# Former nurse at Lewis Center nursing home, Ohio, sentenced on charges of involuntary manslaughter in the accidental death of a resident

**Benjamin Mateus**
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In a case that resembles that of former Tennessee nurse RaDonda Vaught, a nurse who had worked at Capri Gardens Lewis Center nursing home, Aminata Fofana, was sentenced on February 27, 2023, in a Delaware County, Ohio, courtroom after pleading guilty to charges of involuntary manslaughter in the death of a patient from asphyxiation on May 20, 2021.

During the brief but emotional proceedings, Fofana was visibly shaken and expressed heartfelt remorse and apologized to the court and the deceased's wife, Luana Mowery, for her husband's death.

Paul Mowery, 72, had been a resident at the long-term care facility located in Lewis Center, Ohio, just north of Columbus. The deceased had suffered multiple strokes and an aneurysm that had left him debilitated and without short-term memory. After caring for him for more than 20 years, his wife transferred him to Capri Gardens in 2019, which had recently been opened.

In January 2021, the family decided to place him in hospice care at the facility. Mr. Mowery was using a tracheostomy mask to breathe. A tracheostomy is a procedure whereby a hole is created in the trachea, the airway through the throat, allowing for the placement of a long-term oxygen tube directly into the lungs. It also leaves the person unable to speak.

According to an investigation conducted by the Ohio Department of Health and the Centers for Medicare and Medicaid Services, at around 6:30 a.m. on May 20, 2021, Fofana, who was completing her night shift, went into the patient's room to check on him. She told federal authorities that she removed his tracheostomy mask to clean it because it was soiled. However, she forgot to reattach the tubing. An hour later, the day shift nurse that entered the room found the patient had died from asphyxiation.

Although the former nurse explained to investigators in June that she had removed the mask and for some reason had forgotten to reconnect it, the nursing home director indicated in a separate report to the Ohio Department of Health that the patient "had the ability to displace the tubing," though his wife has told local media that her husband couldn't move. All he could do, she told them, "was to open and close his eyes." Clearly, the statement made during the early phase of the investigation was intended to protect the nursing home from any liabilities.

Fofana, born and raised in Sierra Leone, had spent years working as a nurse to raise funds to bring her children to the United States. She was fired the next day by the nursing home and stripped of her nursing license. A year later, in May 2022, she was charged with reckless homicide and involuntary manslaughter. A civil lawsuit filed in December 2021 by Luana Mowery remains pending against Capri Gardens and its parent company for negligence and wrongful death.

In January, Fofana pleaded guilty to involuntary manslaughter, a third-degree felony. At her recent sentencing, Delaware County Court of Commons Pleas Judge James Schuk sentenced the former nurse to three years of a basic level of community control.

According to the local NBC news affiliate, the judge said, "In addition to Fofana's community control sentence, she must complete any classes a probation officer asks her to take, maintain residence and employment approved by the probation officer, perform 100 hours of community service, pay a $500 fine, surrender her nursing license and not work in any field of nursing taking care of sick individuals, be it paid or volunteer service. Fofana may not leave the state without permission or have any future violations of the law in any manner."

With regards to Paul Mowery, one could ask where were the safeguards and alarms that could have protected him from an accidental detachment of his tracheostomy tube or low oxygen pressure? What about central monitoring and video surveillance that would allow the staff to watch patients who are considered critical or require equipment to maintain their life? How many patients was Fofana carrying that night and how many shifts had she taken prior to the accident?

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There was widespread attention lasts year to the case of former nurse RaDonda Vaught, whose medication error led to the death of a patient at Vanderbilt University Medical Center. Vaught and Fofana were both scapegoated by their employer, charged and convicted criminally, and lost their ability to continue working in their profession.

Like Vaught, Fofana never hid her mistake or made excuses for what happened. The death will surely stay with her every day, including the conviction she will have to shoulder for the rest of her life as she searches for new employment. However, such events are clearly system-based, generated by a complex health delivery system that operates on the need to produce profits, while blaming workers for the inevitable mistakes caused by time pressures and overwork.

The scapegoating of health care workers serves only to drive workers out of the field and make conditions even more dangerous for the patients. It is not such criminalization but investment in the infrastructure and health care workers that is urgently necessary.

Professor Bruce Lamber, director of the Center for Communication and Health at Northwestern University, who has written extensively on issues pertaining to health communications, medication errors and safety, speaking on the RaDonda Vaught case, told the WSWS, "It is an inherently high-risk industry where the errors are consequential because people are frail, because the substances we use are powerful, because the interventions are risky, even when they go well, even when there's no mistakes. These interventions are dangerous a lot of the time."

The WSWS made the warning at the time that "the prosecution and conviction of Vaught sets a dangerous precedent for the criminalization of medical errors." Vaught's prosecution was followed by the case of Michelle Heughins. The former county detention center nurse has been framed up in the death of inmate John Neville in December 2019 in the Forsyth County Jail in Winston-Salem, North Carolina, although she tried to do her best while prison officers prevented her from providing needed care to a prisoner who died. Her trial date has been set for April 3.

Long-term care facilities operating under a capitalist milieu, by their nature, are chronically understaffed and frequently dilapidated and suffer from very unhygienic conditions.

In one Connecticut nursing home, John Interlandi, who is the conservator for his brother Joe, a long-term patient, told a local media, "Based on my personal experiences, I am very concerned about the care that folks like Joe receive within the nursing home setting. There is clear lack of process, communication, suitable staff, commitment to action and providing folks with a safe and respectful environment."

A recent complaint at the Montana Mental Health Nursing Care Center in Lewiston led to a state inspection in January that revealed 42 instances of "noncompliance with federal regulations." According to a report in the *Billings Gazette*, these ranged from "inadequate staffing, improper infection control and preventable outbreak of COVID-19, to neglect and sexual, verbal and physical abuse between patients."

Last week, *McKnight's Long-Term Care News* reported that hundreds of Pennsylvania nursing home beds have remained empty because facilities can't hire staff to provide the care their patients would require. In the survey conducted by the Pennsylvania Health Care Association in their 2023 State of Nursing Facilities Report, 57 percent of responding members reported they have beds they cannot fill due to a lack of staff.

LeadingAge Pennsylvania sent a letter to US Senator Bob Casey Jr. summarizing their concerns about the new federal staffing requirements that will soon take effect. They wrote, "We must recognize that providers are in crisis and residents' access to care is at risk, due in large part to historic underfunding and a workforce crisis that predated the pandemic," wrote President and CEO Garry Pezzano.

The plight of Pennsylvania patients is only one instance of the health care crisis in the US, where the profit-driven delivery of medical care is in conflict with the need for adequate, well-trained and well-rested staff, to the detriment of patients. The criminalization and scapegoating of health care workers is an attempt to cover up the situation without addressing the underlying causes.

Meanwhile, corporations that own nursing homes and long-term care facilities are bankrolling politicians, like Pasco County, Florida, Representative Randy Maggard, who is introducing a far-reaching bill that would limit claims against long-term care facilities in the state.

As the *Sun Sentinel* noted last week, "The proposed law comes as Florida nursing homes are seeing a spike in violations and complaints. The *Tampa Bay Times* reported in early February that incidents have nearly doubled in Florida nursing homes since 2019. Last year, Florida nursing homes were cited 83 times for putting their residents at risk of immediate danger, according to the media outlet. Citations by Florida's Agency for Health Care Administration stemmed from issues including neglect, abuse and poor care. During the pandemic, Florida lawmakers gave the industry immunity from liability for COVID-19 deaths and infections, a provision that remains in effect."

In a recent interview with the WSWS, retired Detroit nurse Pat Cason-Merenda put it succinctly: "Health care has gone from being a service to being an industry… we are seeing a decrease in life expectancy and quality of life and standard of living to increase revenues for corporations."

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