requested to assist in the orderly and efficient release of inventoried samples.
- G. Release of private original “autopsy reports” currently in the possession of Plaintiff may be made by filing a motion and order for release. Upon order of the Court, Plaintiff is authorized to release original “autopsy reports” in the form of a transcript, in the possession of Plaintiff to the person identified in the Order. No other “autopsy reports” will be released, except by Court Order.
- H. Release of Kansas coroner ordered autopsy reports currently in the possession of Plaintiff may be made by filing a motion and order for release. Upon order of the Court, Plaintiff is authorized to release coroner ordered autopsy reports in the possession of Plaintiff to the County or District Attorney of that county. No other coroner ordered autopsy reports will be released, except by Court Order.
- I. Such other orders as the Court deems just and appropriate.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Court retains jurisdiction over this matter.

IT IS SO ORDERED.

THIS ORDER IS EFFECTIVE AS OF THE DATE AND TIME OF ITS ELECTRONIC FILING.

**HONORABLE MARY CHRISTOPHER
DISTRICT COURT JUDGE**

Prepared and submitted by:

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**IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
THIRD JUDICIAL DISTRICT
CIVIL DIVISION**

STATE OF KANSAS,)	
Plaintiff,)	
)	
v.)	CASE NO. 2019-CV-233
)	Division Eight
SHAWN PARCELLS, et al,)	
Defendants.)	

NOTICE TO INTERESTED PARTIES

PURSUANT TO Order of the above Court, the Kansas Department of Health and Environment has been named the Receiver of certain items formerly in the possession of the Defendants. These items are the by-products of the Defendants' activities involving human tissue and blood samples. As Receiver, the Kansas Department of Health and Environment is charged with ensuring the return of those items to families having an identifiable interest in one or more of the items. You may make a claim for the return of the human tissue and blood samples by contacting Kansas Office of the Attorney General (785-296-3751) for more information concerning the procedure for the return of these items.

Lee A. Norman, M.D.,
Secretary, KDHE

Exhibit A

State of Kansas v. Shawn Parcels, *et al.*, 2019 CV 233, Shawnee County District Court
Procedure for Release of Biological Samples and Notice

1. Plaintiff will identify cases in which a request for release has been received by Plaintiff, including those cases that may be the subject of civil litigation. Plaintiff will determine if any samples exist that are associated with the decedent.
 - a. Plaintiff will verify with Receiver if samples exist and if so, if the samples are able to be safely released.
 - b. Plaintiff will send a certified letter to consumer and/or next of kin requesting contact with Plaintiff to discuss biological samples.
 - c. Plaintiff will speak with the consumer or next of kin regarding release of biological samples; disclose the existence or absence of biological samples; and explain the procedure for release.
 - d. If no samples are identified for release, Plaintiff will send a certified letter to the consumer or next of kin confirming no biological samples were identified.
 - e. If samples are identified, Plaintiff will speak with the consumer or next of kin regarding the necessary documents to establish sufficient proof of authority of their right to determine the disposition of the samples. Plaintiff will also discuss the intended destination or disposition of biological samples.
 - f. Upon receipt of proof of authority, Plaintiff will verify the person(s) with authority consistent with K.S.A 65-1734. All disputed claims will be determined by the Court.
 - g. Upon verifying the claimant's authority, Plaintiff will provide confidential notice of the intended release of the sample(s) to the attorney for Defendants, Eric Kjorlie, providing three (3) business days to respond.

Exhibit B

- h. If no response is received within three (3) business days, Plaintiff and Receiver will proceed with the transfer.
 - i. Plaintiff will notify the Receiver of the details of the release and samples identified.
 - j. Plaintiff will send a certified letter to the authorized person confirming the sample(s) are able to be released and including a request to contact the Receiver to proceed with the release.
 - k. The Receiver will confirm the destination and release the biological samples as requested and document the details of the release to Plaintiff.
2. All known consumers and next of kin who have filed consumer complaints or requested release of biological samples will be notified as set forth above in (a)-(k) above. All disputed claims will be determined by the Court.
3. Biological samples taken from coroner ordered autopsies will be returned to the law enforcement authority investigating the death pursuant to K.S.A. 22a-215 *et seq.* Kansas counties will be provided written notice of the existence of biological samples with information for release.
4. Plaintiff will conduct a diligent search to identify the origin of complete or mostly complete whole organs (primarily hearts and brains) in the inventory that are able to be safely released. If sufficient proof of the identity of the decedent is found, Plaintiff will investigate to determine next of kin. If next of kin is found, Plaintiff will offer release or medical disposal of biological samples, subject to sufficient proof of authority, and following the procedure as set forth above in (a)-(k) above.
5. All biological samples that are unidentified, unsafe for release, or unclaimed, after final publication of notice and waiting period, will be submitted to the Court for approval of medical

disposal, as required by the Order for Receiver.

6. Upon Court order, Plaintiff will release any original “autopsy reports” in its possession to a person designated in the order. Kansas coroner ordered autopsy reports in the possession of Plaintiff will be released only upon Court Order to the County or District Attorney of the county.
7. Plaintiff and/or Receiver shall file periodic status reports regarding the release of biological samples with the Court, consistent with the Order for Receiver. Plaintiff and/or Receiver shall file these periodic reports publicly and not subject to any protective order.
8. Plaintiff and/or Receiver shall file a final report with the Court, under seal, of the complete inventory, the specific disposition of each labeled sample, the date released, to whom released, how delivered, the address to which the sample was sent, designation of medical disposal, and such other information as the Court may require.

Kansas Attorney General, Derek Schmidt
Consumer Protection Division
120 SW 10th Ave, 2nd Floor, Topeka, KS 66612-1597
Phone: (785) 296-3751 or (in state) (800) 432-2310
Fax: (785) 296-3699
www.InYourCornerKansas.org

REQUEST FOR RELEASE OF BIOLOGICAL SAMPLES AND PROOF OF AUTHORITY

State of Kansas v. Shawn Parcels, et al., 2019 CV 233, Shawnee County District Court, Topeka, KS

Print name of decedent for which the release of biological samples is requested:

Next of kin are required by Court Order to establish authority to direct the disposition of human remains, if found, and consistent with K.S.A. 65-1734. The following procedure is required to establish such authority.

1. Please complete a consumer complaint, if not already completed. Please indicate the remedy you are requesting in the section titled "How can this harm be remedied." This may include the release of biological samples, the report, and/or restitution, if applicable.
(You may access the consumer complaint form at <https://ag.ks.gov/complaint-center/consumer>).
2. Please fully complete this form and provide it to this office.
3. Please provide proof of identification of the person completing this form. (provide a copy of a driver license, state identification or passport)

Please indicate below your relationship to the decedent (select one):

____ Durable Power of Attorney for Health Care Decisions with authority to direct disposition of decedent's human remains. If so, attach a copy of the Durable Power of Attorney for Health Care Decisions;

____ Spouse of decedent. If so, attach a certified copy of the death certificate.

____ Decedent's surviving adult child(ren). If there is more than one adult child, any adult child shall confirm in writing to the Office of the Attorney General, prior to release of samples, the notification of all other adult children. Such adult child may direct the manner of disposition, unless the Office of the Attorney General receives timely written objection to the manner of disposition from another adult child.

____ Decedent's surviving parents. If both parents survive, any parent shall confirm in writing to the Office of the Attorney General, prior to release of samples, the notification of the other parent. Such parent may direct the manner of disposition, unless the Office of the Attorney General receives timely written objection to the manner of disposition from the other parent.

Exhibit C

____ Persons in the next degree of kinship under the laws of descent and distribution to inherit the estate of the decedent. If there is more than one person of the same degree, any person of that degree may direct the manner of disposition.

____ Guardian of the decedent at the time of such person's death. If so, attach a certified copy of appointment of guardian.

____ The personal representative (or executor) of the decedent. If so, attach a copy of the will appointing the personal representative (or executor) of the decedent.

Disputes among persons with authority will be determined by the Court in *State v. Parcels, et al.*, 2019 CV 233, Shawnee County District Court, Division 8, 200 SE 7th Street, Topeka, KS, 66603.

Upon order of the Court, the Kansas Attorney General will release original "autopsy reports" in the form of a transcript, currently in its possession to the authorized person. The Attorney General makes no representations regarding the truth, accuracy or validity regarding the contents of the reports prepared by Defendants. Reports do not exist in all cases.

I understand the Kansas Attorney General and Kansas Department of Health and Environment make no representations regarding the preservation, storage, maintenance, quality, integrity and identity of biological samples while in the possession of Defendants. The biological samples obtained pursuant to the Order for Receiver issued in Shawnee County District Court, 2019CV233, have been under the care, custody and control of the Kansas Department of Health and Environment since January 7, 2020 and are released "as is". Please be aware samples which are not able to be safely mailed or released are required to be medical disposed.

I understand by signing below I am representing I have authority to direct the disposition of biological samples of the named decedent, if found.

I request and direct the decedent's biological samples, if found, be mailed, released or medically disposed as follows:

Print name of decedent: _____ Date and location of death: _____

Print name of person, funeral home, medical facility or business who will accept the biological sample:

Print complete mailing address, telephone number, name of responsible person and any special instructions, including designation for medical disposal, if applicable: _____

Printed Name of Authorized Person

Signature

Date

I declare and verify under penalty of perjury and the law of Kansas that all of the foregoing is true and correct to the best of my knowledge.

Next Steps:

1. Upon receipt of your Consumer Complaint and Request for Release, Plaintiff will investigate to verify your authority to determine disposition of the biological sample.
2. The Receiver will verify the sample, if found, is able to be safely released.
3. Plaintiff will send a certified letter to the authorized person requesting contact with this office to discuss the existence or absence of biological samples associated with your case.
4. Plaintiff will discuss with the authorized person and disclose if a sample exists.
5. Plaintiff will discuss with the authorized person where the sample is intended to be mailed, released or medically disposed.
6. Plaintiff will send notice of release to the Receiver.
7. Plaintiff will send a certified letter to the authorized person that either confirms the sample(s) are able to be released or that no sample exists. You will be asked to contact the Receiver to coordinate the details of the release if samples are identified for your case.
8. The Receiver will safely release the biological samples to the person and location designated by the authorized person or medically dispose as requested.