

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

ALONZO DWAYNE COLEMAN — PETITIONER
(Your Name)

VS.

MICHAEL HAKALA et,al — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

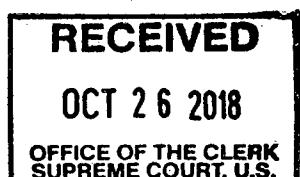
PETITION FOR WRIT OF CERTIORARI

ALONZO DWAYNE COLEMAN #520810
(Your Name)

MOBERLY CORR. CENTR. P.O.BOX 7, MOBERLY MO. 65270
(Address)

MOBERLY MISSOURI 65270
(City, State, Zip Code)

(Phone Number)



QUESTION(S) PRESENTED

- (1) WHETHER THERE IS A CONSTITUTIONAL STANDARD OF MEDICAL CARE FOR PERSONS WITH RARE MASSIVE POLYCYSTIC LIVER DISEASE AND ARE THE STATE'S (MISSOURI PRISONS, PERMITTED TO DENY CONSERVATIVE MANAGEMENT, INVASIVE OR MEDICAL MEASURE'S REGARDLESS OF THEIR CONSTITUTIONAL OBLIGATION "TO PROVIDE ADEQUATE MEDICAL TREATMENT" FOR THOSE IT HAS INCARCERATED.
- (2) WHETHER THE LAW AND OR CONSTITUTION WAS VIOLATED WHEN PETITIONER WAS DENIED TO PUT FOURTH MEDICAL EVIDENCE ON HIS OWN BEHALF.
- (3) WHETHER THE DELIBERATE DECEPTION OF A COURT BY THE PRESENTATION OF FACTUAL INCORRECT EVIDENCE IS INCOMPATIBLE WITH RUDIMENTARY DEMANDS OF JUSTICE.

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[k] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

MICHAEL C. HAKALA, PHYSICAN, CORIZON, SECC

RESPONDENT

ELIZABETH CONLEY, REGIONAL MEDICAL DIRECTOR,
MISSOURI DEPARTMENT OF CORRECTIONS - RESPONDENT

PHYLLIS STANLEY

RESPONDENT

CORIZON MEDICAL SERVICES

RESPONDENT

RUTH TAYLOR, DIRECTOR OF NURSING

RESPONDENT

STEPHANIE NOVAK, HEALTH SERVICES ADMINISTRATOR,
CORIZON, SECC

RESPONDENT

JANE DOE

RESPONDENT

JOHN DOE

RESPONDENT

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MODEL RULES OF PROFESSIONAL CONDUCT R. 8.4(c)(d) [15]

WHICH PROHIBITED A LAWYER FROM ENGAGING IN CONDUCT THAT INVOLVED DISHONESTY, FRAUD, DECEIT OR MISREPRESENTATION AND CONDUCT THAT WAS PREJUDICIAL TO THE ADMINISTRATION OF JUSTICE WHICH IS SUPPORTED BY THE EVIDENCE ON THE FACE OF THE COMPLAINT.

RULES OF PROFESSIONAL CONDUCT RULE 3.3 PROVIDES IN PART; [15]
 A LAWYER SHALL NOT KNOWINGLY (1) MAKE A FALSE STATEMENT OF MATERIAL FACT OR LAW TO A TRIBUNAL; (2) FAIL TO DISCLOSE A MATERIAL FACT TO A TRIBUNAL WHEN DISCLOSURE IS NECESSARY TO AVOID A CRIMINAL OR FRAUDULENT ACT BY THE CLIENT AND (4) OFFER EVIDENCE THAT THE LAWYER KNOWS TO BE FALSE.

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix G to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was JUNE 26, 2018.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: AUGUST 01, 2018, and a copy of the order denying rehearing appears at Appendix C.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.
2

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

CONSTITUTION

PAGE

AMENDMENT 8: EXCESSIVE BAIL SHALL NOT BE REQUIRED, NOR EXCESSIVE FINES IMPOSED
NOR CRUEL AND UNUSUAL PUNISHMENTS INFILCTED. 4,8

AMENDMENT 14: ALL PERSONS BORN NATURALIZED IN THE UNITED STATES, AND SUBJECT
TO THE RESIDE. NO STATE SHALL MAKE OR ENFORCE ANY LAW WHICH
SHALL ABRIDGE THE PRIVILEGES OR IMMUNITIES OF CITIZENS OF THE
UNITED STATES; NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE
LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW ; NOR DENY
TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION
OF THE LAWS. 4

STATEMENT OF THE CASE

THE UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MISSOURI SOUTHEASTERN DIVISION GRANTED SUMMARY JUDGMENT TO ALL RESPONDENTS IN 42 USC §1983 CASE, A CIVIL RIGHTS ACTION FOR THE DEPRIVATION OF RIGHTS SECURED BY THE CONSTITUTION AND THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT CONCURRED. THE BASIS OF THE CLAIM IS THAT THE MEDICAL TREATMENT THAT PETITIONER RECEIVED AND DID NOT RECEIVE, WHILE A PRISONER OF THE STATE OF MISSOURI, AMOUNTED TO CRUEL AND UNUSUAL PUNISHMENT.

CRUEL AND UNUSUAL PUNISHMENT IS PROSCRIBED BY THE EIGHTH AMENDMENT, MADE APPLICABLE TO THE STATES BY THE FOURTEENTH. THE STANDARD IS DELIBERATE INDIFFERENCE TO SERIOUS MEDICAL NEEDS OF PRISONERS." ESTELLE V. GAMBLE, 429 US 97, 104 (1976). MOREOVER THE RESPONDENTS SUBMITTED FACTUAL INCORRECT EVIDENCE TO SECURE SUMMARY JUDGMENT ON THEIR BEHALF. THE PETITIONER CLAIMS THE DENIAL/DELAY OF TREATMENT FOR HIS POLYCYSTIC LIVER DISEASE. THE RESPONDENT INCORRECTLY ALLEGE IT WAS POLYCYSTIC KIDNEY DISEASE. WHICH THERE IS NO TREATMENT OPTIONS EXCEPT DIALYSIS WHEN THE KIDNEY FAILS. ON THE OTHER HAND POLYCYSTIC LIVER DISEASE HAS MANY TREATMENT OPTIONS WHICH ARE BENEFICIAL. HOWEVER THE ESSENCE OF THE DECISION OF THE COURT'S WAS THAT THERE IS NO TREATMENT FOR POLYCYSTIC LIVER DISEASE, THAT THERE IS NO CURE FOR MR. COLEMAN'S CONDITION, AND THAT HIS FUTURE IS PAIN MANAGEMENT. HOWEVER, YEARS AGO, WHEN MR. COLEMAN FIRS[T] CAME UNDER THE CARE OF DR. HAKALA (RESPONDENT), DR. HAKALA COULD HAVE EFFECTIVELY TREATED HIS POLYCYSTIC LIVER DISEASE BY REFERRING HIM TO HAVE HIS POLYCYSTIC LIVER DISEASE EVALUATED BY A LIVER DOCTOR. DR. HAKALA DID NOT ORDER THE NECESSARY SURGICAL CONSULT. DR. BARTON, WHO

REPAIRED THE HERNIA ON MR. COLEMAN, REQUESTED OUTPATIENT NEPHROLOGY CONSULTATION AND HEPATOLOGY / GASTROENTEROLOGY CONSULTATION AS WELL TO FOLLOW UP ON THESE CONDITIONS. A FEW MONTHS LATER IN JULY, DR. GALLUP WROTE; [I]N VIEW OF HIS EARLY KIDNEY DISEASE MAY ALSO BENEFIT FROM REFERRAL TO A KIDNEY SPECIALIST.

NOW AFTER YEARS OF NO MEDICAL TREATMENT FOR HIS POLYCYSTIC LIVER, MR. COLEMAN HAS A GROSSLY DISTENDED BELLY FULL OF LIVER CYSTS AND SUFFERING FROM OTHER MEDICAL COMPLICATIONS

ADDITIONALLY, RESPONDENT HAKALA FAILED TO ACT TO ALLEVIATE PETITIONERS PAIN. MR. COLEMAN FILED MANY MEDICAL REQUEST FORMS FOR PAIN AND SWELLING OF HIS ABDOMEN AND EITHER NO REFERRAL WAS MADE TO A LIVER DOCTOR, OR MR. COLEMAN WOULD NOT SEE A PRISON DOCTOR IN A TIMELY MANNER.

AFTER BEING AT SOUTHEAST CORRECTIONAL CENTER FOR ALMOST TWO YEARS, FINALLY, DR. FLOOD, WHO BELIEVES THAT A PATIENT WITH POLYCYSTIC LIVER DISEASE SHOULD HAVE ULTRASOUNDS YEARLY, ORDERED AN ULTRASOUND AND REQUESTED A REFERRAL OF MR. COLEMAN FOR SURGICAL EVALUATION. FURTHER EVIDENCE OF MEDICAL INDIFFERENCE IS DR. HAKALA'S FOLLOW-UP CARE AFTER DR. FLOOD'S NOTES AND EXAMINATION OF PETITIONER IN FEBRUARY 2010 AND THE ULTRASOUND OF MR. COLEMAN'S LIVER AND ABDOMEN IN FEBRUARY 2010. THERE WAS ZERO MENTION OF A HERNIA IN THE ULTRASOUND; INSTEAD, THE ULTRASOUND'S FINDINGS WERE CONSISTENT WITH MR. COLEMAN'S MEDICAL HISTORY, MASSIVE POLYCYSTIC LIVER DISEASE, INCLUDING THE CT OF 2006, AND DR. FLOOD'S CONCERNS. MORE THAN TWO MONTHS AFTER THE RESULTS OF THE ULTRASOUND, DR. HAKALA FINALLY MET WITH PETITIONER REGARDING HIS EVER-INCREASING PAINFUL ABDOMEN, BUT INSTEAD OF FOCUSING ON POLYCYSTIC LIVER DISEASE AND THE GROWING CYSTS, AS THE CT RESULTS AND DR. FLOOD INDICATED,

DR. HAKALA FOCUSED ON THE HERNIA PETITIONER HAD IN 2006. PETITIONERS CONDITION CONTINUED TO DETERIORATE, HE BEGAN TO LOSE WEIGHT YET HIS STOMACH CONTINUED TO SWELL, HIS PAIN BECAME INTOLERABLE, HIS LABS CONTINUED TO BE ALARMING. AS A RESULT RESPONDENT'S WERE AND ARE DELIBERATELY INDIFFERENT TO PETITIONERS SERIOUS MEDICAL NEEDS, VIOLATED MR. COLEMANS EIGHTH AMENDMENT RIGHT TO BE FREE FROM CRUEL AND UNUSUAL PUNISHMENT.

QUESTION PRESENTED

II. WHETHER THERE IS A CONSTITUTIONAL STANDARD OF MEDICAL CARE FOR PERSONS WITH RARE MASSIVE POLYCYSTIC LIVER DISEASE AND ARE THE STATE'S (MISSOURI PRISONS, PERMITTED TO DENY CONSERVATIVE MANAGEMENT, INVASIVE OR MEDICAL MEASURE'S REGARDLESS OF THEIR CONSTITUTIONAL OBLIGATION "TO PROVIDE ADEQUATE MEDICAL TREATMENT" FOR THOSE IT HAS INCARCERATED.

STATEMENT OF THE CASE

FACTS MATERIAL TO THE CONSIDERATION OF THE QUESTION.

BRIEF INTRODUCTION TO POLYCYSTIC LIVER DISORDERS. A HEPATIC CYST IS A FLUID FILLED, EPITHELIAL LINED CAVITY WHICH VARIES IN SIZE FROM A FEW MILLILITERS TO SEVERAL LITERS. UNLIKE SINGLE CYST POLYCYSTIC LIVER, WHICH IS ARBITRARILY DEFINED WHEN 20 CYSTS ARE PRESENT, IS A RARE CONDITION AND IS PART OF THE PHENOTYPE OF TWO INHERITED DISORDERS. IN AUTOSOMAL DOMINANT POLYCYSTIC KIDNEY DISEASE (ADPKD) PATIENTS HAVE POLYCYSTIC KIDNEYS AND MAY EVENTUALLY DEVELOP POLYCYSTIC LIVER DISEASE (PLD). IN AUTOSOMAL DOMINANT POLYCYSTIC LIVER DISEASE (PCLD) MULTIPLE HEPATIC CYSTS ARE PRIMARY PRESENTATION, WHEREAS POLYCYSTIC KIDNEYS ARE ABSENT TRADITIONALLY, TREATMENT CONSISTS OF PHYSICAL REMOVAL OR EMPTYING OF CYST BY A RANGE OF INVASIVE TECHNIQUES. ALTHOUGH PCLD AND ADPKD ARE DISTINCT AT THE GENETIC LEVEL. BOTH DISORDERS HAVE POLYCYSTIC LIVERS IN COMMON. SYMPTOMS IN PLD ARE PROBABLY SECONDARY TO THE INCREASED TOTAL VOLUME. AS POLYCYSTIC LIVERS CAN GROW UP TO 10 TIMES THEIR NORMAL SIZE. (SEE APPENDIX D)(PETITIONER PHOTO). THEY COMPRESS ADJACENT ABDOMINAL AND THORACIC ORGANS. PATIENTS WITH MASSIVELY ENLARGED POLYCYSTIC LIVERS SUFFER FROM EPIGASTRIC PAIN, ABDOMINAL DISTENSION,

EARLY SATIETY, NAUSEA, OR VOMITING. TYPICALLY DRESS AND SHIRT SIZE INCREASES AND PATIENTS ARE UNABLE TO SEE THEIR FEET, CUT TOE NAILS, AND BEND OVER. PATIENTS WITH GROSSLY ENLARGES LIVERS DEVELOP ABDOMINAL WALL HERNIATION AND MAY REPORT SHORTNESS OF BREATH. OTHER COMPLICATIONS ARE INFECTION, HEMORRHAGE OR RUPTURE OF A CYST, COMPRESSION OF THE INFERIOR CAVA, HEPATIC VEINS, OR BILE DUCTS.

B. RELEVANT FACTS OF THE CASE

ON JUNE 18, 2006, WHILE PETITIONER WAS BEING INCARCERATED AT THE CROSSROADS FACILITY, CAMERON MISSOURI; MISSOURI DEPARTMENT OF CORRECTIONS. HE WAS ADMITTED TO CAMERON REGIONAL MEDICAL CENTER FOR REPAIR UMBILICAL HERNIA. UPON DR. BARTON DO (SURGEON) ENTERING THE PERITONEAL CAVITY, THERE WAS NOTED TO BE MULTIPLE CYSTS AND NODULES ON THE LIVER. NO EDEMA OR DISTENTION WAS NOTED.

DR. BURTON THEN PERFORM A BIOPSY OF THE SINGLE HEPATIC CYST. WHICH AFTER TESTING DISCOVERED BENIGN, (SEE APPENDIX E,(PATHOLOGY REPORT). A CT SCAN WAS PERFORMED AND PETITIONER WAS DIAGNOSED WITH POLYCYSTIC LIVER DISEASE AND RENAL DISEASE. DR. BARTON DO (SURGEON) RECOMMENDED CONSULTATION WITH GASTROENTEROLOGY FOR HIS POLYCYSTIC LIVER DISEASE, SEE CAMERON REGIONAL MEDICAL CENTER DISCHARGE SUMMARY,(LABS AND OTHER STUDIES PAGE 3)(APPENDIX F) AND PHYSICANS REFERENCE LABORATORY PATHOLOGY REPORT (MEDICATIONS PAGE 4).

ON OR ABOUT SEPTEMBER 2, 2008 MISSOURI DEPARTMENT OF CORRECTIONS TRANSFERRED PETITIONER TO SOUTHEAST CORRECTIONAL CENTER, CHARLESTON MISSOURI, UNDER THE PRIMARY CARE OF RESPONDENT'S. PETITIONER CONTINUES TO COMPLAIN OF PAIN IN HIS STOMACH AND THE FACT HIS STOMACH HAS INCREASED IN SIZE AND PAIN. TWO YEARS LATER IN 2010 PETITIONERS STOMACH CONTINUES TO INCREASE IN

SIZE AND PAIN HE WAS SEEN AGAIN BY DR. HAKALA RESPONDENT. THEREAFTER OR ON ABOUT FEBRUARY 4, 2010, A SICK CALL NURSE SAW PETITIONER WHO EXPRESSED SEVERE PAIN IN HIS NOW LARGER STOMACH. THE SICK CALL NURSE NOTED IN HER REPORT, HIS ADNORMAL LARGE STOMACH, THAT PETITIONERS UPPER RIGHT QUADRANT WAS SWOLLEN, HARD, AND TENDER TO THE TOUCH. THE AGAIN ON APRIL 14, 2010 SICK CALL NURSE NOTED A MASS IN LOWER ABDOMEN, WHICH WAS DISTENDED AND TENDER, PETITIONER HAS LOSS WEIGHT FROM 195 POUNDS TO 174.5 POUNDS. SUBSEQUENTLY ON APRIL 27, 2010, PETITIONER AGAIN REQUESTED TO BE SEEN BY AN OUT-SIDE LIVER DOCTOR, WHICH HIS MEDICAL REQUEST WAS DENIED.

ALTHOUGH PETITIONER WAS DIAGNOSED IN 2006 WITH POLYCYSTIC LIVER DISEASE (PLD) AND HIS BLOOD TEST SHOWED THAT HIS LIVER WAS FAILING ON IN DIRE NEED OF TREATMENT, RESPONDENTS REFUSED TO ADDRESS HIS MEDICAL NEEDS CONCERNING POLYCYSTIC LIVER DISEASE. PETITIONER WAS THEREBY EFFECTIVELY PREVENTED FROM ACTING ON HIS OWN BEHALF. HOWEVER, IN 2006 WHEN PETITIONER WAS DIAGNOSED WITH POLYCYSTIC LIVER DISEASE, AND FREE FROM PRISON HE WOULD HAVE LONG AGO BEEN SEEN BY LIVER DOCTOR.

THIS IS A CIVIL RIGHTS ACTION UNDER 42 USC§1983 BROUGHT BY STATE PRISONER WHO ALLEGES THAT RESPONDENTS WERE DELIBERATELY INDIFFERENT TO HIS SERIOUS MEDICAL NEEDS. THAT HE IS BEING DENIED AND OR DELAYED ADEQUATE MEDICAL TREATMENT FOR HIS RARE DISEASE, MASSIVE POLYCYSTIC LIVER. THE UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MISSOURI SOUTHEASTERN DIVISION AFTER 4 YEARS OF LITIGATION, GRANTED SUMMARY JUDGMENT ON APRIL 11, 2007 AND THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT CONCURRED REASONING DR. HAKALA WAS NOT GUILTY OF DELIBERATE INDIFFERENCE TO PETITIONERS MEDICAL NEEDS, NEITHER COULD THE OTHER RESPONDENTS, CORIZON MEDICAL SERVICES, DR. CONLEY, NURSE STANLEY BE FOUND GUILTY UNDER THE PRESENT SITUATION. SEE [UNPUBLISHED OPINION] (APPENDIX G).

THE PETITIONER STATED IN HIS DEPOSITION, THAT RESPONDENTS DELAYED/DENIED HIM ADEQUATE MEDICAL TREATMENT FOR RARE DISEASE, POLYCYSTIC LIVER, IN VIOLATION OF THE UNITED STATES CONSTITUTION AFTER MANY YEARS OF UNNECESSARY SUFFERING AND THE FILING OF MEDICAL REQUEST PURSUANT TO MISSOURI CERTIFIED GRIEVANCE PROCEDURES AND FINALLY THIS CIVIL RIGHTS ACTION (SEE PETITIONER INMATE GRIEVANCE) (SECC-21117; SECC12-287, (APPENDIX H); (PETITIONERS 1983 CIVIL RIGHTS COMPLAINT) (APPENDIX I).

THE RESPONDENT SUBMITTED DEPOSITION, RESPONDENT DR. HAKALA CONTRADICTING PETITIONERS DEPOSITION, ALLEGING THAT HE DID EFFECTIVELY TREAT PETITIONERS POLYCYSTIC LIVER DISEASE (DR. HAKALA DEPOSITION) (APPENDIX J) (PAGE 57:5 THUR 60:6), BY DOING PERIODICAL BLOOD TESTING., THAT PETITIONERS LIVER FUNCTION IS NORMAL. THAT RESPONDENT HAKALA "FELT" THAT REQUEST TO A LIVER SPECIALIST WAS NOT WARRANTED UNLESS OR UNTIL "SOME ACUTE" SITUATION WITH THE LIVER... "THAT HIS TREATMENT FOR PETITIONER WAS MEDICALLY APPROPRIATE". (DEPOSITION DR. HAKALA) (APPENDIX J) (PAGE 89:10-15 AND 99:9-11).

MOREOVER DELIBERATE INDIFFERENCE TO SERIOUS MEDICAL NEEDS IS SHOWN WHEN RESPONDENTS HAVE PREVENTED PETITIONER FROM RECEIVING RECOMMENDED TREATMENT (SEE DR. BARTON' RECOMMENDATION) (APPENDIX F), OR WHEN PETITIONER WAS DENIED ACCESS TO MEDICAL PERSONAL CAPABLE OF EVALUATING THE NEED FOR MEDICAL TREATMENT. SEE INMATES OF ALLEGHENY CITY JAIL V. PIERCE SUPRA, 612 F2D AT 762; TODARO V. WARD 565 F2D 48, 52 (2ND CIR).

THE DECISION CONFLICTS WITH DECISIONS OF THE UNITED STATES SUPREME COURT AND OR THE COURT TO WHICH THE PETITION IS ADDRESSED BEARD V BANKS US 521,534,126 SCT 2572 (2006); SPANN V. ROPER 453 F3D 1007 (8TH CIR 2006) (PERCURAM) AND THE CONSIDERATION BY UNITED STATES SUPREME COURT IS NECESSARY TO SECURE AND MAINTAIN UNIFORMITY OF THE COURTS AND OR THE CONSTITUTION OF THE UNITED STATES.

REASON FOR GRANTING THE PETITION

IF PETITIONER WERE NOT INCARCERATED HE WOULD HAVE FROM DAY ONE GONE TO BE SEEN BY A LIVER DOCTOR. PETITIONER BELIEVES HIS CASE PRESENTS ISSUES OF NATIONAL IMPORTANCE AND HAVING THE UNITED STATES SUPREME COURT DECIDE THE QUESTION "WHETHER THERE IS A CONSTITUTIONAL STANDARD OF MEDICAL CARE AND TREATMENT FOR PERSONS WITH RARE POLYCYSTIC LIVER DISEASE" ... FOR INSTANT WEATHER THEY ARE ENTITLED CONSTITUTIONALLY TO RECEIVE THERAPEUTIC PLANNING BY MEDICAL PERSONAL CAPABLE OF EVALUATING THE NEED FOR MEDICAL AND OR SURGICAL TREATMENT OF MASSIVE POLYCYSTIC LIVER DISEASE.

THE DEVELOPMENT OF SYMPTOMS MASSIVE POLYCYSTIC LIVER DISEASE (PLD) MAY BE DUE TO COMPLICATED LIVER CYSTS, TO THE MASS EFFECT OF ONE OR SEVERAL DOMINANT CYSTS OR OF A MASSIVELY ENLARGED POLYCYSTIC LIVER OR TO HAVE ASSOCIATIONS OF PLD. INTRACYSTIC HEMORRHAGE CAN CAUSE SEVERE ABDOMIAL PAIN, EXTRINSIC COMPRESSION OF BILE DUCTS AND ELEVATION OF LIVER ENZYMES. SPONTANEOUS RUPTURE OF LIVER CYSTS IS VERY RARE AND PRESENTS WITH ACUTE ABDOMINAL PAIN AND ACCUMULATION OF FLUID INSIDE THE ABDOMEN (ASCITES) SEE PHOTO PETITIONER (APPENDIX D). THE TYPICAL PRESENTATION OF HEPTIC CYSTS INFLECTION IS WITH ABDOMINAL PAIN OR TENDERNESS AND ABNORMAL BLOOD TESTS RESULTS (ELEVATED WHITE BLOOD CELL COUNT, HIGH ERYTHROCYTE SEDIMENTATION RATE, AND OFTEN ELEVATION OF THE SERUM LEVELS OF ALKALINE PHOSPHATASE, WHICH IS AN ENZYME OF LIVER ORIGIN...)

ARGUMENT

PRISONERS HAVE NO CONSTITUTIONAL RIGHT TO RECEIVE A PARTICULAR OR REQUESTED COURSE OF TREATMENT. HOWEVER, THE ELEMENTARY PRINCIPALS OF CRUEL

AND UNUSUAL PUNISHMENT CLAUSE OF THE EIGHTH AMENDMENT ESTABLISHES THE GOVERNMENT'S OBLIGATION TO PROVIDE MEDICAL CARE FOR THOSE WHOM IT IS PUNISHING BY INCARCERATION, ESTELLE V. GAMBLE 429 US 97, 50 LED 2D 251 97 SCT 285 (1976).

AN INMATE MUST RELY ON PRISON AUTHORITIES TO TREAT HIS MEDICAL NEEDS REGARDLESS OF THE RARITL. IF PRISON AUTHORITIES FAIL TO DO SO THOSE NEEDS WILL NOT BE MET ESTELLE V. GAMBLE 429 US 97 (EMPHASIS ADDED). AS PREVIOUSLY MENTIONED INMATES HAVE NO CONSTITUTIONAL RIGHT TO RECEIVE A PARTICULAR COURSE OF TREATMENT SO LONG AS THEY RECEIVE "ADEQUATE TREATMENT". RESPONDENTS CHARACTERIZATION OF PETITIONERS CLAIMS OF BEING MERE DISAGREEMENT OVER THEIR PARTICULAR COURSE FAILS TO TAKE INTO ACCOUNT PETITIONERS ALLEGATIONS.

WHERE A PRISONERS NEEDS MEDICAL TREATMENT PRISON OFFICIALS ARE UNDER A CONSTITUTIONAL DUTY TO SEE THAT IT IS FURNISHED. COOKS V. NIX 872 F2D 300, 804 (8TH CIR. 1989) CITING ESTELLE V. GAMBLE 429 US 97, 103,97 SCT 285,50 LED 2D 251 (2006).

RESPONDENTS HAVE CATEGORIZED "MEDICAL CARE" IS LIMITED TO A POLICY OR CUSTOM OF "MONITORING THROUGH BLOOD DRAWS EVERY FEW MONTHS", IN ORDER TO TRACK PETITIONERS LIVER FUNCTION. SEE (APPENDIX J)(PAGE 58-59). RESPONDENTS STATE SPECIFICALLY BLOOD WORK TO MONITOR LIVER FUNCTION WOULD INCLUDE THE TESTING OF LIVER ENZYMES AND OTHER MARKERS". THIS MAY BE TRUE HOWEVER IT IS NOT ADEQUATE MEDICAL CARE TREATMENT FOR PETITIONER WITH MASSIVE POLYCYSTIC LIVER DISEASE. MASSIVE HEPATOMEGALLY CAUSES DISCOMFORT AND HEALTH COMPLICATIONS. THE PRINCIPLE AIM OF TREATMENT MASSIVE POLYCYSTIC LIVER DISEASE IS TO REDUCE SYMPTOMS BY DECREASING LIVER VOLUME. OPTIONS FOR THE MANAGEMENT INCLUDE CONSERVATIVE MANAGEMENT, INVASIVE, OR MEDICAL MEASURES.

THE PREVIOUS MEDICAL TREATMENT POINTED TO BY RESPONDENT(S) IS AKN TO "MERE PROOF OF MEDICAL CARE" WHICH IS NOT ENOUGH TO DISPROVE DELIBERATE

INDIFFERENCE SMITH V. JENKINS, 919 F2D 90,93 (8TH CIR 1990). BECAUSE PETITIONER HAS PLAUSIBLY ALLEGED THAT THE MEDICAL CARE HE RECEIVED FALLS WELL BELOW THE APPLICABLE CONSTITUTIONAL STANDARD OF CARE. PETITIONER SHOULD BE ENTITLED TO PROVE HIS CASE BY ESTABLISHING THE COURSE OF TREATMENT OR LACK THEREOF, AND THE LACK OF GUIDANCE FROM THE UNITED STATES SUPREME COURT TO THE LOWER COURTS ON THE ISSUE DEPRIVES PETITIONER AND OTHER AMERICAN CITIZENS SIMILARLY SITUATED OF ADEQUATE MEDICAL CARE FOR RARE POLYCYSTIC LIVER DISEASE, THAT AMOUNTS TO DELIBERATE INDIFFERENCE. FURTHERMORE, RESPONDENTS SUGGEST THAT MASSIVE POLYCYSTIC LIVER DISEASE DOES NOT REQUIRE TREATMENT, BY DENYING PROPER TREATMENT TO PETITIONER IMPOSING AN ARBITRARY CONDITION ON THE TREATMENT UNSUPPORTED BY MEDICAL JUSTIFICATION.

PETITIONER IS NOT REQUIRED TO SUFFER IMMINENT LIFE THREATENING CIRCUMSTANCES AS DR. HAKAKLA RESPONDENT STATES IN HIS DEPOSITION, IN ORDER TO ALLEGE DELIBERATE INDIFFERENCE. HARRIS V. BARKLEY 219 F3D 132,139 (2ND CIR 2000) CHARACTERIZING THE DOCTOR'S REFUSAL TO TREATMENT AS MORE THEN MERE MEDICAL MALPRACTICE BECAUSE HE HAD REFUSED TREATMENT OF A PROPERLY DIAGNOSED CONDITION THAT WAS PROGRESSIVELY DEGENERATIVE, POTENTIALLY DANGEROUS AND PAINFUL. HEREIN, PETITIONER WAS PROPERLY DIAGNOSED IN 2006 BY DR. BURTON (SURGEON) (APPENDIX F) (PAGE 4).

RESPONDENTS MERELY OPTING FOR AN EASIER AND LESS EFFICACIOUS TREATMENT OF PETITIONERS CONDITION BY OPTING A MONITORING POLICY INSTEAD OF TREATMENT AND WAITING TO SEE JUST HOW MUCH PETITIONERS HEALTH MAY DETERIORATE IS NOT PERMISSIBLE. SEE ABU-JAMAL, 2017 US DIST LEXIS 368, 2017 WL 34700 AT 14 (REJECTING PRISONS HCV FIBROSIS/CIRRHOSES MONITORING AND PRIORITIZATION POLICY AND STATING THAT DEFENDANTS MAY NOT WITH DELIBERATE INDIFFERENCE TO THE SERIOUS MEDICAL NEEDS OF THE INMATE, OPT FOR AN EASIER AND LESS EFFICACIOUS TREATMENT OF INMATES CONDITION) (QUOTING, MONMOUTH CITY CORR. INST. INMATES

V. LANZARO, 834 F2D 326,347 (3RD CIR 1987);(SMITH V JENKINS 919 F2D 90,93 (8TH CIR 1990)(QUOTING SAME).

AS ALREADY DISCUSSED RESPONDENTS CHARACTERIZATION OF PETITIONERS CLAIMS AS BEING MERE MEDICAL MALPRACTICE FAILS TO TAKE INTO ACCOUNT PETITIONERS ALLEGATIONS, THAT HE HAS NOT RECEIVED ANY COURSE OF MEDICAL TREATMENT FOR HIS RARE MASSIVE POLYCYSTIC LIVER DISEASE, EXCEPT FOR MONITORING THROUGH BLOOD DRAWS. THE RESPONDENTS DO NOT HAVE A REASON FROM DEVIATING FROM APPLICABLE STANDARD OF CARE WHICH CALLS FOR TREATING WITH MEDICAL AND OR SURGICAL TREATMENT OPTIONS. MOREOVER, WHETHER THE MEDICAL CARE PETITIONER RECEIVE IS CONSTITUTIONALLY ADEQUATE IS A MERITS ISSUE AND APPROPRIATE FOR THE SUPREME COURT AND THE LACK OF GUIDANCE FROM THE SUPREME COURT TO THE LOWER COURTS ON THE ISSUE EFFECTS NOT ONLY PETITIONER BUT OTHERS SIMILAR SITUATED.

QUESTION 2

WEATHER THE LAW AND OR CONSTITUTION WAS VIOLATED WHEN PETITIONER WAS DENIED TO PUT FOURTH MEDICAL EVIDENCE ON HIS OWN BEHALF

FACTS MATERIAL TO THE CONSIDERATION OF THE QUESTION

ON OR ABOUT MARCH 18 2013, AT 3:30AM PETITIONER WAS AWAKEN IN SEVERE PAIN IN STOMACH AND BACK, ALSO EXPERIENCING DIFFICULTY BREATHING. THE NURSE ON DUTY (SOUTHEAST CORRECTIONAL CENTER) ADMINISTERED OXYGEN. UPON FURTHER EXAMINATION PETITIONER WAS BRUISED ON HIS RIGHT SIDE STOMACH AND BACK, SERVERLY SWOLLEN FEET AND LEGS. PETITIONER WAS RUSHED BY AMBULANCE TO MISSOURI DELTA MEDICAL CENTER, WHERE HE WERE ADMITTED AND KEPT 3 DAYS. IT IS ALSO WORTH NOTING PETITIONER WAS SO SWOLLEN HOSPITAL EMERGENCY PERSONAL HAD TO

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TO OTHERS.

CUT HIS GLOTS OFF OF HIM. ATTENDING PHYSICIAN LATER STATED TO PETTITIONER, "IF PRISON DOCTORS WOULD HAVE DELAYED ANOTHER DAY, PETTITIONER WOULD HAVE DIED AS A RESULT". PETTITIONER LEFT LYMPHNODES WERE FULL, THE RIGHT 3/4 OF THE WAY FULL, CAUSING PETTITIONER TO DROWN....

ABOUT TWO WEEKS OUT OF THE HOSPITAL, PRISON DOCTOR FINALLY SENT PETTITIONER TO BURNS JEWISH HOSPITAL, ST. LOUIS MISSOURI, FOR CONSULTATION BY THEIR CHIEF LIVER DOCTOR DR. JASON R. WEILIN, WHICH AFTER REVIEW OF PETTITIONERS MEDICAL RECORDS STATED TO PETTITIONER IN THE PRESENCE OF TWO CORRECTIONAL OFFICERS "THE CYST WERE CUTTING OFF BLOOD FLOW TO MY HEART. THIS WAS THE REASON FOR THE FLUID RETENTION, ALSO PRISON MEDICAL PERSONAL WAITED TOO LONG FOR SURGICAL INTERVENTION"....

SUBSEQUENTLY ON WEDNESDAY APRIL 20, 2014 PETTITIONER WAS TRANSFERRED BY AMBULANCE SOME FOUR AWAY TO THE MOBERLY CORRECTIONAL CENTER, MOBERLY MISSOURI AND PLACED UNDER HOSPICE CARE.

DR. HAKILA RESPONDENT WAS WELL AWARE OF PETTITIONERS SERIOUS MEDICAL CONDITION WHICH POSE SUBSTANTIAL RISK OF SERIOUS FUTURE HARM AND OR DEATH, ALSO A VIOLATION OF HIS HIPPOCRATIC OATH. PETTITIONER SUFFERS FROM NO CARE, NOT ONLY WAS THIS A DELIBERATE VIOLATION OF THE CONSTITUTION, IT WAS IN VIOLATION OF THE EIGHTH AMENDMENT U.S. CONSTITUTION, BUT HE JUST DID NOT TREATMENT, POLYCYSTIC LIVER DISEASE THAT CAUSES PAIN FROM MINOR TO INTENSE TO EXCRUCIATING AND SEVERE MALTREATMENT. JUST PICTURE IN YOUR MIND, THOSE AFRICAN CHILDREN AS SEEN ON TELEVISION WITH THE LARGE STOMACH AND BONY SKELETAL STRUCTURE. FOR THIS REASON PETTITIONERS CONDITION WAS AND IS VISIBLE

RELEVANT FACTS OF QUESTION

PETITIONER WAS SURPRISED AND ABSOLUTELY HAD NOT KNOWLEDGE HIS COURT APPOINTED COUNSEL HAD FILED WITH THE COURT A MOTION FOR LEAVE TO IDENTIFY WITNESS SPECIFICALLY AS EXPERT WITNESS. SEE DISTRICT COURT EASTERN DISTRICT OF MISSOURI SOUTHEASTERN DIVISION DOCKET SHEET, (APPENDIX Q) (PAGE 22) (DOCKET #139). IT IS ALSO IMPORTANT TO NOTE PETITIONER DID NOT RECEIVE SUCH MOTION. MOREOVER, PETITIONER WOULD NOT HAVE APPROVED OF SUCH MOTION ENDORSING DR. FLOOD RESPONDENT CORIZONS PHYSICAN, AS AN EXPERT POLYCYSTIC LIVER DISEASE. SEE LETTERS ADDRESSED TO SHANNA K. Surratt PETITIONERS COURT APPOINTED COUNSEL. ASKING HER TO FIND EXPERT WITNESS WITH THE EDUCATION AND SCIENTIFIC TRAINING IN TREATING POLYCYSTIC LIVER DISEASE DATED AUGUST 11, 2005 AND ANOTHER LETTER DATED APRIL 21, 2017) (APPENDIX L).

PETITIONERS COURT APPOINTED COUNSEL FAILED TO FOLLOW, NEGLECTED HER ATTORNEY ETHICS AND DISCOVERY RULES WHEN SHE FOR WHATEVER REASON APPOINTED AND OR NAMED ONE OF RESPONDENTS CORIZONS PHYSICIANS WHO EXAMINED PETITIONER ONE OR TWO TIMES, A DR. FLOOD AS A "SHAME EXPERT WITNESS" FOR PETITIONER WHO HAS NO TRAINING SCIENTIFICALLY IN TREATING POLYCYSTIC LIVER DISEASE. COMPARE YOUNG 1811 FRD AT 346-47 (REASONING TREATING PHYSICAN MUST BE CONSIDERED ORDINARY FACT WITNESS AND NOT TESTIFYING EXPERT WITNESS UNLESS PHYSICAN HAS BEEN RETAINED TO DEVELOP EXPERT OPINION). SPEARS V. UNITED STATES, 2014 US DIST LEXIX 8102. THE DISTINCTION BETWEEN LAY AND EXPERT TESTIMONY IS THAT LAY TESTIMONY RESULTS FROM A PROCESS OF REASONING THAT CAN BE MASTERED ONLY BY SPECIALIST IN THE FIELD FRE-701.

ARGUMENT

COURT APPOINTED COUNSEL'S USE OF RESPONDENTS DOCTOR AS AN EXPERT FOR PETITIONER WAS VERY UNFAIR AND PREJUDICIAL. THE FAILURE OF COUNSEL TO PUT FOURTH AN EXPERT WITNESS (HEPATOBILARY DOCTOR) ON PETITIONERS BEHALF IN THIS CASE CAN NOT BE CHARACTERIZED AS TRIAL STRATEGY FOR EVEN A "FIRST YEAR LAW STUDENT" KNOWS THAT AT SUMMARY JUDGMENT "YOU MUST PUT UP OR SHUT UP". THIS WAS NOTHING LESS THEN JUDICIAL SUICIDE FOR PETITIONERS CAUSE OF ACTION.

THE SUPREME COURT CONFIRMED THE IMPORTANCE OF EXPERT TESTIMONY IN UP HOLDING A GRANT FOR SUMMARY JUDGMENT AGAINST A PRISONER. STATING THAT THE PRISONER DID NOT OFFER ANY FACT-BASED REFUTATION OF PRISON OFFICIALS ARGUMENT IN THE MANNER THE RULES PROVIDED BEARD V. BANKS US 521, 534, 126 SCT 2572 (2006)(EMPHASIS SUPPLIED).

DOING FULL CIRCLE BACK APPOINTED COUNSEL DID NOT ANSWER AND OR RESPOND TO ANY OF PETITIONERS PHONE CALLS OR LETTERS CONCERNING PETITIONERS REQUEST TO PUT FOURTH EXPERT WITNESS (LETTER TO ATTORNEY)(APPENDIX L)(LETTER DATED DECEMBER 2014).

NEXT DR. FLOOD IS NOT A HEPATOLAILARY DOCTOR, BUT HIS PRACTICE, HIS SPECIALITY IS INTERNAL MEDICINE (DEPOSITION DR. FLOOD)(APPENDIX M)(PAGE 12-13). THEREFORE HE DOES NOT POSSESS THE SKILL, KNOWLEDGE OR EXPERTISE IN TREATING POLYCYSTIC LIVER DISEASE PATIENTS.

FINALLY DR. FLOOD ONLY EXAMINE PETITIONER ONE OF TWO TIMES AND HE DR. FLOOD FAINTLY REMEMBERS PETITIONER.

PETITIONER DONE EVERYTHING WITHIN THE LAW TO PLACE VERIFYING EVIDENCE IN THE RECORD, TO ESTABLISH THE DETRIMENTAL EFFECTS OF DELAY/DENIAL OF MEDICAL TREATMENT WHEN HE FILED (A) PETITIONERS FIRST MOTION REQUESTING ORDER COMPELLING PHYSICAL EXAMINATION (APPENDIX N); (MOTION DISTRICT COURT DOCKET

57)(APPENDIX Q)(PAGE 22). IN A SIMILAR CASE, SPANN V. ROPER 453 F3D 1007 (8TH CIR 2006) THIS COURT FOUND IN A MEDICAL CARE CASE, "IT WAS INCONGRUOUS THAT THE DISTRICT COURT DENIED THE PLAINTIFFS MOTION FOR APPOINTMENT OF AN EXPERT WITNESS AND THEN GRANTED SUMMARY JUDGMENT BECAUSE HIS FAILURE TO SUPPLY MEDICAL EVIDENCE. SEE ALSO STEELE V. SHAH 87 F3D 1266, 1271 (11TH CIR 1996)(STATING THAT APPOINTMENT OF EXPERT FOR INDIGENT PLAINTIFF MAY AVOID A WHOLLY ONE SIDED PRESENTATION OF OPINIONS ON THE ISSUE; CRABTREE V. #CULLINS 900 F2D 79, 81 (6TH CIR 1990)(NOTING APPOINTMENT OF AN EXPERT NEUROLOGIST BY DISTRICT COURT); DELKER V. MAASS 843 F.SUPP 1390, 1395 (D.OR. 1994)(NOTING APPOINTMENT THAT APPOINTMENT OF MEDICAL EXPERT); CHIRSTY V. ROBINSON 216 F.SUPP 2D 398, 404-05, 411 (D.N.J. 2002),(NOTING COURT DIRECTED PRISON MEDICAL PROVIDER TO ARRANGE FOR PLAINTIFF EXAMINATION BY INDEPENDENT DOCTOR).

PETITIONER ALSO FILED A MOTION FOR PRELIMINARY INJUNCTION, (DISTRICT COURT DOCKET #62)(APPENDIX Q)(PAGE 22) REQUESTING TO BE SEEN BY A LIVER DOCTOR. THE DISTRICT COURT DENIED THIS MOTION AS WELL.

AS DEMONSTRATED ABOVE PETITIONER DONE EVERYTHING WITHIN HIS KNOWLEDGE, LAW, AND ABILITY TO HAVE HIS (INDEPENDENT) MEDICAL EVIDENCE PLACED INTO THE RECORD, BUT HIS COURT APPOINTED COUNSEL DELIBERATELY "BLACKED BALLED HIM" AND THE DISTRICT COURT TURNED A BLIND EYE. SEE LETTER WRITTEN TO COURT CONCERNING THE FAILURE OF HIS COURT APPOINTED COUNSEL TO COMMUNICATE WITH HIM (APPENDIX O).

MOST IMPORTANTLY THE ERRORS ARE CLEAR AND OR OBVIOUS AND NOT ONLY AFFECTED PETITIONERS SUBSTANTIAL RIGHTS, BUT ALSO SERIOUSLY IMPAIRED THE FAIRNESS INTEGRITY OR PUBLIC REPUTATION OF JUDICIAL PROCEEDINGS. GIVEN COURT APPOINTED COUNSEL'S KNOWLEDGE AND EXPERIENCE THIS COURT SHOULD BE HARD PRESSED TO ASSUME THAT THE FAILURE TO PROPERLY PLED THE FACTS AND DILIGENCE IN CONVEYING THE FACTS RESULTED IN EXTREME UNFAIRNESS OR INJUSTICE UNDER THE

CIRCUMSTANCES OF PETITIONERS CASE.

THIS CASE IS OF NATIONAL IMPORTANCE, AND HAVING THE UNITED STATES SUPREME COURT DECIDE THE QUESTION INVOLVED IS NECESSARY. AS THE DECISION OF THE LOWER COURTS IN THIS CASE IS IN CONFLICT WITH THE DECISIONS OF OTHER APPELLATE COURTS. MOREOVER THE WAY THE DECISION OF THE DISTRICT COURT IN PETITIONERS CASE WAS ERRONEOUS.

3. WHETHER THE DELIBERATE DECEPTION OF A COURT BY THE PRESENTATION OF KNOWN FALSE EVIDENCE IS INCOMPATIBLE WITH RUDIMENTARY DEMANDS OF JUSTICE.

STATEMENT OF THE CASE

FACTS MATERIAL TO THE CONSIDERATION OF THE QUESTION.

A MATERIAL FACT IS ONE OF SUCH PROBATIVE FORCE AS WOULD CONTROL OR DETERMINE THE RESULT IN THE LITIGATION. AND AT NO TIME DID THE RESPONDENTS ATTORNEY ATTEMPT TO CORRECT THE FALSE IMPRESSIONS RESULTING FROM THESE MISREPRESENTATIONS. RESPONDENT ATTORNEY DELIBERATELY INTERTWINED TWO DISEASES OF DIFFERENT ORGANS, KNOWING THEY ARE DISTINCTIVE IN TREATMENT. POLYCYSTIC [K]IDNEY WHICH HAS NO TREATMENT OPTIONS AND NOT PRESENTED IN PETITIONERS COMPLAINT WITH POLYCYSTIC [L]IVER DISEASE WHICH HAS [T]REATMENT OPTIONS AVAILABLE AND IS THE THRUST OF PETITIONERS COMPLAINT DESIGNED TO MISLEAD HONORABLE STEPHEN N. LIMBAUGH, JUDGE UNITED STATES DISTRICT COURT (SEE APPENDIX I)(PETITIONERS ORIGINAL 42 USC §1983 COMPLAINT), AND TO FRUSTRATE PETITIONERS CAUSE OF ACTION, CAUSING DELAY AND OTHER HARDSHIPS.

FACTUAL INCORRECT EVIDENCE WAS PRESENTED TO THE DISTRICT COURT ON MOTION FOR SUMMARY JUDGMENT WHICH RESPONDENTS ATTORNEY WAS WELL AWARE AND WERE

DIRECTLY RESPONSIBLE FOR ELICITING SUCH EVIDENCE. THE RESPONDENTS ATTORNEY THEREFORE VIOLATED MODEL RULES OF PROF' CONDUCT R. 8.4(c)(d) WHICH PROHIBITED A LAWYER FROM ENGAGING IN CONDUCT THAT INVOLVED DISHONESTY, FRAUD, DECEIT OR MISREPRESENTATION AND CONDUCT THAT WAS PREJUDICIAL TO THE ADMINISTRATION OF JUSTICE WHICH IS SUPPORTED BY THE EVIDENCE ON THE FACE OF THE COMPLAINT. (2) RESPONDENT ATTORNEY ALSO VIOLATED RULE 3.3 OF THE RULES OF PROFESSIONAL CONDUCT. RULE 3.3 PROVIDES IN PART; "A LAWYER SHALL NOT KNOWINGLY (1) MAKE A FALSE STATEMENT OF MATERIAL FACT OR LAW TO A TRIBUNAL; (2) FAIL TO DISCLOSE A MATERIAL FACT TO A TRIBUNAL WHEN DISCLOSURE IS NECESSARY TO AVOID A CRIMINAL OR FRAUDULENT ACT BY THE CLIENT" AND (4) OFFER EVIDENCE THAT THE LAWYER KNOWS TO BE FALSE".

ARGUMENT

THE DELIBERATE DECEPTION OF A COURT BY THE PRESENTATION OF KNOWN FACTUAL INCORRECT EVIDENCE IS INCOMPATIBLE WITH RUDIMENTARY DEMANDS OF JUSTICE. THE SAME RESULT OBTAINS WHEN THE COURT, ALTHOUGH NOT SOLICITING FACTUAL INCORRECT EVIDENCE, ALLOWS IT TO GO UNCORRECTED WHEN IT APPEARS UNDER DUE PROCESS CLAUSE IF STATEMENTS TESTIMONY INTRODUCED BY RESPONDENTS COUNSEL AND ALLOWED TO GO UNCORRECTED WHEN IT APPEARED COULD IN ANYWAY REASONABLE LIKELIHOOD HAVE EFFECTED THE JUDGMENT. SUMMARY JUDGMENT SHOULD BE SET ASIDE. MOREOVER, WHETHER THE MISREPRESENTATION WAS A RESULT OF NEGLIGENCE OR DESIGN. IT IS THE COURTS RESPONSIBILIT[Y]. THE RESPONDENT COUNSEL DUTY TO PRESENT ALL MATERIAL FACTS/EVIDENCE TO THE COURT ON SUMMARY JUDGMENT WAS NOT FULFILLED AND CONSTITUTES A VIOLATION OF DUE PROCESS REQUIRING REVERSAL OF SUMMARY JUDGMENT. THE CONTROVERSY IN THIS CASE MOTION FOR SUMMARY JUDGMENT CENTERS AROUND THE PETITIONERS CLAIMS. THE PETITIONER COMPLAINT DENIAL OF TREATMENT FOR HIS

POLYCYSTIC LIVER DISEASE, DELIBERATE INDIFFERENCE (APPENDIX I)(PETITIONERS 42 USC §1983 COMPLAINT)(STATEMENT OF COMPLAINT).

THE RESPONDENTS IN THEIR RESPONSE ALLEGE IT WAS DENIAL OF POLYCYSTIC KIDNEY DISEASE. THAT IT HAD NOT BEEN IGNORED BUT MONITORED WITH BLOOD DRAWS EVERY FEW MONTHS (APPENDIX P)(MEMORANDUM AND ORDER DISTRICT COURT)(PAGE 17).

FURTHERMORE THERE IS NO TREATMENT FOR POLYCYSTIC KIDNEY DISEASE EXCEPT DIALYSIS WHEN PETITIONERS KIDNEY FAILS. AGAIN ITS IMPORTANT TO NOTE PETITIONER CLAIM IS FOR THE DENIAL TO TREAT HIS POLYCYSTIC [L]IVER DISEASE.

RESPONDENTS FAIL MISERABLY TO CORRECT THE MISNOMER AND THE FACT RESPONDENTS NEVER EVEN MENTIONED ANY TREATMENT WHATSOEVER FOR PETITIONERS CLAIMED POLYCYSTIC LIVER DISEASE OR WHAT THEY DID OR DID NOT DO TO MONITOR AND OR TREAT HIS DISEASE OF THE LIVER DEMONSTRATES RESPONDENTS "INTENT TO DECEIVE". RESPONDENTS CONDUCT INVOLVES DISHONESTY, FRAUD, DECEIT OR MISREPRESTATION, THATS PREJUDICAL TO THE ADMINISTRATION OF JUSTICE. WHATS MORE REPULSIVE THE DISTRICT COURT FOR THE SOUTHEASTERN DIVISION OR THE EIGHTH CIRCUIT COURT OF APPEALS DID NOT UNDER TAKE TO RESOLVE THE APPARENT CONFLICT BETWEEN THE TWO DISEASED ORGANS. BUT PROCEEDED ON THE FACTUAL INCORRECT CLAIM OF POLYCYSTIC KIDNEY DISEASE. IT IS WELL SETTLED LAW THAT IS EXPRESS RECITALS IMPORT VERITY AND JUDGMENT, IF THE COURT RENDERING IT IS ONE OF RECORD AND OF GENERAL JURISDICTION, THE FEDERAL COURTS BEING SUCH COURT, ALL PRESUMPTIONS ARE IN FAVOR OF ITS REGULARITY. IT IS EQUALLY SETTLED THAT SUCH PRESUMPTIONS MAY BE OVERCOME AND THAT RECITALS AS TO THINGS PROPER TO BE SHOWN IN THE RECORD ON WHICH THE JUDGMENT RESTS MAY BE OVERTURNED BY REFERENCE TO THAT RECORD IF THERE IS OF COURSE NO ISSUE OF FACT TO BE TRIED, AND A GRANT OF SUMMARY JUDGMENT ON THE BASIS. BUT HERE, BY THE RECORD ITSELF THERE WAS NO RIGHT TO SUMMARY JUDGMENT.

THIS QUESTION IS OF NATIONAL IMPORTANCE AS MILLIONS BASIC SUBSTANTIAL

RIGHTS ARE IN JEOPARDY AS WELL AS PETITIONER, DUE TO THE WAY THIS ERRONEOUS DECISION WAS REACHED, ON FACTUAL INCORRECT EVIDENCE SUBMITTED TO THE COURTS.

THE FAILURE TO PROPERLY PLED AND OR DEFEND THE FACTS AND DILIGENCE IN CONVEYING THE FACTS RESULTED IN INJUSTICE. HAVING THE SUPREME COURT DECIDE THE QUESTION, BAD PRACTICE AND GIVING GUIDANCE TO THE LOWER COURTS ON THIS ISSUE IS NECESSARY AND WILL BENEFIT THE NATIONS JUDICIAL ESTABLISHMENT.

REASONS FOR GRANTING THE PETITION

THERE EXISTS A SUBSTANTIAL QUESTION OF TRIABLE FACT AS TO WHETHER THE RESPONDENTS WERE DELIBERATE INDIFFERENT TO PETITIONERS SERIOUS MEDICAL NEEDS. SUMMARY JUDGMENT IS A DRASTIC REMEDY AND MUST BE EXERCISED WITH EXTREME CARE TO PREVENT TAKING GENUINE ISSUES OF FACT AWAY FROM JURIES. *WABUN-ININI V. SESSIONS*, 900 F2D 1234 1238 (8TH CIR. 1990). THE "DRASTIC NATURE" OF SUMMARY JUDGMENT "IMPOSES UPON A DEFENDANT WHO SEEKS IT THE BURDEN OF ESTABLISHING WITH SUCH CLARITY AS TO LEAVE NO ROOM FOR CONTROVERSY, THAT THE PLAINTIFF IS NOT ENTITLED TO RECOVER UNDER ANY DISCERNIBLE CIRCUMSTANCES." *CHAMPAL INC. V. JOSEPH S. PICKETT & SONS, INC.* 599 F2D 857,859 (8TH CIR. 1979).

THE COURT MAY GRANT A MOTION FOR SUMMARY JUDGMENT ONLY IF THE PLEADINGS, DEPOSITIONS, ANSWERS TO INTERROGATORIES, AND ADMISSIONS ON FILE, TOGETHER WITH THE AFFIDAVITS, IF ANY SHOW THAT THERE IS NO GENUINE ISSUE AS TO ANY MATERIAL FACT AND THAT THE MOVING PARTY IS ENTITLED TO JUDGMENT AS A MATTER OF LAW." FED.R.CIV.P. 56(c); *CELOTEX CORP V. CATRETT*, 477 US 317,322 (1986).

IN REVIEWING A SUMMARY JUDGMENT, THE EVIDENCE OF THE NON-MOVANT IS TO BE BELIEVED, AND ALL JUSTIFIABLE INFERENCES ARE DRAWN IN HIS FAVOR. *ANDERSON V. LIBERTY LOBBY, INC.* 477 US 242,255 (1986). THE COURT SHALL NOT WEIGH THE EVIDENCE, BUT SHALL ONLY DETERMINE WHETHER THERE IS A GENUINE ISSUE FOR TRIAL. *ANDERSON* AT 249. "CREDIBILITY DETERMINATIONS, THE WEIGHING OF THE EVIDENCE AND THE DRAWING OF LEGITIMATE INFERENCES FROM THE FACTS ARE JURY FUNCTIONS, NOT THOSE OF A JUDGE." *FOGERSON V. CITY OF ROCHESTER*, 643 F3D 1031,1042 (8TH CIR 2011).

THE EIGHTH AMENDMENT EMBODIES "BROAD AND IDEALISTIC CONCEPTS OF DIGNITY, CIVILIZED STANDARDS, HUMANITY AND DECENCY," AND TREATMENT OF INMATES THAT

IS INCONSISTENT WITH "THE EVOLVING STANDARDS OF DECENCY THAT MARK THE PROGRESS OF A MATURING SOCIETY...OR WHICH INVOLVE THE UNNECESSARY AND WANTON INFILCTION OF PAIN" IS REPUGNANT TO THE EIGHTH AMENDMENT. *ESTELLE V. GAMBLE*, 429 US 102-03 (1976) (INTERNAL QUOTATIONS OMITTED). IT THEREFORE FOLLOWS THAT A STATE MUST "PROVIDE MEDICAL CARE FOR THOSE IT IS PUNISHING." *Id.* AT 103. THE SUPREME COURT IN *ESTELLE* CONCLUDED THAT "DELIBERATE INDIFFERENCE TO SERIOUS MEDICAL NEEDS OF PRISONERS CONSTITUTES THE UNNECESSARY AND WANTON INFILCTION OF PAIN PROSCRIBED BY THE EIGHTH AMENDMENT." *Id.* AT 104 (INTERNAL CITATION AND QUOTATION OMITTED).

TO ESTABLISH A CONSTITUTIONAL VIOLATION BASED ON INADEQUATE MEDICAL CARE, A PLAINTIFF MUST SHOW DEFENDANTS WERE DELIBERATE INDIFFERENT TO THE PLAINTIFF'S SERIOUS MEDICAL NEEDS. *VAUGHN V. GRAY*, 557 F3D 904, 908 (8TH CIR. 2009). THERE IS BOTH AN OBJECTIVE AND SUBJECTIVE COMPONENT TO DELIBERATE INDIFFERENCE. *BUTLER V. FLETCHER* 465 F3D 340, 345 (8TH CIR 2006). TO SATISFY THE OBJECTIVE COMPONENT, A PLAINTIFF MUST SHOW A "SERIOUS MEDICAL NEED," WHICH IS ONE THAT HAS BEEN DIAGNOSED BY A PHYSICIAN AS REQUIRING TREATMENT, OR ONE THAT IS SO OBVIOUS THAT EVEN A LAY PERSON WOULD EASILY RECOGNIZE THE NECESSITY FOR A DOCTOR'S ATTENTION." *COLEMAN V. RAHIJA*, 1114 F3D 778, 784 (8TH CIR 1997), (QUOTING *CAMBEROS V. BRANSTAD* 73 F3D 174, 176 (8TH CIR 1995)). "OFTEN, WHETHER AN INSTANCE OF MEDICAL MISDIAGNOSIS RESULTED FROM DELIBERATE INDIFFERENCE OR NEGLIGENCE IS A FACTUAL QUESTION REQUIRING EXPLORATION BY EXPERT WITNESS." *SMITH V. JENKINS* 919 F2D 90, 93 (8TH CIR 1990).

DR. HAKLA IS NOT ENTITLED TO SUMMARY JUDGMENT BECAUSE A GENUINE ISSUE OF MATERIAL FACT EXISTS AS TO WHETHER HE WAS DELIBERATELY INDIFFERENT TO PETITIONER'S SERIOUS MEDICAL NEEDS. IT IS UNDISPUTED THAT PETITIONER HAS SERIOUS MEDICAL NEEDS THAT SATISFY THE OBJECTIVE COMPONENT OF DELIBERATE INDIFFERENCE, HE HAS POLYCYSTIC LIVER DISEASE AND CHRONIC RENAL FAILURE.

PETITIONERS STOMACH SWELLED DUE TO CYSTS THAT TOOK OVER HIS ABDOMEN AND LIVER TO THE POINT A LAY PERSON COULD SEE THE PETITIONER SUFFERED FROM A SERIOUS MEDICAL CONDITION. SEE MOORE V. JACKSON, 123 F3D 1082, 1086 (8TH CIR 1997) ("A MEDICAL NEED IS SERIOUS IF IT IS OBVIOUS TO THE LAY PERSON OR SUPPORTED BY MEDICAL EVIDENCE", (INTERNAL QUOTATION OMITTED)).

THE CRUX OF THE ARGUMENT AGAINST DR. HAKALA IS THE SECOND, SUBJECTIVE COMPONENT OF DELIBERATE INDIFFERENCE: DID HE KNOW OF PETITIONER'S SERIOUS MEDICAL NEEDS, YET DELIBERATELY DISREGARDED EXCESSIVE RISK TO THE INMATE'S HEALTH? THAT IS WHERE THE GENUINE ISSUE OF MATERIAL FACT EXIST. THE SUBJECTIVE COMPONENT REQUIRES PETITIONER TO ESTABLISH "A MENTAL STATE AKIN TO CRIMINAL RECKLESSNESS: DISREGARDING A KNOWN RISK TO THE INMATES HEALTH." VAUGHN, 557 F3D AT 908 (QUOTING GORDON V. FRANK, 454 F3D 858, 862 (8TH CIR. 2006)). "GROSSLY INCOMPETENT OR INADEQUATE CARE CAN CONSTITUTE DELIBERATE INDIFFERENCE...AS CAN A DOCTOR'S DECISION TO TAKE AN EASIER AND LESS EFFICACIOUS COURSE OF TREATMENT." SMITH V. JENKINS, 919 F2D 90, 93 (8TH CIR. 1990) (CITATIONS OMITTED). "MEDICAL CARE SO INAPPROPRIATE AS TO EVIDENCE INTENTIONAL MALTREATMENT OR A REFUSAL TO PROVIDE ESSENTIAL CARE VIOLATES THE EIGHTH AMENDMENT." *id.* THE SMITH COURT REVERSED ENTRY OF SUMMARY JUDGMENT AND HELD THAT THE INMATE WAS ENTITLED TO PROVE HIS CASE BY ESTABLISHING WHETHER DEFENDANT DOCTOR'S COURSE OF TREATMENT, OR LACK THEREOF AMOUNTED TO DELIBERATE INDIFFERENCE.

" WHILE IT IS TRUE THAT COURTS HESITATE TO FIND AN EIGHTH AMENDMENT VIOLATION WHEN A PRISON INMATE HAS RECEIVED MEDICAL CARE [CITATION], THAT HESITATION DOES NOT MEAN THAT THE COURSE OF A PHYSICIAN'S TREATMENT OF A PRISON INMATE'S MEDICAL...PROBLEMS CAN NEVER MANIFEST THE PHYSICIAN'S DELIBERATE INDIFFERENCE TO THE INMATES MEDICAL NEEDS." *id.*, QUOTING WALDROP V. EVANS, 871 F2D 1030, 1035 (11TH CIR. 1989) (EDITING OMITTED). IN LANGFORD

V. NORRIS, 614 F3D 445 (8TH CIR. 2010), INMATE LANGFORD SUFFERED FROM ALMOST IDENTICAL SYMPTOMS AS COLEMAN, INCLUDING CYSTS IN HIS KIDNEYS AND SET FORTH SIMILAR CLAIMS AS COLEMAN (PETITIONER): DEFENDANTS FAILED TO ADEQUATELY TREAT THE CYSTS FOR POSSIBLE RENAL FAILURE. 614 F3D AT 450. IN LANDFORD, THE DISTRICT COURT DENIED DEFENDANTS REQUEST FOR SUMMARY JUDGMENT ON LANGFORD'S CLAIMS THAT DEFENDANTS ACTED WITH DELIBERATE INDIFFERENCE. ON APPEAL, THE EIGHTH CIRCUIT COURT OF APPEALS WROTE AS TO BOTH PLAINTIFFS:

[W]E ARE CONVINCED THAT THE FACTS, CONSTRUED IN THE LIGHT MOST FAVORABLE TO LANGFORD...ESTABLISH A VIOLATION OF [HIS] RIGHTS UNDER THE EIGHTH AMENDMENT. SPECIFICALLY, LANGFORD ALLEGES THAT HE SUFFERED FOR YEARS FROM STOMACH AND BACK PAIN, AMONG OTHER AILMENTS, AND THAT THESE INFIRMITIES HAVE NOT BEEN ADEQUATELY TREATED. WE ASSUME FOR THE PURPOSE OF THIS APPEAL THAT LANGFORD'S MEDICAL NEEDS ARE OBJECTIVELY SERIOUS SEE KROUT, 583 F3D AT 568 A NOT IMPLAUSIBLE ASSUMPTION SINCE LANGFORD WAS TWICE RUSHED TO A HOSPITAL FOR EMERGENCY CARE. SEE ALSO LOGAN V. CLARKE, 1119 F3D 647, 649 (8TH CIR. 1997)(FINDING THAT "SUBSTANTIAL BACK PAIN" WAS A SERIOUS MEDICAL NEED); RODRIGUEZ V. PLYMOUTH AMBULANSERV., 577 F3D 816, 829 (7TH CIR 2009)(COLLECTING CASES HOLDING THAT "DELAYS IN TREATING PAINFUL MEDICAL CONDITIONS, EVEN IF NOT LIFE-THREATENING MAY SUPPORT AN EIGHTH AMENDMENT CLAIM").

614 F3D AT 460.

HERE, DR. HAKALA WAS GROSSLY INCOMPETENT. HE HAD NO EXPERIENCE TREATING POLYCYSTIC LIVER DISEASE. PETITIONER WAS DIAGNOSED WITH POLYCYSTIC LIVER DISEASE IN 2006. HE HAD CYSTS ON HIS LIVER AND KIDNEYS. DR. HAKALA DID NOTHING, NO REFERRAL FOR LIVER SPECIALIST, NO FOLLOW UP ULTRASOUND OR CT TO SEE THE CHANGES FROM PREVIOUS TESTING AND DIAGNOSES DONE IN 2006.

ADDITIONALLY, BASED UPON PETITIONERS DIAGNOSIS OF POLYCYSTIC LIVER DISEASE, COLEMANS MEDICAL CONDITION REQUIRED CLOSE MONITORING OF HIS LABS, YET OFTEN TIMES , LAB TESTING WAS NOT COMPLETED AS ORDERED, AND COMPLETE LAB TESTING TO CHECK FOR LIVER ENZYME AND GGT WERE NOT CONDUCTED. DR. HAKALA TESTIFIED GGT SHOULD BE CHECKED EACH TIME LABS ARE COMPLETED. BUT ON MANY

IF NOT MOST OCCASIONS, GGTP WAS NOT CHECKED. PETITIONERS FIRST GGTP AT SOUTHEAST CORRECTIONAL CENTER WAS ELEVATED AT 151H, AND BY NOVEMBER 2009, GGTP WAS 263H. NORMAL GGTP IS 180-200. AGAIN NO ACTION BY DR. HAKALA.

PETITIONER'S CASE IS A PERFECT EXAMPLE OF WHAT THE SUPREME COURT PROHIBITED IN ESTELLE; A "LINGERING DEATH" BECAUSE OF FAILURE TO PROVIDE ADEQUATE MEDICAL CARE. ESTELLE AT 103. MR. COLEMAN IS DYING AS A RESULT OF NOT RECEIVING ANY MEDICAL CARE ADEQUATE OR OTHERWISE TO TREAT HIS POLYCYSTIC LIVER DISEASE. DR. HAKALA'S MOTION FOR SUMMARY JUDGMENT SHOULD NOT HAVE BEEN GRANTED.

II. RESPONDENTS DR. ELIZABETH CONLEY AND PHYLLIS STANLEY WERE NOT ENTITLED TO SUMMARY JUDGMENT BECAUSE A GENUINE ISSUE OF MATERIAL FACT EXISTS AS TO WHETHER RESPONDENTS CONLEY AND STANLEY ACTED WITH DELIBERATE INDIFFERENCE TO PETITIONERS SERIOUS MEDICAL NEEDS BY NOT TAKING PROPER ACTION UPON PETITIONERS GRIEVANCES.

HAD RESPONDENT CONLEY AND STANLEY REVIEWED PETITIONERS MEDICAL HISTORY, THEY WOULD HAVE LEARNED THAT DR. HAKALA'S REFERRAL TO A SPECIALIST WAS UNTIMELY, AND IN FACT HE ALSO NEEDED A REFERRAL TO A LIVER [S]PECIALIST, AND NOT JUST A NEPHROLOGIST.

WITH REGARD TO PETITIONERS QUICKLY ENLARGING ABDOMEN AND LIVER, DR. HAKALA DID NOT REQUEST REFERRAL TO A SURGEON UNTIL APRIL 2012, 6 YEARS AFTER DR. BARTON'S RECOMMENDATION FOR HEPATOLOGY/ GASTROENTEROLOGY CONSULTATION. BUT AFTER SIX YEARS OF THE PROGRESSION OF HIS CONDITIONS, THERE WERE NO LONGER SURGICAL OPTIONS.

THE FACTS IN THIS CASE CLEARLY DEMONSTRATE A GENUINE ISSUE OF MATERIAL FACT AS TO WHETHER DR. HAKALA WAS DELIBERATELY INDIFFERENT TO PETITIONERS SERIOUS MEDICAL NEEDS. DR. HAKALA'S TESTIMONY, WHEN READ IN CONJUNCTION WITH THE MEDICAL RESEARCH AND MEDICAL HISTORY OF MR. COLEMAN, ESPECIALLY THE

RECOMMENDATION OF DR. BARTON AND DR. GALLOP'S IN 2006, TO BE SEEN BY LIVER SPECIALIST AND YEARLY ULTRASOUNDS HELPS TO ESTABLISH THERE EXISTS A SUBSTANTIAL QUESTION OF TRIABLE FACT AS TO WHETHER THE RESPONDENTS WERE DELIBERATELY INDIFFERENT TO MR. COLEMAN'S SERIOUS MEDICAL NEEDS.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Date: _____

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No: 17-1983

Alonzo Dwayne Coleman

Plaintiff - Appellant

v.

Michael C. Hakala, Physician, Corizon, SECC; Elizabeth Conley, Regional Medical Director, Missouri Department of Corrections; Phyllis Stanley; Corizon Medical Services

Defendants - Appellees

Ruth Taylor, Director of Nursing; Stephanie Novak, Health Services Administrator, Corizon, SECC; John Doe; Jane Doe

Defendants

Appeal from U.S. District Court for the Eastern District of Missouri - Cape Girardeau
(1:13-cv-00061-SNLJ)

JUDGMENT

Before COLLTON, BOWMAN and SHEPHERD, Circuit Judges.

This appeal from the United States District Court was submitted on the record of the district court and briefs of the parties.

After consideration, it is hereby ordered and adjudged that the judgment of the district court in this cause is affirmed in accordance with the opinion of this Court.

June 26, 2018

Order Entered in Accordance with Opinion:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans