

\$85 Million Civil Rights Verdict Reached Following San Diego County Sheriff's Department In-Custody Death

Lucky Phounsny Hogtied, Tased, and Suffocated After Calling 911 for Help

SAN DIEGO, CALIFORNIA, UNITED STATES, March 17, 2022
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WHAT: Historic \$85 Million Wrongful Death/Civil Rights Verdict Against the San Diego County Sheriff's Department

WHEN: March 16, 2022 Jury Trial Verdict Reached (Case #15cv2692)

WHO: Attorneys [Timothy A. Scott](#) of [McKenzie Scott PC](#); Mark F. Fleming of Singleton Schreiber, LLP.



McKenzie Scott

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We asked the jury to return a verdict that reflected the truth about Lucky's death, and reflected justice for what was taken from this family. We think the \$85 million verdict delivered both.”

Mark Fleming

WHERE: San Diego, California

WHY: In April 2015, Lucky Phounsny called 911 with his family because he was experiencing paranoia and having a mental health crisis. San Diego County Sheriff's deputies responded to his home and escalated the situation, using fists, batons, and tasers (repeatedly) against the 32-year-old. Phounsny was hogtied and struggling to breathe for a half hour without appropriate care by anyone present. He was then strapped to a gurney to be transported to a local hospital. En route to the hospital, a former sheriff's deputy pressed Phounsny's head and torso down into the gurney as

hard as he could for several minutes, suffocating him. Phounsny was hogtied and strapped to a

gurney with a spitsock placed over his mouth during the assault. Phounsny's breathing and heart stopped, and he died in the hospital a week later.

"The County was responsible for this death, and then spent seven years hiding the truth." Timothy A. Scott, attorney for the family of Phounsny, said.

Although the medical examiner ruled the death accidental, citing drugs, a toxicology report proved that to be untrue. The trial court also found that the County hid evidence about its training policies and instructed the jury accordingly before they reached the historic \$85 million verdict.

Mark Fleming, co-counsel for the Phounsny family, stated: "We asked the jury to return a verdict that reflected the truth about Lucky's death, and reflected justice for what was taken from this family. This \$85 million verdict reflects how the San Diego community values a husband and father like Lucky Phounsny. It speaks truth about what happened and provides some justice for what was lost." Fleming said after the trial's conclusion.

Richard Fischer, the former deputy who held Phounsny down in the ambulance, is currently in jail for sexually assaulting women while on-the-job.

Phounsny's family sued the San Diego County Sheriff's Department and the deputies involved in 2015 for excessive force, failing to administer medical care, battery, negligence, and wrongful death, among other causes of action. Following several years of litigation, the \$85 million verdict is one of the largest ever for a civil rights verdict of this kind in any jurisdiction.

McKenzie Scott PC is a San Diego-based civil rights and criminal defense firm founded by former Federal public defenders Timothy A. Scott and Michele A. McKenzie, who have over 20 years of experience fighting for the little guy.

[Singleton Schreiber LLP](#) is San Diego-based client-centered law firm specializing in mass torts/multi-district litigation, personal injury/wrongful death, civil rights, and criminal defense.

DIRECT CONTACT: Jason Kitchen • JKitchen@GlobalSEOexperts.com • 517-974-4724 (Cell)
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Jason Kitchen
McKenzie Scott PC
+1 517-974-4724

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