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Reza Gostar

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## **Lawsuit against DHS police by former officer continues**



(Photo: Desert Sun file photo)

DESERT HOT SPRINGS – A civil lawsuit filed against the city by former Desert Hot Springs police officer Andrea Heath — who died in October from a gunshot to her head — will move forward with her son and the father of her young daughter as plaintiffs.

A U.S. Court of Appeals commissioner recently ruled that 26-year-old Dominic Heath and Kendall Johnson, described as a legal guardian of Andrea Heath's daughter, can be substituted as appellants in the case.

In the lawsuit filed with the U.S. Central District Court of California, Andrea Heath said she was wrongfully terminated and retaliated against for reporting "alleged excessive use of force by fellow police officers," according to federal court documents.

Heath told a federal grand jury she was retaliated against because of her testimony to the FBI, which included complaints against Sgt. Anthony Sclafani, who was convicted in 2012 for excessive use of force against two suspects in 2005.

"Imagine going to a 'man with a gun call' alone and not having any backup," said Jerry Steering, Heath's attorney. "This really happened to her. They would drive by smiling and taunting her."

Heath's testimony focused on the activities of two former Desert Hot Springs police officers, two of whom were later convicted of civil rights violations.

David Raymond Henderson, who was also indicted along with Sclafani, pleaded guilty in 2011 to a lesser charge of a misdemeanor civil rights and was sentenced to one year probation and 200 hours of community service.

Heath said she was demoted from investigator, not given backup when requested and wrongfully terminated because of her cooperation with the FBI investigation.

In October of 2011, a month after being deposed as a witness in the civil lawsuit for the actions of certain Desert Hot Springs police officers, Heath claimed she was forced into involuntary retirement, according to court documents.

U.S. District Judge Philip S. Gutierrez dismissed the case on May 2, 2013.

About five months later in October, Heath, the only plaintiff named in the lawsuit, died from a gunshot wound to the head, according to Cathedral City police.

"Our investigation findings are that this is a suicide, but we are still waiting for the official coroner's report in support of our findings," wrote Cathedral City police Capt. Chuck Robinson, in an email. "The coroner's office has not made their findings official at this time. They usually require our completed investigation for review before they make a final determination, and to my knowledge they do not have all of our completed reports in this investigation."

Steering, who specializes in police misconduct and brutality cases, said he was scheduled to have a settlement conference in with city of Desert Hot Springs about an appeal days before Heath was killed.

"We were going to win the appeal," Steering said. "The appeal should result in the reversal of the district court's order dismissing the complaint."

With the plaintiff dead, the case went into limbo until the latest order in March.

"The court of appeals did allow the surviving kin to step in as plaintiffs," said Desert Hot Springs City Attorney Steve Quintanilla. "The question was whether there was any grounds to continue. Now, we can deal with the merits of the case."

The decision simply keeps the appeal intact, Quintanilla said.

"It does not undermine the merits of the city's arguments regarding the main legal issues involved with the case, which are the same arguments that resulted in the dismissal of the case by the lower court in the first place."

If Heath's family members win the appeal, "they will still have an uphill battle at the district court level," said Laura J. Kalty, an attorney representing the city in the lawsuit.

"The city has strong documentation regarding the employment action it took related to Andrea Heath."

Opening briefs are due May 2.