

Montgomery County couple files lawsuit against county alleging false arrest

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Photo: Ben DeSoto / Houston Chronicle



A Montgomery County couple filed a federal lawsuit against the county stemming from a June 2017 incident where they allege being falsely arrested while attending a concert at Cynthia Woods Mitchell Pavilion in The Woodlands (shown here)

A Montgomery County woman with multiple sclerosis and her husband are suing the county in federal court, saying they were falsely arrested at a concert at the Cynthia Woods Mitchell Pavilion in The Woodlands last June when employees there accused them of being drunk.

Janet Prim said she was dealing with MS symptoms and her husband, Eric Prim, was helping her, when workers at the pavilion wrongly accused them of being drunk and “summoned Montgomery County Sheriff’s Office deputies to arrest them” on charges of public intoxication, the couple’s lawsuit states.

While the charges were eventually dismissed, the couple filed suit under the Americans with Disabilities Act, claiming false imprisonment, assault with offensive bodily contact, negligence and intentional infliction of emotional distress. The suit, filed on Wednesday, names Montgomery County, individually named deputies with the Montgomery County Sheriff’s Office and the Center for the Performing Arts at The Woodlands, the owner of the pavilion.

The couple is being represented by Houston-based attorney Randall Kallinen, who did not return calls seeking comment.

Montgomery County Attorney J D Lambright said his office plans to defend the county agencies. "There is little resemblance of what happened that night to what is alleged in this lawsuit," Lambright said. "Shortly after this incident, they filed a complaint with the Montgomery County Sheriff's Office on the deputies involved. This was thoroughly investigated by the office's internal affairs department that found no merit." Lambright and Cameron Klepac, of the Cynthia Woods Mitchell Pavilion, said that as of Tuesday, they had not been served with the suit.

The National Multiple Sclerosis Society defines MS as "an unpredictable, often disabling disease of the central nervous system" that disrupts the flow of information within the brain and between it and the body.

According to court documents, the Prims attended a concert at the pavilion on June 18, 2017. Janet, who was diagnosed with multiple sclerosis in 1987, began to have an MS-related flare-up of symptoms, prompting the couple to begin to leave. "Eric, her primary caregiver and husband, escorted her through the pavilion so they could walk home," court documents state. "Janet stumbled due to her MS and a CWMP employee saw her stumble and investigated, insisting they were drunk. The Prims told the employee she had MS and that was why Janet was unsteady."

The couple tried to explain to the employee that Janet was experiencing a flare-up, they said. "Despite this, CWMP employees grabbed the plaintiffs against their wishes and forced them to a secluded room alleging public intoxication," court documents alleged. "Eric and Janet were not intoxicated. The multiple sclerosis was explained to the employees by Janet and Eric at the scene several times, but the employees summoned Montgomery County Sheriff's Office deputies to arrest them."

Lambright stated that video from the incident showed deputies and a pavilion employee "treating the Prims with respect, but they were not cooperating with anyone there, were not answering questions and continued to insist they walk home from the pavilion. By their own admission, they stated they had alcohol."

The suit also alleges that during the incident, Eric Prim repeatedly asked to be allowed to call his son, who is an attorney, but was refused. The couple also each requested a breath analysis, but were denied, the suit says. "Instead, the MCSO deputy performed a Horizontal Gaze Nystagmus ("HGN") test on Eric," court documents state. "Eric was confused by the instructions and was unable to complete the test initially, but was not allowed to perform the test once he understood the instructions."

The Prims were transported from the pavilion to the Montgomery County jail for booking on a charge of public intoxication where they remained until they were released the next day.

According to the court documents, a complaint was filed with the Montgomery County Sheriff's Office and was investigated internally. "After reviewing the evidence presented, the department determined that no policy was violated during the interaction with Janet and Eric," court documents stated.

The couple is seeking damages of an undisclosed amount and for Montgomery County and the Center for the Performing Arts at The Woodlands to implement policies and train employees in recognizing MS and accommodating the disability. A pretrial conference is scheduled for Sept. 10 in front of U.S. District Judge Lynn Hughes.