

APPENDIX

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-7512

STEVEN LEON BANKS,
Plaintiff – Appellant,

v.

VINCENT MYRON GORE, Head - Physician; A.
SMITH, Nurse; NURSE KEYS,
Defendants – Appellees,

and

NURSE GOODE; DR. ABAGUTTA; NURSE
GRIFFITH; ARMOR HEALTH CARE; PTX
DIALYSIS, Dialysis - Provider,
Defendants.

Appeal from the United States District Court for the
Eastern District of Virginia, at Alexandria. Claude M.
Hilton, Senior District Judge. (1:14-cv-00205-CMH-
JFA)

Argued: March 21, 2018

Decided: June 13, 2018

Before GREGORY, Chief Judge, and DIAZ and HARRIS, Circuit Judges.

Affirmed and remanded with instructions by unpublished opinion. Judge Diaz wrote the opinion, in which Chief Judge Gregory and Judge Harris joined.

* * *

DIAZ, Circuit Judge:

Virginia inmate Steven L. Banks filed suit against the medical director of the Greensville Correctional Center and the nurse manager of the prison infirmary, alleging deliberate indifference to his serious medical needs in violation of the Eighth Amendment and medical malpractice under Virginia state law. The district court granted defendants' motion for summary judgment because (1) Banks failed to exhaust his administrative remedies and, in any event, (2) the evidence demonstrates that the defendants did not violate Banks's Eighth Amendment rights. Banks appeals.

We affirm on the merits of Banks's Eighth Amendment claims without deciding if Banks properly exhausted his administrative remedies. But we remand the case to allow the district court to clarify its disposition of Banks's state law medical malpractice claims.

I.

A.

Banks is incarcerated at the Greensville Correctional Center in Jarratt, Virginia and suffers from numerous health conditions, including end-stage renal disease, diabetes, diabetic neuropathy with

lower left extremity motor dysfunction and instability, coronary artery disease with congestive heart failure, hepatitis C, bile-duct obstructions, and high blood pressure. In February 2014, he filed a pro se complaint under 42 U.S.C § 1983 against two healthcare service providers and Dr. Vincent Gore, the prison's medical director, alleging they were deliberately indifferent to his serious medical needs in violation of the Eighth Amendment. The court dismissed Banks's claims against the two providers and instructed him to particularize and amend his claims against Gore.

Complying with the court order, Banks filed an amended complaint that named Gore and the prison infirmary's nurse manager, Angela Smith, as defendants. Gore and Smith moved to dismiss the complaint for failure to state a claim. In response, Banks again moved to amend and also requested appointment of counsel.

The district court denied Banks's motion to appoint counsel, but allowed him to file a second amended complaint. The court instructed Banks on how to particularize and amend his complaint and cautioned that "this second amended complaint will supplant all previous complaints and will serve as the sole operative complaint in this action." J.A. 153.

Banks's Second Amended Complaint articulates two Eighth Amendment deliberate indifference claims and two state medical malpractice claims. The Eighth Amendment claims allege that Gore was deliberately indifferent to Banks's medical needs by (1) denying three different doctors' requests for Banks to receive an off-site neurologist consult to treat his concussion

symptoms and (2) denying Banks's request for a new medication called Harvoni to treat his hepatitis C. The state law claims allege that (1) Gore committed medical malpractice because he refused to approve a surgical procedure to have kidney stones removed from Banks's bile duct, and (2) Smith committed medical malpractice when she prematurely ended Banks's dialysis treatment session, causing Banks to become very ill.

Gore and Smith filed a motion for summary judgment, along with supporting exhibits and affidavits. Banks was fully informed of his right to respond to the motion in accordance with *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), but he failed to do so.¹ The district court granted defendants' motion for summary judgment, holding that Banks did not exhaust his administrative remedies for any of his federal claims as required by the Prison Litigation Reform Act. *See* 42 U.S.C. § 1997e(a). It further held that the pleadings, affidavits, and exhibits demonstrate that neither defendant violated Banks's Eighth Amendment rights. The court's opinion did not address Banks's state law malpractice claims.

On appeal, Banks filed an informal brief pursuant to Local Rule 34(b), wherein he contested the dismissal of his claims and also alleged that the district court erred in denying his motions for appointment of counsel. We then appointed counsel to file a formal brief. That brief raises a host of issues that we decline to consider because they were not before the district court. The brief also objects to the district court's

¹ Banks continued to seek appointment of counsel but the district court denied his requests.

dismissal of Banks's claims that (1) Gore was deliberately indifferent to Banks's serious medical needs when he repeatedly denied Banks a neurologist consult, and (2) Smith was deliberately indifferent to Banks's serious medical needs when she ended Banks's dialysis treatment session early.²

The formal brief makes no mention of Banks's other claims against Gore. Nor does it allege that the district court erred in denying Banks's motions for appointment of counsel. "[W]e treat the formal brief as definitive of the issues for review and, applying the normal rule of waiver, consider only those issues, unless an inspection of the record indicates that failure to consider other issues might result in grave injustice." *Slezak v. Evatt*, 21 F.3d 590, 593 n.2 (4th Cir. 1994).

We find no grave injustice in counsel's waiver of these claims. The uncontested evidence establishes that (1) Banks did not have a medical need to receive Harvoni for his hepatitis C, (2) Banks was treated for a bile duct obstruction, and (3) Gore never denied surgery for Banks's bile duct obstruction. And as we explain later, we also find no grave injustice in counsel's waiver of the claim that the district court erred in denying Banks's motions for appointment of counsel.

² Although the Second Amended Complaint characterizes the claim against Smith as a state law malpractice claim, we liberally construe pro se complaints, *see Erickson v. Pardus*, 551 U.S. 89, 94 (2007), and thus treat Banks's allegation against Smith as both a deliberate indifference Eighth Amendment claim and a medical malpractice claim.

Thus, our review on the merits is limited to the two Eighth Amendment claims properly preserved on appeal, although we also briefly address the district court's failure to dispose of Banks's state law medical malpractice claims.

B.

Banks failed to present evidence in opposition to defendants' motion for summary judgment and accompanying affidavits and exhibits. As a result, the facts we summarize are undisputed.

Deliberate Indifference Claim Against Gore

In April 2012, Banks slipped and fell on a wet floor in the Greenville Correctional Center and injured his head. Five days later, after complaining of blurry vision, dizziness, and chronic head pain, Banks was taken to the hospital where he was told he had a severe concussion. Banks filed a number of grievances about improper medical treatment of his concussion symptoms throughout the summer of 2012.

Banks's medical care was predominantly handled by his primary care providers, but Gore was responsible for approving requests for specialist consultations and medical procedures. A year and a half after Banks's fall, in January 2014, a primary care provider requested a neurology consult for Banks. At the time, Banks reported left leg weakness, headache, dizziness, and lower back pain. His neurological evaluation was within normal limits and spinal x-rays showed normal alignment with anterior wedging.

Gore deferred the primary care provider's request and recommended, instead, that Banks first be seen in the clinic for six months. Gore believed more information was needed, especially because Banks

was on medication that could cause headaches and dizziness. Further, Gore thought there was no urgent need for a neurology consult because this was the first time he was asked to approve such a consult and it was a year and a half after Banks's initial head injury. The primary care provider was free to submit further information for Gore to consider, either then or after monitoring Banks in the clinic.

Deliberate Indifference Claim Against Smith

On June 14, 2013, Banks was receiving dialysis treatment in the medical housing unit of the Greenville Correctional Center. Around three hours after he started his treatment session, the water system on his dialysis machine broke down and he was removed from his treatment about thirty-six minutes early. Banks claims he became very ill as a result of the premature termination. At the time, Smith was employed as the infirmary nurse manager by a company called Corizon. She did not have authority to end Banks's dialysis treatment early, nor did she. The nurses who managed patients' dialysis treatments were employed by a different company.

II.

A.

We review a district court's grant of summary judgment de novo. *Sempione v. Provident Bank of Md.*, 75 F.3d 951, 954 (4th Cir. 1996). To obtain summary judgment, the movant must demonstrate "there is no genuine dispute as to any material fact and [that he] is entitled to a judgment as a matter of law." Fed. R. Civ. P. 56(a). The burden then shifts to the nonmoving party to point out specific facts that create disputed factual issues. *See Anderson v. Liberty*

Lobby, Inc., 477 U.S. 242, 248 (1986). The nonmoving party must “go beyond the pleadings” and rely on some form of evidence, including affidavits, to demonstrate that a genuine issue of material fact exists. *M & M Med. Supplies and Serv., Inc. v. Pleasant Valley Hosp., Inc.*, 981 F.2d 160, 163 (4th Cir. 1992). In deciding a motion for summary judgment, a district court should draw all facts and inferences in favor of the nonmoving party. *Anderson*, 477 U.S. at 255.

The Eighth Amendment prohibits the infliction of cruel and unusual punishment. It applies to “the treatment a prisoner receives in prison and the conditions under which he is confined.” *Helling v. McKinney*, 509 U.S. 25, 31 (1993). In order to establish an Eighth Amendment violation, a prisoner must prove: (1) “the deprivation of a basic human need was objectively sufficiently serious,” and (2) “subjectively the officials acted with a sufficiently culpable state of mind.” *Rish v. Johnson*, 131 F.3d 1092, 1096 (4th Cir. 1997) (internal quotation marks, alterations, and emphasis omitted).

To satisfy the first element, a prisoner must “produce evidence of a serious or significant physical or emotional injury resulting from the challenged conditions,” or “demonstrate a substantial risk of such serious harm resulting from the prisoner’s unwilling exposure to the challenged conditions.” *Id.*

To satisfy the second element, a prisoner must prove at least deliberate indifference. “Deliberate indifference is more than mere negligence.” *Scinto v. Stansberry*, 841 F.3d 219, 225 (4th Cir. 2016) (internal quotation marks omitted). It “requires that a prison official actually know of and disregard an objectively

serious condition, medical need, or risk of harm.” *Rish*, 131 F.3d at 1096. “A prison official is not liable if he ‘knew the underlying facts but believed (albeit unsoundly) that the risk to which the facts gave rise was insubstantial or nonexistent.” *Johnson v. Quinones*, 145 F.3d 164, 167 (4th Cir. 1998) (quoting *Farmer v. Brennan*, 511 U.S. 825, 844 (1994)). In other words, “general knowledge of facts creating a substantial risk of harm is not enough. The prison official must also draw the inference between those general facts and the specific risk of harm confronting the inmate.” *Id.* at 168.

We conclude that Gore was not deliberately indifferent to Banks’s medical needs. When, as here, there is no direct evidence that the prison official actually knew and disregarded a serious risk of harm, the risk must be so obvious that actual knowledge can be inferred from its mere existence. *See Rish*, 131 F.3d at 1099–1100. That is not the case here.

Although Banks alleges that Gore denied three different primary care providers’ requests for a neurology consult, the uncontested record evidence shows otherwise. Gore submitted a sworn affidavit in which he explained that he received a single request for a neurology consult—a year and a half after Banks’s original fall. And Gore did not deny the request; he deferred it and suggested that Banks first be monitored in the clinic for six months. Gore did so because Banks was on medication that caused headaches and dizziness; his neurological evaluation was within normal limits; his spinal x-rays showed normal alignment with anterior wedging; and Gore saw no urgent need for a neurology consult given that

Banks had injured his head over a year and a half earlier.

Mere “[d]isagreements between an inmate and a physician over the inmate’s proper medical care do not state a § 1983 claim.” *Wright v. Collins*, 766 F.2d 841, 849 (4th Cir. 1985). In fact, “many acts or omissions that would constitute medical malpractice will not rise to the level of deliberate indifference.” *Jackson v. Lightsey*, 775 F.3d 170, 178 (4th Cir. 2014). We see no evidence that Gore deviated from the accepted standard of care, but even if he did, that would not be sufficient to clear the “high bar” of a constitutional claim. *See id.* at 178–79. Ultimately, Gore’s undisputed evidence showed that he was in no way deliberately indifferent to Banks’s medical needs, and Banks failed to “go beyond the pleadings” to create a genuine dispute of a material fact.

The district court also correctly dismissed Banks’s Eighth Amendment claim against Smith because there is undisputed evidence that she had nothing to do with the early termination of Banks’s dialysis treatment. Smith’s sworn affidavit states that she did not terminate Banks’s dialysis treatment early and that other nurses, employed by a different company, managed patients’ dialysis treatments. Absent record evidence that Smith was personally involved in the alleged deprivation of a constitutional right, she is entitled to summary judgment. *See Lopez v. Robinson*, 914 F.2d 486, 494 (4th Cir. 1990).

Because Banks’s Eighth Amendment claims fail on the merits, we need not consider whether Banks administratively exhausted the claims. Banks argues that the district court’s alternative holding—that

defendants produced sufficient evidence to merit summary judgment—was mere dicta because it was made after the district court determined that it had no jurisdiction. This is wrong. The Prison Litigation Reform Act’s exhaustion requirements are mandatory but not jurisdictional. Thus, a district court can dismiss a case for lack of merit without deciding whether the claims were administratively exhausted. *See Woodford v. Ngo*, 548 U.S. 81, 101 (2006).

B.

Banks also alleges—in his informal brief—that the district court erred in denying his motions to appoint him counsel. But Banks’s formal brief doesn’t raise the issue, so it’s waived unless the record shows that failure to consider the issue might result in grave injustice. *See Slezak*, 21 F.3d at 593 n.2. We briefly address why no such injustice would result here.

The district court may appoint counsel for indigent plaintiffs in civil cases. *See* 28 U.S.C. § 1915(e)(1). “The power to appoint is a discretionary one, but it is an abuse of discretion to decline to appoint counsel where the case of an indigent plaintiff presents exceptional circumstances.” *Whisenant v. Yuam*, 739 F.2d 160, 163 (4th Cir. 1984). “The existence of such circumstances will turn on the quality of two basic factors—the type and complexity of the case, and the abilities of the individuals bringing it.” *Id.* “If it is apparent to the district court that a pro se litigant has a colorable claim but lacks the capacity to present it, the district court should appoint counsel to assist him.” *Id.*

Banks never asserted in his numerous motions for appointment of counsel that he was unable to

represent himself due to his medical conditions. Rather, Banks contended that (1) his imprisonment limited his ability to litigate what is a complex case involving significant research and investigation, (2) a trial in the case would likely involve conflicting testimony and appointed counsel would be better at presenting evidence and cross-examining witnesses, and (3) he had made repeated efforts to obtain a lawyer.

But Banks's inexperience with the law and his prisoner status do not constitute an "exceptional circumstance," especially during the very early stages of litigation. *See James v. Eli*, No. 15-3034, 2018 WL 2035301, at *4 (7th Cir. May 2, 2018) (noting "complexity increases and competence decreases as a case proceeds to the advanced phases of litigation"). If Banks truly had reason to believe that three different providers recommended that he receive a neurological consult or that Nurse Smith was directly responsible for prematurely ending his dialysis treatment, then Banks might well have survived defendants' motion for summary judgment by submitting affidavits contesting the defendants' version of events. And we know Banks is capable of presenting such evidence because he attached a handful of affidavits to his original complaint.

Moreover, the record does not suggest that Banks's claims are colorable. This case stands in stark contrast to *Whisenant*, in which a district court did abuse its discretion by not appointing counsel to a plaintiff-prisoner with an Eighth Amendment deliberate indifference claim. There, police arrested Whisenant for murder in a hospital emergency room, where he was seeking treatment for injuries sustained

in a motorcycle accident three days earlier. We concluded that Whisenant had a colorable claim of deliberate indifference because the evidence showed that after being booked in the county jail, he complained of oral and rectal bleeding, but did not receive adequate medical treatment until at least seventeen hours later, “when immediate life-sustaining measures were required.” 739 F.2d at 163. We further held that Whisenant was ill-equipped to represent himself at trial because he was uneducated generally and totally uneducated in legal matters; he could not leave the prison to interview key witnesses; and his version of events was in sharp conflict with that of the defendants, so the case depended largely on the credibility of witnesses at trial. *Id.*

Banks, on the other hand, presented no evidence of an Eighth Amendment violation, was in the early stages of litigation—not at trial, and was capable of opposing a motion for summary judgment. We therefore find no grave injustice in the district court’s refusal to appoint counsel.

C.

Finally, we address whether the district court properly disposed of Banks’s state law medical malpractice claims. The defendants’ motion for summary judgment sought dismissal of Banks’s Second Amended Complaint, with or without prejudice. The district court granted the motion and instructed the Clerk to enter final judgment.³ The

³ We ordered supplemental briefing on whether the district court’s judgment was “final” under 28 U.S.C. § 1291 for purposes of our jurisdiction. We are satisfied that it was a final, appealable order because even though the district court failed to address the

district court’s memorandum opinion, however, does not address Banks’s state law claims, and neither the opinion nor the order specifies whether the court dismissed the state law claims with or without prejudice.

Generally, when a district court dismisses all federal claims in the early stages of litigation, it should decline to exercise jurisdiction over any remaining pendent state law claims by dismissing those claims without prejudice. *See United Mine Workers of Am. v. Gibbs*, 383 U.S. 715, 726 (1966); *see also Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 350 n.7 (1988) (“[I]n the usual case in which all federal-law claims are eliminated before trial, the balance of factors to be considered under the pendent jurisdiction doctrine—judicial economy, convenience, fairness, and comity—will point toward declining to exercise jurisdiction over the remaining state-law claims.”).

A district court does have discretion to continue to exercise supplemental jurisdiction over pendent state law claims, *see* 28 U.S.C. § 1367(c)(3), but a court’s decision should be based on factors like convenience and fairness to the parties. *See Shanaghan v. Cahill*, 58 F.3d 106, 112 (4th Cir. 1995). Further, if a court decides to dismiss pendent state law claims on their merits, it should state its reasons. *See* Fed. R. Civ. P. 56(a).

state law claims, the language used in its order was “calculated to conclude all the claims before the district court” and “the district court obviously was not trying to adjudicate fewer than all the pleaded claims.” *See Martin v. Duffy*, 858 F.3d 239, 246–47 (4th Cir. 2017).

Here, the district court said nothing about the state law claims. We think it likely that the court intended to dismiss them without prejudice to refiling in state court. But rather than guess, we remand for the limited purpose of having the district court clarify its intentions regarding the claims. *See, e.g., Vibe Micro, Inc. v. Shabenets*, 878 F.3d 1291, 1296–97 (11th Cir. 2018) (remanding on similar grounds).

*AFFIRMED AND REMANDED
WITH INSTRUCTIONS*

APPENDIX B

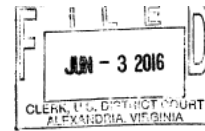
THE UNITED STATES DISTRICT COURT FOR
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

Steven Leon Banks,
Plaintiff,

v.

Dr. Vincent Gore, *et al.*,
Defendants.



1:14cv205 (CMH/JFA)

MEMORANDUM OPINION

Steven Leon Banks filed this *pro se* civil rights action pursuant to 42 U.S.C. § 1983, alleging deliberate indifference to his serious medical needs at Greensville Correctional Center (“GCC”). The defendants have filed a Motion for Summary Judgment, as well as a memorandum of law and numerous supporting exhibits. Dkt. Nos. 56, 57. Plaintiff was given the Notice required by Local Rule 7(K) and the opportunity to file responsive materials pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975). Plaintiff did not file a response, and the matter is now ripe for disposition. For the reasons that follow, defendants’ Motion for Summary Judgment must be granted.

I. Plaintiff's Allegations

A. Nurse Angela Smith

In his Second Amended Complaint, plaintiff contends that Nurse Angela Smith is liable for medical malpractice because she terminated his dialysis treatment on a day in which the water system on the dialysis machine went down, June 14, 2013. Dkt. No. 40 at 8. Plaintiff claims that he became very ill and had to be placed in the infirmary as a result. *Id.*

B. Dr. Vincent Gore

Plaintiff also contends that Dr. Vincent Gore is liable to him for deliberate indifference to his serious medical needs and medical malpractice. *Id.* at 5–9. First, plaintiff claims that he hit his head, resulting in a “severe concussion,” when he slipped and fell on a wet floor at GCC sometime in 2012. *Id.* at 7. He claims that, over a year after his fall, in October 2013 and January 2014, Dr. Gore refused three requests made by plaintiff's primary doctor for an offsite neurology appointment. *Id.* at 3–5. Plaintiff claims that as a result of Dr. Gore's refusal, he suffers from continued pain in his head, dizziness, and paralysis in his left side. *Id.* He asserts that Dr. Gore's denial of the three requests constitutes deliberate indifference. *Id.* at 8. Second, plaintiff claims that in February 2014 he begged Dr. Gore to treat his Hepatitis C with a new HCV drug, Harvoni, and Dr. Gore wrongfully denied his request. *Id.* at 8. Plaintiff contends that he continues to suffer side effects due to damage to his liver as a result of Dr. Gore's denial of his repeated requests for Harvoni. *Id.* at 8–9. Finally, plaintiff claims that in March 2014 Dr. Gore refused a

gastroenterologist request for removal of kidney stones from plaintiffs “bi[le] duct.” *Id.* at 9.

C. Nurse Shearyl Kee

There are no allegations in the Second Amended Complaint against Nurse Shearyl Kee, and she is not listed among the defendants. The Second Amended Complaint is the operative complaint in this case, so any initial claims against her must be dismissed. Plaintiff requests declaratory relief, punitive damages of \$500,000, and compensatory damages of \$75,000 from Dr. Gore.

II. Undisputed Factual Background

At all times relevant to this lawsuit, Dr. Vincent Gore treated plaintiff based upon his medical judgment and experience. *See* Dkt. No. 57, Ex. 1 (“Gore Dec.”) ¶¶ 4–5. Dr. Gore approved specialist consultations and procedures for plaintiff on several occasions. Gore Dec. ¶ 5; Dkt. No. 57, Ex. 2 (“Med. Rec.”) at 8, 12, 28.

On January 16, 2014, a year and a half after plaintiff’s reported fall, Dr. Gore recommended deferral of a neurology consultation requested by a provider, and he instead recommended that plaintiff be seen in the clinic for 6 months first. Gore Dec. ¶ 5; Med. Rec. at 11. Dr. Gore believed that more information and extensive observation were necessary before an offsite neurology consultation was to be scheduled; specifically, he noted that plaintiff had other medical conditions, including congestive heart failure, and some of the medications used to treat those conditions could have caused plaintiff’s headaches and dizziness. *Id.* Dr. Gore also

recommended that if plaintiff had increased back or leg pain, physical therapy should be considered. *Id.*

Plaintiff had reported left leg weakness, headache, dizziness, and lower back pain to Dr. Gore, and Dr. Gore's neurological evaluation of him was within normal limits. *Id.* Specifically, plaintiff's lower spinal x-rays showed normal alignment with anterior wedging (potentially from osteoporosis) at T11 and T12. *Id.* Based upon his evaluation of plaintiff, Dr. Gore did not believe plaintiff had any urgent need to be seen by a neurologist. *Id.* Even after Dr. Gore's deferral of the neurology consult in January 2014, plaintiff's treating provider was still free to submit further information. *Id.*

Plaintiff also points out that he had Hepatitis C during his incarceration at GCC. Hepatitis C ("HCV") is a slow-developing disease, and cirrhosis and liver cancer often take decades to occur as a result of Hepatitis C. Gore Dec. ¶ 7. Therefore, testing is done in order to assess HCV patients' levels of liver dysfunction. *Id.* The medical standard for testing liver cirrhosis is through use of an AST to Platelet Ratio Index ("APRI") score. *Id.* The generally recognized cut-off for diagnosing liver cirrhosis is an APRI score of 2.0 or higher. *Id.* In 2013 and 2014, plaintiff's APRI scores were between 0.36 and 0.38, indicating that he did not have severe fibrosis or cirrhosis of the liver. *Id.*; Med. Rec. at 32–34, 308–09. Therefore, Dr. Gore did not believe that plaintiff had a medical need to receive Harvoni at the time he filed suit in this matter. Gore Dec. ¶ 7. Plaintiff has not suffered any additional harm from not being treated with HCV medications Harvoni or Sovaldi. *Id.* Despite Dr. Gore's decision not to treat plaintiff with

Harvoni, plaintiff continued to be monitored for HCV and other related conditions while he was housed at GCC. *Id.*

Plaintiff was also treated for a bile duct obstruction by his treating physicians at GCC. *Id.* at ¶ 8. Plaintiff had GI consultations on April 2, 2014, May 1, 2014, July 2, 2014, September 3, 2014, November 5, 2014, and May 5, 2014. *Id.*; Med. Rec. at 158, 172, 184, 190, 320, 323, 325. Dr. Gore signed off on the treating physicians' requests for a liver ultrasound and GI consultation. *Id.* Dr. Gore did not deny plaintiff surgery for a bile duct obstruction. Gore Dec.118.

Finally, plaintiff has claimed that Nurse Angela Smith terminated his dialysis on June 14, 2014. Nurse Smith was employed by Corizon Health as the infirmary nurse manager at GCC on June 14, 2013. *See* Dkt. No. 57, Ex. 3 ("Smith Dec.") ¶ 3. The dialysis nurses were separate from Corizon, and they were responsible for deciding which inmates received dialysis treatment. *Id.* Nurse Smith did not decide to terminate plaintiff's dialysis on June 14, 2013 because she had no control over that decision-making process. *Id.*

III. Grievance History

In most circumstances, the Virginia Department of Corrections grievance process is exhausted by the inmate appealing his grievance to Level II, the appeal level following a formal grievance. *See* Dkt. No. 57, Ex. 4 ("Whitehead Dec."); Dkt. No. 57, Ex. 6 ("Grievance Policy") at 7–11. Grievance records produced by GCC demonstrate that plaintiff grieved to Level II regarding medical complaints on only two occasions prior to filing this lawsuit, and neither of

those complaints pertains to the issues plaintiff has raised in the instant lawsuit. Whitehead Dec.; *see also* Dkt. No. 57, Ex. 5 (“Grievance Rec.”). In Grievance No. GCC-14-REG-00260, plaintiff complained that his dialysis was cut short on March 14, 2014, due to scheduling of plaintiff’s medical appointments. Whitehead Dec.; Grievance Rec. at 5–9. The grievance was held to be unfounded. *Id.* In Grievance No. GCC-14-REG-00394, plaintiff complained to Level II that he did not receive his morning medications on June 3, 2014. Whitehead Dec.; Grievance Rec. at 10–15. This grievance was also held to be unfounded. *Id.* Finally, in Grievance No. GCC-13-REG-00389, plaintiff complained only to Level I that his dialysis was cut short on June 14, 2013. Whitehead Dec.; Grievance Rec. at 1–4. This grievance was also found to be unfounded, and plaintiff did not appeal. *Id.* Based upon the Grievance Policy implemented at GCC, plaintiff has not exhausted his claims against Dr. Gore or Nurse Smith. Whitehead Dec.; Grievance Policy.

IV. Standard of Review

Summary judgment “shall be rendered forthwith 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. The moving party bears the burden of proving that judgment as a matter of law is appropriate. *See Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). To meet that burden, the moving party must demonstrate that no genuine issues of material fact are present for resolution. *Id.* at 322. Once a moving party has met its burden to show that it is entitled to judgment as a

matter of law, the burden shifts to the nonmoving party to point out the specific facts that create disputed factual issues. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). The nonmoving party must present some evidence, other than its initial pleadings, to show that there is more than just a “metaphysical doubt as to the material facts.” *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986); *see also* Celotex, 477 U.S. at 324 (quoting Rule 56(e) (“Rule 56(e) . . . requires the nonmoving party to go beyond the pleadings and by her own affidavits, or by [other evidence] designate ‘specific facts showing that there is a genuine issue for trial.’”). In evaluating a motion for summary judgment, a district court should consider the evidence in the light most favorable to the nonmoving party and draw all reasonable inferences from those facts in favor of that party. *United States v. Diebold, Inc.*, 369 U.S. 654, 655 (1962).

Those facts which the moving party bears the burden of proving are facts which are material. “[T]he substantive law will identify which facts are material. Only disputes over facts which might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment.” *Anderson*, 477 U.S. at 248. An issue of material fact is genuine when, “the evidence . . . create[s] [a] fair doubt; wholly speculative assertions will not suffice.” *Ross v. Commc’ns Satellite Corp.*, 759 F.2d 355, 364 (4th Cir. 1985), abrogated on other grounds by *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989). Therefore, summary judgment is appropriate only where no material facts are genuinely disputed and the evidence as a whole could not lead a rational fact

finder to rule for the nonmoving party. *Matsushita Elec. Indus. Co.*, 475 U.S. at 587.

V. Analysis

A. *Plaintiff Failed to Exhaust His Administrative Remedies*

Pursuant to the Prison Litigation Reform Act (“PLRA”), “[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.” See 42 U.S.C. § 1997e(a); *Woodford v. Ngo*, 548 U.S. 81, 85 (2006) (“Exhaustion is no longer left to the discretion of the district court, but is mandatory.”). The PLRA requires “proper” exhaustion, which demands “compliance with an agency’s deadlines and other critical procedural rules.” *Woodford*, 548 U.S. at 90–91, 93. In the context of prisoner suits, proper exhaustion provides prisons the opportunity to correct their errors before being hauled into federal court, reduces the quantity of prisoner suits by either granting relief at the administrative level or persuading prisoners not to further pursue their claim in a federal court, and improves the quality of the prisoner suits that are filed in federal court by creating an administrative record for the court to reference. *Id.* The benefits of proper exhaustion are only realized if the prison grievance system is given a “fair opportunity to consider the grievance” which will not occur “unless the grievant complies with the system’s critical procedural rules.” *Id.* at 95; see also *Moore v. Bennette*, 517 F.3d 717, 725 (4th Cir. 2008). As the Supreme Court has noted, if a prisoner could properly

exhaust his claims without complying with the procedural rules of the prison's grievance system, a prisoner who did not want to participate in the prison grievance process could avoid the process altogether by simply filing a prison grievance he knew would be dismissed for procedural deficiency. *Woodford* 548 U.S. at 96. To prevent this type of abuse, this Circuit has held that a prisoner cannot exhaust his administrative remedies by failing to follow the required procedural steps, and the proper return of an improperly filed grievance does not serve to exhaust a prisoner's administrative remedies. *Moore*, 517 F.3d at 725, 729.

Plaintiff as a Virginia inmate is required to exhaust the claims raised in the instant complaint in accordance with the Virginia Department of Corrections ("VDOC") grievance procedures. In particular, he must comply with VDOC OP 866, which provides multiple levels of administrative remedies in the form of inmate grievances. Per OP 866-7.13, an inmate must first attempt to resolve any issues informally. Prison officials must respond to the inmate's complaint within fifteen days of receiving an informal complaint. *See* OP 866-7.13. After seeking informal resolution, an inmate may file a regular grievance to the warden or superintendent. The grievance must be filed within thirty days of the underlying incident or occurrence. *See* OP 866-7.14. Depending on the subject of the grievance, up to two additional levels of review by higher authorities within VDOC may be available following the filing of a regular grievance. *See* OP 866-7.15.

Proper administrative exhaustion requires that "a prisoner must submit inmate complaints and appeals

in the place, and at the time, the prison's administrative rules require." *Dale v. Lappin*, 376 F.3d 652, 655 (7th Cir. 2004). As has been recognized previously in this district, "the PLRA amendment made [it] clear that exhaustion is now mandatory." *Langford v. Couch*, 50 F.Supp.2d 544, 548 (E.D. Va. 1999) (Ellis, J.). A prisoner now must exhaust all available administrative remedies, whether or not they meet federal standards or are plain, speedy or effective. *Porter v. Nussle*, 534 U.S. 516, 524 (2002). Moreover, an inmate now must exhaust administrative remedies even if exhaustion would be futile because those remedies would not provide the relief the inmate seeks. *Davis v. Stanford*, 382 F.Supp.2d 814, 818 (E.D. Va. 2005) (Hilton, J.), *aff'd*, 127 Fed. App'x 680 (4th Cir. May 10, 2005).

According to facility records, plaintiff did not grieve his complaints regarding termination of his dialysis through the second level or the appeal level. Whitehead Dec.; Grievance Rec. at 1–4. Plaintiff did not grieve through the regular grievance process any of his claims regarding Dr. Gore. Specifically, he did not file any grievance complaining that Dr. Gore failed to refer him to a neurologist, that Dr. Gore failed to provide him HCV medications, or that Dr. Gore failed to refer him for surgery for a bile duct obstruction. *See* Grievance Rec. at 1–15. Therefore, plaintiff's claims must be dismissed for lack of jurisdiction because he has failed to exhaust his administrative remedies. 42 U.S.C. § 19973(a).

B. Defendant Did Not Violate Plaintiff's Eighth Amendment Rights

Even if plaintiff's claims had been properly exhausted prior to filing this lawsuit, summary judgment in favor of Dr. Gore, Nurse Smith, and Nurse Kee is appropriate because the pleadings, affidavits, and exhibits on file demonstrate that the named defendants did not violate plaintiff's Eighth Amendment rights and plaintiff has not produced any evidence to the contrary.

VI. Conclusion

For the foregoing reasons, plaintiff's request for the appointment of counsel must be denied and defendants' Motion for Summary Judgment must be granted. An appropriate Order shall issue.

Entered this 3rd day of June 2016.


United States District Judge

Alexandria, Virginia

APPENDIX C

FILED: July 24, 2018

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-7512
(1:14-cv-00205-CMH-JFA)

STEVEN LEON BANKS

Plaintiff - Appellant

v.

VINCENT MYRON GORE, Head - Physician; A.
SMITH, Nurse; NURSE KEYS

Defendants -Appellees

and

NURSE GOODE; DR. ABAGUTTA; NURSE
GRIFFITH; ARMOR HEALTH CARE; PTX
DIALYSIS, Dialysis - Provider

Defendants

O R D E R

The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc.

28a

Entered at the direction of the panel: Chief Judge
Gregory, Judge Diaz, and Judge Harris.

For the Court

/s/ Patricia S. Connor, Clerk

APPENDIX D

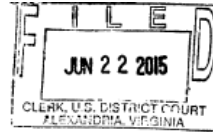
**THE UNITED STATES DISTRICT COURT FOR
EASTERN DISTRICT OF VIRGINIA**

Alexandria Division

Steven Leon Banks,
Plaintiff,

v.

Armor Health Care, *et al.*,
Defendants.



1:14cv205 (CMH/JFA)

ORDER

Steven Leon Banks, a Virginia inmate proceeding *pro se*, filed this civil rights action, pursuant to 42 U.S.C. § 1983, alleging that the defendants, Dr. Vincent Myron Gore, Nurse Angela Smith, and Nurse Shearyl Kee¹, have shown deliberate indifference to his serious medical needs. Plaintiff initially named Armor Health Care, PTX Dialysis, and Gore as defendants. By Order dated March 13, 2014, the claims against Armor Health Care and PTX Dialysis were dismissed, and plaintiff was instructed to particularize and amend his claims against Gore. Plaintiff then submitted an amended complaint, naming Gore, as well as Smith and Kee, as defendants. On September 9, 2014, defendants filed a Motion to

¹ Nurse Kee is identified as "Nurse Keys" throughout plaintiff's filings.

Dismiss for Failure to State a Claim, pursuant to Federal Rule of Civil Procedure 12(b)(6). Dkt. 23. Plaintiff filed a Motion for Extension of Time to respond on September 29, 2014, as well as a Motion to Appoint Counsel. Dkts. 25, 26. Plaintiff has also filed a Motion for Leave of Court, in which he requests permission to file an additional amended complaint. Dkt. 29. He has attached a proposed amended complaint, which provides additional factual allegations against Gore. For the reasons that follow, plaintiff's Motion for Leave of Court will be granted, to the extent that he will be directed to file a second amended complaint explaining all of his claims. Defendants' Motion to Dismiss will be denied, without prejudice.

I.

Plaintiff initially alleged that defendant Gore, head physician at Greenville Correctional Center ("Greenville") showed deliberate indifference to his serious medical needs. Dkt. 1. In response to this Court's Order to particularize and amend his complaint, plaintiff submitted a seventeen-page document listing the dates on which he underwent various medical procedures and the various individuals involved in those procedures. Dkt. 8. He also submitted an affidavit explaining various other procedures. Dkt. 7. After reviewing plaintiff's amended complaint, the Court attempted to effectuate service on several defendants, but only Gore, Kee, and Smith have properly been served with process.

Plaintiff's original amended complaint, however, does not identify any specific actions or any specific individuals he believes showed deliberate indifference

to his serious medical needs. It does not appear that any of the defendants currently involved in the lawsuit played a significant personal role in his medical treatment. Plaintiff's proposed amended complaint provides only additional facts that he wishes to add to the lawsuit.

Therefore, at this juncture, plaintiff's claims are set out in three separate partial complaints-the initial complaint, the amended complaint that is the subject of the pending Motion to Dismiss, and the proposed amended complaint attached to the Motion for Leave of Court. This piecemeal expression of the matters plaintiff wishes to litigate does not provide sufficiently clear notice to the defendants or to the Court of the precise nature of plaintiff's claims. Accordingly, in deference to his prose status, plaintiff's Motion for Leave of Court will be granted, to the extent that he will be allowed one additional opportunity to amend his complaint. Plaintiff is cautioned that this second amended complaint will supplant all previous complaints and will serve as the sole operative complaint in this action. To assist plaintiff in drafting his second amended complaint, he is directed to particularize and amend his complaint in the following manner:

1. Plaintiff will be provided with a form § 1983 complaint to use for the second amended complaint. At the top of the amended complaint, plaintiff is directed to place the following caption in capital letters: "SECOND AMENDED COMPLAINT FOR CASE NUMBER 1: 14CV205 (CMH/JFA)."
2. The first portion of the amended complaint

must contain a list of defendants. Thereafter, in the "Statement of the Claim" section of the amended complaint, plaintiff must set forth legibly in separately numbered paragraphs the claims he wishes to raise. In each paragraph plaintiff must provide a short statement of the facts giving rise to that claim for relief. In addition, plaintiff must clearly identify in each paragraph the civil right allegedly violated. In addition, under each section, plaintiff must list each defendant allegedly liable to him under that legal theory and explain why he believes each defendant is liable. Plaintiff also must include a prayer for relief.

3. The second amended complaint shall supplant any prior complaints, and must stand or fall of its own accord. Plaintiff may not refer to statements in prior complaints in the second amended complaint.

If plaintiff needs to attach additional pages to the form complaint he may do so, but the claims on the additional pages must be organized in the manner just described. Plaintiffs failure to comply with these instructions will result in dismissal of the action pursuant to Fed. R. Civ. P. 41(b).

Federal Rule of Civil Procedure 18(a) provides that "[a] party asserting a claim, counterclaim, crossclaim, or third-party claim may join, as independent or alternative claims, as many claims as it has against an opposing party." Nevertheless, when a party seeks to bring multiple claims against multiple defendants he must also satisfy Federal Rule of Civil Procedure 20, which provides:

(2) *Defendants*. Persons ... may be joined in one action as defendants if:

(A) any right to relief is asserted against them jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and

(B) any question of law or fact common to all defendants will arise in the action.

"Rule 20 does not authorize a plaintiff to add claims 'against different parties [that] present[] entirely different factual and legal issues.'" *Sykes v. Bayer Pharmaceutical Corp.*, 548 F.Supp.2d 208,218 (E.D. Va. 2008)(alterations in original) (quoting *Lovelace v. Lee*, 2007 WL 3069660, at *1 (W.D. Va. Oct. 21, 2007)). Accordingly, the amended complaint must also comport with the joinder requirements. If plaintiff fails to submit an appropriate particularized and amended complaint that comports with joinder requirements, the Court will dismiss all defendants not properly joined with the first named defendant. *See* Fed. R. Civ. P. 41(b).

Plaintiff is also cautioned that, to state a claim under § 1983, plaintiff must allege facts indicating that he was deprived of rights guaranteed by the Constitution or laws of the United States, and that this deprivation resulted from conduct committed by a person acting under color of state law. *See West v. Atkins*, 487 U.S. 42, 48 (1988). Thus, to prevail in an action under § 1983, plaintiff must show that the defendant "acted personally in the deprivation of [his] rights." *Wright v. Collins*, 766 F.2d 841, 850 (4th Cir. 1985) (internal quotations and citations omitted).

In addition, he is instructed that supervisory officials, such as Gore, can only be held liable in certain situations. See *Shaw v. Stroud*, 13 F.3d 791, 798 (4th Cir. 1994) (citing *Slakan v. Porter*, 737 F.2d 368 (4th Cir. 1984)). This liability is premised on the "recognition that supervisory indifference or tacit authorization of subordinates' misconduct may be a causative factor in the constitutional injuries they inflict on those committed to their care." *Id.* at 798 (quoting *Slakan*, 737 F.2d at 372-73). "[L]iability ultimately is determined 'by pinpointing the persons in the decisionmaking chain whose deliberate indifference permitted the constitutional abuses to continue unchecked.'" *Id.* To establish supervisory liability under § 1983, a plaintiff must demonstrate:

- (1) that the supervisor had actual or constructive knowledge that his subordinate was engaged in conduct that posed "a pervasive and unreasonable risk" of constitutional injury to citizens like the plaintiff;
- (2) that the supervisor's response to that knowledge was so inadequate as to show "deliberate indifference to or tacit authorization of the alleged offensive practices,";
- and (3) that there was an "affirmative causal link" between the supervisor's inaction and the particular constitutional injury suffered by the plaintiff.

Id. at 799 (citations omitted). In his amended complaint, plaintiff is directed to provide specific facts showing Gore's supervisory liability.

Defendant's current Motion to Dismiss will be denied, without prejudice to their ability to renew

their arguments after the second amended complaint is filed.

II.

Also pending is plaintiffs Motion for Appointment of Counsel, which must be denied. A court may request an attorney to represent an indigent plaintiff proceeding in *forma pauperis*. 28 U.S.C. § 1915(e)(1). The Fourth Circuit, however, has limited the appointment of counsel to cases where "exceptional circumstances" exist, such as cases with particularly complex factual and legal issues or with a litigant who is unable to represent himself adequately. *Whisenant v. Yuam*, 739 F.2d 160, 163 (4th Cir. 1984). It is unnecessary at this time to appoint counsel for plaintiff, as plaintiffs arguments that he is indigent and has limited knowledge of the law do not constitute "exceptional circumstances" that would warrant the appointment of counsel. To date, plaintiff has ably filed his complaint and has effectively represented himself in this action. Thus, plaintiffs request for the appointment of counsel will be denied, without prejudice to renewal at a later stage of the proceedings, if appropriate.

Accordingly, it is hereby

ORDERED that defendants' Motion to Dismiss (Dkt. 23) be and is DENIED, WITHOUT PREJUDICE; and it is further

ORDERED that plaintiff's Motion for Extension of Time (Dkt. 25) be and is DENIED, AS MOOT; and it is further

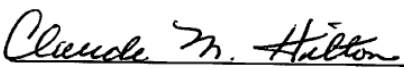
ORDERED that plaintiff's Motion for the Appointment of Counsel (Dkt. 26) be and is DENIED, WITHOUT PREJUDICE; and it is further

ORDERED that plaintiffs Motion for Leave of Court (Dkt. 29) be and is GRANTED. Plaintiff is directed to submit a second amended complaint in the manner described herein within THIRTY (30) DAYS of the date of this Order. Plaintiff may add additional pages to this complaint, if necessary. This second amended complaint will serve as the sole complaint in this action; and it is further

ORDERED that plaintiffs failure to comply with any part of this Order within THIRTY (30) DAYS FROM THE DATE OF THIS ORDER, or failure to notify this Court immediately in the event he is transferred, released, or otherwise relocated, may result in the dismissal of this complaint pursuant to Fed. R. Civ. P. 41(b).

The Clerk is directed to send a copy of this Order to plaintiff and to counsel of record for defendants.

Entered this 22nd day of June 2015.


United States District Judge

Alexandria, Virginia

APPENDIX E

IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

Steven L. Banks,
Plaintiff,

v. Complaint
(CMH/JFA) Civil Case No. 1:14vc205

Armor Health Care, et al.,
Defendants.

VERIFIED COMPLAINT FOR DAMAGES
AND INJUNCTIVE RELIEF

I. INTRODUCTION

01. This is a §1983 action filed by Plaintiff Steven L. Banks, a state prisoner, alleging violation of his constitutional rights to receive medical care and seeking injunctive relief and monetary damages. Plaintiff also seeks an injunction and damages pursuant to the Americans with Disabilities Act and the rehabilitation Act.

II. JURISDICTION

02. Jurisdiction of this court is invoked pursuant to 28 U.S.C. §1331 in that this is a civil action arising under the Constitution of the United States.

03. Jurisdiction of the Court is invoked pursuant to 28 U.S.C. §1343(a)(3) in that this action seeks to redress the deprivation, under color of state law, of rights secured by Acts of Congress providing for equal rights of persons within the jurisdiction of the United States.

III. PARTIES

04. Plaintiff, Steven L. Banks, at all times relevant was confined by the Virginia department of Corrections (VDOC) at Greensville Correctional Center (GRCC).

05. Defendant, Armor Health Care (AHC is a private Miami Corporation which has been, at all relevant times, under contract with Virginia department of Corrections to provide medical care and services to inmates confined with VDOC, including Steven L. Banks.

06. Defendant nurse Griffith at all relevant times was a nurse employed by AHC.

07. Defendant Moon at all relevant times was a Sergeant at GRCC employed by VDOC.

08. Defendant DR. Gore, MD and c/o, Richardson at all relevant times were acting under color of state law and all being sued in their official capacities. "CPT.COKELEY"

IV. EXHAUSTION OF AVAILABLE REMEDIES

09. Plaintiff exhausted his Administration remedies before filing this complaint.

(The United States Supreme Court has held a complaint filed by an inmate need not allege exhaustion) (quoting Jones v. Bock, 549, U.S. 199, 127 S.Ct.910 2007)).

V. FACTUAL STATEMENT

IV. CLAIMS FOR RELIEF

V. RELIEF REQUESTED

VI. VERIFICATION

ON APRIL,28-(2012) APPROXIMATELY 8:45am, I STEVEN LEON BANKS SLIPP ON A WET FLOOR THAT HAD NO CAUTION SIGN OUT IN THE AREA WERE THE FLOOR WAS WET. THE LOCATION WERE I SLIP AND FELL WAS IN H-U-4-200-POD. HITTING MY HEAD ON A METAL BENCH BY THE TELEPHONE, I QUICKLY - GOT UP IN SHOCK. AND DISORIENT AND VERY CONFUSED AFTER GETTING MYSELF TOGETHER. I PROCEEDED TO GO TO THE CONTROL BOTH TO REPORT THE BAD FALL.TO MS. DARDEN, WHO WAS IN THE CONTROL BOTH AT THE TIME. SO I ASK HER IF SHE HAD SEEN ME SLIP AND FALL, HITTING MY HEAD ON THE METAL BENCH, BY THE TELEPHONES, SHE REPLYED THAT SHE DID

NOT SEE IT SO WHALE AT THE CONTROL BOTH I ASK FOR A E/M GRIEVANCE, SO I COULD FILL-OUT BECAUSE I KNEW THAT I WAS HURT. IN DESPERATION I STRUGGLE TO FILL THE E/M GRIEVANCE OUT. I WAS HAVING BLACK AND BLURRY SPOT A LONG WITH EXCRUCATEING-PAIN. SO I COMPLETE THE E/G OUT AND GAVE-IT TO OFFICER MR. JOHNSON, SO HE COULD TAKE THE PROPER STEPS IN GETTING ME SOME MEDICAL TREATMENT. BECAUSE I KNEW THAT I WAS HURT!!!! AND I NEEDED TO BE SENT TO THE HOSPITAL (A.S.A.P) SO APPROXIMATELY- 40 MINUTES PASS BEFORE NURSE KEYS CALLED ME OVER TO S-2-MEDICAL-TO, EXAMINE ME. SHE FOUND THAT I HAD A BAD BRUISE ON THE LEFT-SIDE OF MY EAR, ALONG WITH SOME BLOOD LEAKAGE. AFTER SHE EXAMINE ME SHE PROSCRIB ME WITH SOME Q-TIPs & BECTERIA ONTIMENT. TO CLEAN MY EAR UP. SO THE NEXT DAY ON 4-29-(2012) I CONTINUE TO COMPLAIN ABOUT THE PAIN GOING ON INSIDE OF MY HEAD FOLLOWED BY BLURRY VISION AND THE SEEING OF STARS, NO ACTION WAS TAKEN!!, SO ON 4-30-(2012) APPROXIMATELY 1500 HOURS I FILL OUT A NOTHER E/M GRIEVANCE, STATEING THE—SYMPTOMS, I WAS HAVEING AND THAT SOMEONE NEEDED TO HAVE ME SENT TO - THE HOSPITAL TO BE CHECKED-OUT!!!. BUT NO ONE WOULD MAKE THAT CALL TO HAVE ME SENT-OUT. SO ON 5-1-(2012) I GO TO THE PILL-WINDOW AND-START COMPLAINING TO NURSE GRIFFITH, THAT I NEED TO GO TO THE HOSPITAL. FINALLY 5-

DAYS AFTER VIGOROUSLY COMPLAINING. ON 5-2-(2012)—DOCTOR ABGATTA MADE THE DECISION TO HAVE ME SENT TO SOUTHERN VA—REGIONAL MEDICAL CENTER, EMPORIA, VA SO AROUND 5:00PM I WAS TRANS—PORTED FROM GREENSVILLE CORRECTIONAL CENTER TO THE HOSPITAL IN— EMPORIA, VA. WHEN WE GOT TO THE EMERGENCY ROOM ABOUT 45 MINUTES TO AN HOUR, TO ONLY FIND OUT THAT THE C/T CAT SCANNER WAS BROKEN DOWN AT THE TIME. SO THEY MADE A PHONE CALL TO THE SOUTHSIDE REGIONAL-HOSPITAL IN PETERSBURG, VA. TO SEE, IF I COULD BE RUN THROUGH THEIR CAT SCANNER. AND THEY SAID THAT THEY COULD TAKE ME. SO THEY LOADED ME IN THE AMBULANCE, SO ABOUT 15-MINUTES ON INTERSTATE 95-WE HAD A— LOUD LEFT-REAR-WHEEL BLOW-OUT. THE BLOW-OUT CAUSED A LARGE SHOCK-WAVE, THAT ADD TO MY ALREADY SPLITTING HEAD ACE. THE INTENSITY WAS-ENORMOUS WITH ALL THE COMMOTION WITH ALL THE STATE-POLICE SURROUNDING ME. ON A DANGEROUS INTERSTATE 95-. THE STATE-POLICE MADE A DECISION TO PULL THE AMBULANCE OFF ON A SIDE RAMP FOR OUR SAFETY— AFTER ALL THAT I BECAME EVEN MORE SICK FROM THE DIESEL FUMES ALONG WITH NAUSEA AND VOMITTING. SO THEY MADE A CALL FOR ANOTHER LIFE STAR-AMBULANCE, IT TOOK THE OTHER AMBULANCE ABOUT 45 MINUTES TO AN HOUR. TO GET TO THE SCENE, SO THEY LOADED ME IN THE BACK OF THE NEW LIFE STAR

AMBULANCE. SO IT TOOK US ABOUT 20-MINUTES FOR US TO GET-TO PETERSBURG, VA HOSPITAL. IT WAS AT LEAST A HOUR BEFORE ANYBODY—RECONIZED THAT I WAS IN THE E/R ROOM. SO THEY FINALLY GET THERE ACT TOGETHER AND THEY TAKE ME TO THE EXAMIING ROOM, TO THE CAT SCANNER. THE TEST TOOK ABOUT 35-MINUTES TO AN HOUR TO COMPLETE. AFTER THE TEST, I WAS SENT SACK TO MY ROOM. I WAS FALLING IN A DEEP SLEEP—FROM THE PAIN MEDICATION AND I HEAR A VOICE, SO I OPEN MY EYE_s TO-SEE CPT. COKELY STANDING OVER ME ASKING ME QUESTION LIKE WHY ARE - YOU HERE!!! AND WHO IN THE HELL SENT YOU HERE. HIS ATTITUDE WAS —VERY NASTY. AND I COULD NOT COMPREHEN WHAT HE WANTED OUT OF ME OR - WHAT HE WAS SAYING. SO I WAITED FOR TEST RESULTS. THE DOCTOR NEVER-CAME BACK TO TELL ME WHAT THEY FOUND. BUT I OVER HEARD THE NURSE SAY THAT I SUFFER A SERVER CONCUSSION. SO AFTER THE C/O CHECK WITH NURSE WE WERE FREE TO GO-BACK TO THE PRISON. APPROXIMENTLY AT 2:30 AM, THURSDAY MORNING, ON 5-3-(2012) THE MEDICINE WORE-OFF THE PAIN QUICKLY CAME BACK. SO AFTER SEENING THE NURSE IN S-2-MEDICAL I WAS CLEARD TO GO BACK TO MY CELL. WERE I COULD GET SOME MUCH NEEDED REST; IN MY OWN BED. SO ON 5-4-(2012) DOCTOR ABGATTASCREEN ME AND TOLD ME THAT THE REPORT SAID THAT I HAD A SERVER [CONCUSSION] AND IT WOULD TAKE SOME TIME TO HEAL WITH PLENTY OF REST. I

WAS SHOCKED THAT SHE DID NOT WRITE ME A BED PASS. ON THE SAME DAY AT LUNCH I WAS UNABLE TO WALK TO THE CHOW HALL. SO ON 5-5-(2012) I WRITE A E/G STATEING THAT I CANT WALK TO THE DINING HALL AND THAT T NEEDED SOMEBODY TO BRING MY LUNCH TRAY TO ME, THE E/G WAS ANSWERED BY SGT. BANKS. SO ON THE SAMEDAY AT DINNER TIME. I WAS STILL EXPERIENCING, LEG WEAK-NESS AND EXCRUCATEING PAIN SO I WRITE ANOTHER E/G— TO SEE IF THE NURSE COULD BRING MY EVENING MEDICATION TO ME. BECAUSE AT THE TIME I WAS UNABLE TO, EVEN—SO THAT I WAS WALKING A—LITTLE IN THE POD. THE C/O IN THE CONTROL BOTH HAD REPORTED THAT I WAS UP AN WALKING IN THE POD. SO NURSE GEE MADE A DECISION ON THAT STATEMENT FROM THE C/O IN THE BOTH, IN SO MANY WORDS SHE WAS SAYING IS IF HE IS WALKING IN THE POD HE CAN WALK OVER A GET HIS MED AFTER DENAL OF BLOOD-PRESSURE MEDICATION. MY HEAD BECAME EVEN MORE PAINFUL. IT FELT LIKE MY HEAD WAS GOING TO BLOW OFF MY SHOULDER. AT THE TIME ALL I COULD DO IS PRAY AT THE TIME, TO BRING SO TYPE OF- RELIEF!!!. SO ON 5-9-(2012) AFTER WRITEING A E/G COMPLAINING OF SERVERE HEAD-ACE. AND DR. KING WOULD NOT PROSCRIBE ANYTHING TO RE-LEAVE THE PAIN. WHEN I SAY PAIN I MEAN EXCRUCATEING PAIN. SO ON— 5-16-(2012) AFTER 7-DAYS I CONTINUE TO EXPERIENCES EXCRUCATEING PAIN ALONG WITH BLURRY-VISION, THEY WERE

DETERMIND NOT TO GIVE ME-ANYTHING TO
RELEASE THE SUFFERING AND THE PAIN. SO
AFTER COMPLAINING, AT THE PILL-WINDOW
THE NURSE FINALLY GAVE ME SOME TYLENOL
4-FIVE-DAYS. BUT THERE WAS ANOTHER
PROBLEM WITH GETTING MY PAIN
MEDECATING. THEY WERE SAYING THAT THE
PAIN -MEDECATION HAD EXSPIRE-WHICH IN
FACT IT WAS ONLY GIVING ONLY TWO DAYS
INSTEAD OF FIVE-DAYS. SO NURSE KEYSFIXED
THE PROBLEM I HAD TO WRITE ANOTHER E/G
ON 5-18-(2012) TO GET THE TYLENOL I SHOULD
HAVE GOTTEN IN THE BEGINING. SO ON 5-21-
(2012) I WAS AT THE DIALYSIS TREATMENT
WHEN I START TO COMPLAINING ABOUT MY
HEAD-ACE, AND THE HOT-HEAT IN THE ROOM.
SO I ASK NURSE JONES IF SHE COULD GIVE ME
ANYTHING TO STOP-THE EXCRUCATEING PAIN.
THAT I WAS IN AT THE TIME. SHE REPLYED
AND-SAID THAT POLICY DOSEN'T ALLOW THEM
TO GIVE ANY DIALYSIS PATIENT ANYTHING. SO
AFTER THESE HARSH -CONDITIONS I
COULDN'T TAKE ANY MORE, SO TREATMENT
WAS TERMINATED 34-MINUTES EARLY, THE
DIALYSIS-TECK THAT TOOK ME OFF THE
MACHINE WAS MS. HARDY SO ON 5-23-(2012) I
ONLY RAN ON THE DIALYSIS MACHINE FOR
ONLY FIVE MINUTES AND WAS TAKEN -OFF
THE DIALYSIS MACHINE, THREE HOURS AND
55-MINUTES EARLY. BECAUSE OF A
TRANSPORTANTTON-RUN THE TECK THAT
TOOK ME OFF THE MACHINE WAS MS. WARD.
SO ON 5-27-(2012) I FILL OUT ANOTHER E/G—
SAYING THAT I HAVE BEEN VOMITING BLOOD

SINCE 1;00pm AND I NEED SOMETHING FOR NAUSEA. CANT STOP THROWING UP, FOLLOW BY SHORTNESS-BREATH AND CHEST PAIN, WITH A EXCRUCATEING HEAD-ACE SEEN BY NURSE GRIFFITH AND TREATED, SO ON 5-28-(2012) I WAS VERY SICK ON THE DIALYSIS MACHINE. NURSE GOODE AND NURSE BULLORK, MADE A DECISION TO_TERMINATE MY TREATMENT, AN HOUR AND-55 MINUTES EARLY!!!. SO THEY- EXSCORTED ME IN A WHEEL-CHAIR TO THE TRUMA ROOM BY NURSE BULLORK AND I WAS SEEN BY DOCTOR SMITH, I, WAS PUSHED OVER TO S-2 - MEDICAL – THEY MADE A DECISION TO AMITTED ME TO SOUTHERN VIRGINIA MEDICAL -CENTER. SO ON 5-29-(2012) I WAS STILL EXPERIENCEING, EXCRUCATEING PAIN AROUND HEAD AREA FOLLOWED BY BLURRY VISION. SO THEY FINALLY GAVE ME SOME PAIN MEDICATION THAT PROVIDED A LITTLE-RELIEF FROM THE PAIN AND SUFFERING OF THE SYSTEMS I WAS EXPERIENCEING,!!! SO AFTER DIALYSIS AT THE HOSPITAL I STARTED TO FEEL BETTER, ON 5-30-(2012). SO ON 6-1-(2012) I WAS RELEASE FROM SOUTH ER MEDICAL CENTER. ON THE WAY BACK TO THE PRISON I GOT VERY SICK, WITH NAUSEA AND VOMITTING IN THE VAN. AS A FEWW-DAYS PAST-ON 6-6-(2012) DIALYSIS TREATMENT WAS TERMINATED EARLY 50,MIN EARLY BECAUSE OF THE EXCRUTATEING HEAD PAIN AND BLURRY-VISION- AND NUMBNESS ON THE LEFT-SIDE OF MY BODY, I REQUESTED SOME PAIN PAIN MEDICATION. TO TRY AND EASE THE PAIN!!!!!! ALSO VERY HOT IN

DIALYSIS UNIT, WATER WAS ACTALLY RUNNING OFF OF ME AND THEREFOR I COULD NOT TAKE ANY MORE OF THE HARSH CONDITIONS EVERYDAY IT-WAS TERRIBLE, HAD TO TERMINATED TREATMENT 7-MINUTES EARLY, WAS UNABLE TO GET ANY TYPE OF COMFRONT FROM DIALYSIS NURSE. ON 6-12-(2012) I WAS CALLED OVER TO MEDICAL BY DOCTOR KING, TO HAVE NOTHING ACCOMPLISH, AS FAR AS ADDRESSING MY MEDICAL PROBLEMS A WAST OF MY TIME. AND MONEY!!! WAS CHARG FIVE DOLLARS FOR NOTHING. ON 6-13(2012) I WRITE A E/G COMPLAINING OF CHEST-PAIN AND HEAD-PAIN WAS SEEN BY MEDICAL AROUND 2:50pm AIDED BY C/O—ROBB. ON 6-13-(2012) I FILL A E/G COMPLAINING OF CHEST-PAIN AND EXCRUCATING-PAIN IN MY HEAD AREA, ON LEFT-SIDE OF HEAD!!!!!!! GRIEVANCE WAS DETERMAND TO BE A EMERGENCY, WAS TREATED BY NURSE BOYD TIME (1600) hours. AIDED BY C/O ROBB TO MEDICAL IN S-2-MEDICAL SO ON 6-18-(2012) I WOKE TO FEELING BAD WITH NAUSEA & VOMITING—ALONG WITH EXCRUCATEING-PAIN AND NUMBNESS ON LEFT-SIDE OF BODY—WITH A LOT OF PAIN AND SUFFERING!!! SO ON 6-19-(2012) I FEEL-OUT A REQUEST TO SEE THE PSYCHOLOGIST, COMPLAINING OF THE SEENING OF PINK SPOTS IN MY VISION ALL MOST EVERY-DAY. WAS BY PSYCHOLOGIST TO DESCRIBE TO THE DOCTOR WHAT I TOLD HIM. SO I DID JUST THAT. SO ON—6-21-(2012) I WAS CALLED OVER TO S-2-MEDICAL TO SEE DOCTOR SMITH—HE

TOLD ME TO GET BACK WITH HIM IN 30ty-DAYS,AND HE WOULD ORDER A C/T CAT-SCAN. DAY OF TIME SEEN 2:45pm. SO ON 6-26-(2012) I HAD SOME SCHEDULED HAVE TRYED ON SERVEL OCCASION TO GET THE RESULT READED TO ME, STILL FEELING THE EFECTS FROM FALL, IN 200-POD!!!!!! SO ON—6-27-(2012) I WAS CALLED OVER TO MEDICAL AT 1:50pm IN S-2-MEDICAL TO HAVE MY RESULTS READ TO ME BY DOCTOR SMITH. HE SAID THAT OVERALL EVERTHING LOOKS OKAY. DURING THE MONTH OF JULY I PRETTY MUCH CONSTANTLY SUFFERED FROM EXCRUCATEING PAIN,AROUND HEAD AREA AND A NUMBNESS ON LEFT-SIDE OF BODY. TIME IN WHICH ALL THIS TOOK PLACE WAS ON -7-1-30-(2012). SO ON THE 8th MONTH I WAS PHISCALLY-DRAIN AND MENTALLY, WORE-OUT, AND FROM THE ADVICE FROM DOCTOR SMITH TO GIVE HIM THIRTY-DAYS. WE WILL START TO ADRESS MY HEALTH ISSUES—AS SOON AS POSSIBLE!!!! SO ON 9-5-(2012) I HAD TO TERMINATED MY DIALYSIS TREATMENT EARLY, BECAUSE OF RECLESS SCHEDULEING BY MS. VASSEL OFF MACHINE ONE-HOUR EARLY FOR A TRANSPORTATION RUN. TO FIND OUT WHERE AND WHY BLOOD IS CONTINOUSLY LEAKING BLOOD OUT OF MY PINUS!!!!!! SO ON-10-6-(2012) I WRITE A E/G COMPLAINING OF VOMITING BLOOD, FOLLOWED BY NAUSEA AND PAIN AND SUFFERING. NURSE CALLED—DOCTOR GORE TO SEE IF HE COULD GIVE ME SOMETHING, THAT WOULD HELP-STOP THE SUFFERING. WENT FOUR DAYS WITH OUT

OMEPERAZOLE. MAIN ISSUE WHY I HAD BECOME SICK. SO ON 10-20-(2012) I HAD TO FILL OUT ANOTHER E/G COMPLAINING OF NAUSEA AND VOMITING NEED SHOT QUICK AS POSSIBLE. STILL NOT RECEIVEING MY OMEPERAZOLE AS A RESULT I'M STILL IN - SUFFERING!! SO ON 10-23-(2012) I HAD TO WRITE ANOTHER E/G ON THE SAME PROBLEM, AND NOT HAVEINC MY MEDICATION. NAME OF MEDS TO KEEP ME FROM GETTING SICK, THE NAME IS (OMEPERAZOLE) SO ON-11-7-(2012) I HAD A MEDICAL RUN TO FRANKLIN, VA TO THE HOSPITAL TO FIND-OUT WHY BLOOD IS COMEING OUT THE HEAD OF MY PENIUS!!!. THERE IS NOTHING BE-ING DONE. SO ON 11-28-(2012) APPROXIATMENTLY, I WAS GIVEN TWO SPECIMEN BOTTLES, TO TEST A SEE WHERE THE BLOOD IS COMEING FROM. I PERSONTLY DELIVER THE SPECIMEN BOTTLES OVER TO S-1-MEDICAL. SO MS. BANNER STATED TO ME THAT THEY EITHER THEY LOST IT OR THREW THEM OUT I CAN RECALL THAT DAY, THEY GAVE ME A HARD-TIME ABOUT TAKEING THE TWO SPECIMEN BOTTLES!!!. SO I TALK WITH MS. BANNER ABOUT TEST RESULTS. THATS WHEN SHE SAID THAT THEY EITHER MIS-PLACE OR THREW AWAY—SO ON 12-10-(2012) WHILE AT DIALYSIS TEATMENT MS. BANNER GAVE ME A SPECIMEN BOTTLE, AND RETURN TO HER AS SOON AS POSSIBLE OR MY NEXTS DIALYSIS-DAY. I STILL HAVE YET TO GET ANY RESULTS ON MY PROBLEMS CONCERNING MY STOOL SAMPLE, TEST. A NEW YEAR HAS COME UPOND US (2013 LOOKING

FOWARD TO GETTING BETTER MEDICAL CARE.
 ON-2-26-(2013) I HAD SPECIAL PROCEDURE
 DONE AT, FRANKLIN HOSPITAL,. AFTER NINE
 MONTHS-BAD RECORD KEEPING AND
 RECKLESS SCHEDULEING, HAS PUT A TOLL
 ON—ME IN A MENTAL WAY TO WERE I CANT,
 [FUNCTION] STILL EXPERIENCING
 EXCRUCATEING-PAIN AND NEUROLOGIC
 FUNCTION & COGNITIVE SYMPTOMS
 CONFUSION, DISIENTATION, AND DIFFICULTY
 FOCUSING MY ATTENTION POST-TRAUMATIC
 AMESIA, SLURRED OR INCOHERENT SPEECH
 AND BLURRY-VISION IT FEEL LIKE I'M IN A
 FOG!!!!!!!!!! I AM GOING TO CLOSE THIS
 CHAPTER BY SAYING THAT I HAVE A PAPER
 TRAIL THAT I WILL CONTINUE TO DOCUMENT.
 ON JAN, 7 (2013) I WAS UNABLE TO FINISH
 DIALYSIS TREATMENT BECAUSE OF WATER
 PROBLEMS, THAT HAPPENS ON A REGULAR
 BASIS!! ON JAN, 28 (2013) NURSE BONNER
 REFUSE TO PROSCRIBE NEUROTIN AT THE
 PILL-WINDOW, HAD TO LEAVE THE PILL-
 WINDOW WITHOUT PROSCRIBED MEDICATION.
 LEFT IN EXCRUCATING-PAIN. SO ON-FEB, 2,
 (2013) NOON MEDS WERE NOT ADMINISTERED
 WITH ACCURACY AND CONSISTENCY IN FACT
 THAT DAY MEDS WERE NOT PASSED OUT TO
 ME, DOING THE LOCK-DOWN!!! THEY NEVER
 CAME BACK WITH ANY OF MY MEDICINE. IN
 THE MONTHS OF FEB, 6 (2013) HAD A
 TRANSPORTATION RUN TO HAVE SCOPE ON
 MY STOMACH, ON THAT SAME DAY ON MY
 DIALYSIS TREATMENT. ONLY RAN THREE
 HOURS OF A FOUR HOUR TREATMENT PUTTING

ME IN ARMS WAY WITH MY LIFE!!! SO ON FEB, 26 (2013) I HAD A SPECIAL PROCEDURE DONE BY DR HARROLE AT THE FRANKLIN HOSPITAL, CHECKED BLADDER & PROSTANT. ON MARCH, 6 (2013) I WAS SEEN BY DR. GUPTA EYE SPECIALIST HE EXPLAINED TO ME THE TWO TYPES OF LASER SURGERY ON BOTH OF MY EYE's. ON MAY, -13 (2013) I WAS STILL HAVING EXCRUCATING-PAIN IN MY HEAD AREA & AND BALANCE PROBLEMS ALONG WITH SOME DIZZINESS, I WAS IN-NEED OF A E/M-GRIEVANCE SO I COULD BE SEEN BY THE MEDICAL DEPT. BUT THERE WERE NOT ANY E/M-GRIEVANCE FORMS IN THE BOTH AT THAT TIME, SO THE C/O — IN THE BOOTH AT THAT TIME WAS C/O KEE WHO MADE A PHONE CALL TO LT WILLIAMS TO SEND SOME E/M GRIEVANCE DOWN TO THE BOOTH SO MR. BANKS COULD FILL OUT QUICK AS POSSIBLE SO HE COULD BE SEEN BY THE MEDICAL DEPT. I WAITED AND WAITED BUT HE NEVER CAME WITH ANY FORMS—SO I FINALLY GOT ONE TO FILL OUT. ON MAY, 14 (2013) I WAS PUT ON SICK-BED ASSIGNMENT BY DR. HAIAH, OVER AT THE INFIRMARY FOR 7-DAYS- APPROXIMATELY AFTER TWO-WEEKS, I WAS SEEN BY DR. GORE AND I WAS DISCHARGE OUT THE INFIRMARY BY DR. GORE, SO ON JUNE 14, (2013) MY DIALYSIS TREATMENT WAS CUT SHORT OF MY FOUR HOURS BECAUSE OF THE CONSTANTS WATER PROBLEMS, AS FAR AS I KNOW NURSE GOODE MADE THE DECISIONS TO STOP THE TREATMENT!! AS A RESULT OF TERMINATION OF TREATMENT EARLY I

BECAME VERY SICK FROM THE ILL-EFFECTS OF EARLY TERMINATION. HAD TO BE SEEN BY THE DOCTOR BY FILLING OUT A E/G, WAS TREATED BY DR. HIAH, THERE WAS A EKG DONE ON ME STILL WAITING TO FIND OUT THE RESULT WAS SCHEDULED FOR A FOLLOW UP ON JUNE, 24 (2013) BUT WAS NEVER CALLED OVER TO BE INFORM ABOUT THE OUTCOME OF THE STEPS THEY TOOK THAT DAY. IN THE MONTH OF JULY (2013) I SPENT MY DAYS LOGGING MY HIGH-BLOOD-PRESSURE, SINCE MY MEDS HAS BEEN CHANGED IT HAS BEEN (DANERIOUSLY HIGH) AS OF RIGHT-NOW ITS OUT OF CONTROLE!! HAS SINCE PUT IN A SICK-CALL REQUEST TO SEE THE DOCTOR, TO ADDRESS THE OUT OF CONTROLE BLOOD-PRESSURE, WAITING TO BE SEEN BY S-1-MEDICAL—CONTINUE TO GO THREW THE INFORMAL COMPLAINT & GRIEVANCE PROCEDURE AND THEY ARE LATE AND LONG OVER-DUE!!!!—ON 8-21-(2013) I HAD GOT-VERY-SICK, BECAUSE OF THE S-1-MEDICAL-DEPT. CONTINUE TO SHOW GROSS-INCOMPETENT, INADEQATE OR EXCESSIVE TO WHERE IT IS INTOLERABLE. BYTHE S-1-MEDICAL-DEPT. CONTINUEING NOT PROSCRIBING THE MEDICATION—I NEED TO KEEP ME OUT OF THE HOSPITAL, THEY HAVE CONTINUE TO SHOW-A KNOWING FAILURE TO ADMINISTER PRESCRIBLED MEDICINE TO ME, CAN IT SELF [CONSTITUTE DELIBERATE INDIFFERENCE] !!! AS A DIRECT FACT OF ME NOT RECEIVEING MY MUCH NEEDED MEDICINE FOR DAYS OR EVEN LONGER I WILL START TO THROW-UP BLOOD,

COFFEE GROUND SUBSTANCE AND YELLOW, -
 BIOL FOLLOWED BY SEVERE NAUSEA WITH
 ACID-REFLUX!!—ON-8-21-2013- I WAS
 TRANSPORTED TO SOUTHERN VIRGINIA
 REGIONAL MEDICAL CENTER !!! AND ADMITTED
 TO RM#:ICU/6, IN THE PROCESS OF BEING
 TRANSPORTED TO THE HOSPITAL FROM THE
 PRISON. IT TOOK THE PRISON OFFICIALS AT
 LEAST ONE HOUR AND HALF OR BETTER TO
 LEAVE THE SALLY-PORT WHERE I WAS IN
 EXCRUCATING PAIN AND SUFFERING, WHERE
 PRISON OFFICIALS DELAYED MY EXIT. ONE OF
 EMS PERSONAL STATED TO ME THAT GOOD
 THING. I WAS NOT HAVING A HEART-
 ATTACK!!!!, I HAD ASKED EMS WHY IS IT TAKEN
 THIS LONG TO EXIT THE SALLY-PORT, HE
 STATED THAT IT DOESN'T MAKE SENSE ON 8-26-
 AS A RESULT OF NOT RECEIVING MY
 PROSCRIBED MEDICATION AS "PROSCRIBED", IS
 GROSSLY INCOMPETENT, INADEQUATE AND
 EXCESSIVE AND TO BE "INTOLERABLE". WAS
 FORCED TO WRITE A E/M-GRIEVANCE!!!!!! TO
 MY KNOWLEDGE, THIS ISSUE WAS NEVER
 ADDRESSED BY S-1-MEDICAL DEPT. ON-29-(2013) I
 WAS FORCED TO FILL-OUT A E/M-GRIEVANCE,
 AT 10:30am&PM TO TRY AND GET S-1-MEDICAL-
 DEPT. TO BRING MY MUCH NEEDED
 MEDICATION ! TO STAY ALIVE" I BECAME
 VERY SICK, BECAUSE S-1-MEDICAL DEPT.
 "PURSUED TO DEMONSTRATED BY EITHER ACTUAL
 INTENT OR RECKLESS DISREGARD. WILL, BE
 SENDING YOU ALL PAPER WORK ON GRIEVANCE
 PROCESS[A.S.A.P]. HAVING PROBLEMS GETTING
 COPIES DONE!!!!. I WILL CONTINUE TO

PROCESS AND DOCUMENT ALL “EDVIDENCE” TO HOLD THE RESPONSIBLE PERSONS ACCOUNTABLE FOR THERE WRONG DOING!!!! ON OCTOBER-10-(2013) I WAS CALLED OVER TO MEDICAL TO SEE DOCTOR FLOOD, FOR NO UNKNOWN REASON I DID NOT GET TO SEE THE DOCTOR. SO ON OCTOBER-15-(2013) I FINALLY GOT TO TALK WITH DOCTOR FLOOD, HE GAVE ME A GOOD EXZAMINATION” AND HE PROSCRIBE ME SOME “ANTIBOTICES” FOR INFECTION, IT IS NOW APPROXIMATELY 4 WEEKS AND I HAVE YET TO RECEIVE MEDICATION!!!! I WAS STILL HAVING NAUSE AND VOMITTING AS OF RIGHT NOW!!! WAS SUPOSED TO HAVE BEEN SEEN BY-DOCTOR, BUT WAS NOT SEEN. SO ON 10/15/(2013) I WAS TOLD BY DR. FLOOD THAT HE WOULD SCHEDULE A OPPOINTMENT WITH “NEUROGLIST” IN 4-WEEKS ITS BEEN LONG OVER-DUE, STILL HAVING “NEUROLOGY” POBLEMS FROM—[CONCUSSION]. A REMINDER FOR LEGAL MATERIAL TO BE DOCUMENTED. I WAS PUT IN THE “HOSPITAL” ON 11/05/13, FOR “DEHYDRATION” HAVE BEEN ASKING DOCTORS TO GIVE ME SOMTHING TO STOP THE CONSTANT “DIARRHEA” BUT.... NO ONE WOULD LISTEN TO MY CRY FOR HELP, AS A RESULT OF NOT LISTING TO MY COMPLAINING OF SEVERE DIARRHEA, THIS SERIOUS “DEHYRATION”... COULD HAVE BEEN AVOIDED. CAUSING ME A LOT OF PAIN AND SUFFERING”..ON 12/19/13-E/M-GRIEVANCE WAS NOT ANSWER BY S-1-MEDICAL DEPT..... THE E/M-GRIEVANCE STATED THAT I HAVE NOT

HAD MY A.M.-OR-P.M.“MEDICATIONS” AND SEVERE CHEST-PAIN, CONTINUE TO PREESS CALL BUTTON IN THE CELL TO GET C/O TO HELP ME. BUT NO REPLY!!!.....ON 12/20/13, I GO TO MY DIALYSIS TREATMENT, AND I HAD TO TERMINATE. TREATMENT. THREE HOURS AND THRITY MINUTES EARLY BECAUSE OF SEVERE “CHEST-PAIN, WAS FINALLY SENT OUT TO EMPORIA HOSPITAL WAS TRANSPORTED BY LIFE STAR!! ON 1/14/14, I WAS ON THE NURSE SICK-CALL-LIST S-1-MEDICAL DEPT. WAS SEEN BY NURSE BONNER INTERVEIWED ME, SO I EXPLAINE THAT I NEEDED TO KNOW WHEN WAS I GOING TO GO TO THE “NEUROLOGIST”. AS SHE WERE GOING OVER THE CHART, WE DISCOVERD THAT DR. FLOOD NEVER LOG OR SCHUDLE ANYTHING LIKE HE SAID. WHEN I HEARD THAT I BECAME.. VERY DISAPPOINTED” THIS MATTER WAS SUPOSED TO HAVE BEEN TAKEN CARE OF ON THE 10/15/13, ANOTHER FAILED ATEMPT TO GET THIS MEDICAL ISSUE TAKEN CARE OF!!!!!! STARTING A NEW YEAR I PRAY AND HOPE THAT I CAN GET THE PROPER MEDICAL CARE THAT I’M ENTITLED TO. AND THE TYPE OF DELAYS I’M RECEIVEING OR REASON IS A COST OF MONEY, FROM DR. GORE,. ISN’T A LIFE MORE “IMPORTANT” THAN MONEY. THIS IS WHAT I CONTINUE.. TO HEAR!! ON 1/14/14—I WAS CALLED OVER TO S-1-MEDICAL DEPT. I ASK THE NURSE ON DUTY, AT THE TIME. I’M UNABLE TO GET THE NURSE NAME, THE RECORD... SHOULD CONFIRM, WHO INTERVIEW ME THAT DAY IN S-1-

MADICAL!!!!!!!!!! I PROCEEDED TO ASK THE NURSE WHEN WILL I GO AND SEE A "NEUROLOGIST STILL HAVEING PROBLEMS WITH "HEAD AND" NUMBNESS ON THE LEFT-SIDE OF "BODY". ALL THESE PROBLEMS STARTED RIGHT AFTER, MY "CONCUSSION"!!!! ON 1/16/2014 I WAS CALLED OVER TO S-1-MEDICAL DEPT. TO SEE DR. YODER—AT 10:15am, AND I EXPLAINED TO DR. YODER THE SERVER MEDICAL, AND PAIN THAT I'M HAVEING!!! HE EXAMINED ME AND DR. YODER SAID THAT I,, SHOULD BE SENT OUT TO SEE A "NEUROGOLIST". HE ALSO SAID TO GIVE 2-MONTHS BEFORE ANYTHING CAN BE APROVED. BEFORE I LEFT HIS OFFICE I IF HE COULD GIVE SOMETHING FOR "PAIN". HE SAID NO!!!!!!!!!!!!!!!!!!!!!! ON 1/28/2014 I WAS SEEN BY DR. LOUNG, I HAD ASKED HER ABOUT SEENING A "NEUROLOGIST" STILL HAVEING PROBLEMS FROM "CONCUSSION" THAT I SUSTAINED!! BACK ON APRIL 28, 2012, AND THE CONSTANT "DIARRHEA" I CONTINUE TO HAVE AS I AM RIGHT NOW, THE ONLYTHING THAT SHE WOULD GIVE FOR. THE: DIARRHEA" IS PEPTO-BISMOL. DID NOT WORK TO WELL, NEED SOMETHING BETTER. ALSO ASKED DR. LOUNG ABOUT SEENING A "NEUROLOGIST" SHE ALSO.. TOLD ME TO GIVE HER ABOUT TWO-MONTHS. STILL NO SCHULEDING TO SEE... "NEUROLOGIST. IT SEEMS TO ME, EVERY DOCTOR I'VE TALK WITH SAID IT WOULD BE SOON AS POSSIBLE" SO WE CAN FIND OUT WHATS GOING ON IN MY "HEAD AND "BRAIN", I HAVE A LIST OF DOCTORS THAT I'VE TALKED

WITH THERE NAMES ARE—DR, GORE, DR. SMITH, DR. KING, DR. THOMPSON, DR. FLOOD AND DR. YODER & DR. LOUNG. JUST TO NAME MORE THAN A FEW, AND THERE ARE... SOME MORE TO BE NAMED AT A LATER TIME!!!!!!!!!!!!!!!!!!!!!! ON 1/30/2014 I WAS CALLED OVER TO S-1-MEDICAL FOR A SCHEDULE FOLLOWED-UP “VISIT” WAS NOT SEEN BY ANYONE THAT DAY, ANOTHER FAILED-ATTEMPTED, TO GET THE MEDICAL CARE THAT I NEED IN A TIMELY MANNER!!! ON 2/3/14- DR. GORE ORDER SOME X-RAYS TO BE DONE ON MY SPINE & BACK.. OVER AT H-U-11!!! BUT THEY COULD NOT LOCATE MY MEDICAL FILE SO THE HAD TO RESCHEDULE THE X-RAYS ON A LATER DATE. SO ON 2/7/2014—I HAD A VISIT WITH DR. GORE, WE HAD A TALK ON TREATING THIS SERIOUS DISEASE” THAT I HAVE, WHICH IS “HEPATITIS-C”, AND PUTTING BACK ON “NEUROTHINE, FOR THE SEVERE” DIABETIC NEUROPATHY. CONTINUE TO SUFFER FROM THE “EXCRUCIATING-PAIN!!!!!!!!!!!!!!!!!!!!!! ON 2/18/2014-I HAD A APPOINTMENT WITH DR. LOUNG, ASK HER IF SHE _____ COULD DRAW SOME BLOOD TO CHECK MY B-12, LEVEL TO SEE IF THIS MIGHT BE THE PROBLEM THAT CAUSING, THE NUMBNESS AND THE HEAD-ACHE AND _____ “BLURRY VISION, BALANCE, SPEECH!!, I’M WORKING HARD TO GET SOMETHING DONE!!! ON 3/5/2014-I HAD A APPOINTMENT WITH DR. RASHARD ASK ABOUT_ PROCEDURE THAT NEEDS TO BE DONE. ON REMOVING STONES IN “BIO-DUCK “DERIDED”. AS FAR AS I KNOW DOCTOR GORE IS

THE "HEAD PHYSICIAN THAT MAKES THE FINAL DECISIONS OVER THE OTHER DOCTORS THAT ARE UNDER DOCTOR GORE AND THEN IT GOES TO THE MAIN OFFICE FOR REVIEW FOR FINAL APROVAL! AS I STATED, THAT DOCTOR GORE HAS THE "AURTHORITY" TO TAKE CONTROL OF THE MEDICAL CARE THAT I'M ENTITLED TO". THE REASON WHY GORE AND OTHER DOCTORS HAVE FAILED "TO ADMINISTER," PROPER MEDICAL OR NONE AT ALL. THESE SERIOUS MEDICAL PROBLEMS ARE NOT BEING "ATTENDED TO IN "TIMELY MANNER,. ENCLOSED IN THIS "AMENDMENT". YOU WILL FIND A MEDICALLEGAL"DOCUMENT FROM MY PRIVATE PHYSICIAN, A LIST OF ALLTHE MEDICAL PROBLEMS THAT I HAVE, THE RECORD WILL "REFLECT THE" DENAIL OF MEDICAL SERVICES TO ME FOR MY WELL-BEING!! ONE OF THE SERIOUS MEDICAL CONDITION THAT HAS NOT BEEN TREATED IS "HEPATITIS_C, THAT I'M SUFFERING WITH. I HAVE "CONSTANTLY-INFORMED". DR.GORE, ON A NUMBER OF OCCASIONS BUT!!! NO REPLY, OTHER THAN SAYING THAT IT IS TO "COSTLY" ON MY ATTEMPTS TO HAVE THESE MEDICAL ISSUES, TO BE ADRESSED. I HAVE TRYED TO THE BEST OF MY ABILITY, AFTER MY"" "CONCUSSION" ON APRIL 28, 2012. THEREFORE, I FEEL LIKE I HAVE SUFFERD SOME "NEUROLOGICAL INJURY. THAT CAUSES "MOBILE DISABILITY TO THE LEFT -SIDE OF MY BODY AND WITH ALL THE CHALLENGES OF TRYING TO EVEN GET PERSONAL. TO EVEN ANSWER MY INFORMAL COMPLAINTS, HAS

BEEN A STRUGGLE SINCE APRIL ALL THE WAY TO DEC. YEAR THAT THIS HAPPEN-2013&2014... THERE WAS PERIOD WHEN I AND OTHER OFFENDER. "INFORMAL COMPLAINTS". WERE BEING "MISPLACED OR EITHER DESTORYED" OR NO RESPONSE AT ALL".. BY SOMEONE OR PERSONEL"!.. THIS HAS BEEN "REAL DIFFICULT TASK FOR,. ME TO" PERSUE OR "EXERCISE". THE GREIVANCE PROCEDURE HERE AT THE,-, "PRISON" (GRCC). ENCLOSED IN THIS "ADMENDMENT YOU WILL A LETTER THAT I HAVE WRITTEN TO THE [DIRECTOR-OF-D.O.C]. TO VOICE MY CONCERNS ON. THE PROBLEMS WITH THE CREIVANCE PROCEDURE AT(GRCC)!!!!!!!!!!!!!! I HAVE PUT TOGATHER SOME REGULAR GRIEVANCE "THAT SHOW, WHAT THE,, "AUTHENTIC" REGULAR GRIEVANCE LOOK LIKE. AND WHAT THE "BOGUS" FORMS. LOOK LIKE!!! "THE AUTHENTIC REGULAR GRIEVANCE, HAS A FRONT & BACK. —"AND THE "BOGUS REGULAR GRIEVANCE, JUST HAS A FRONT WITH NO BACK."—"MAKING IT IMPOSSIBLE, FOR ME TO PROCESS. "ADMINISTRATIVE REMEDIES FINDINGS OF FACT]-THIS IS ANOTHER "SCHEME". BY THE STAFF AT (GRCC). AND THE ACTING UNIT MANAGER/SUPERVISOR. [LT. WILLIAMS], TO DEPRIVE! ME FROM SEEKING THE PROPER "MEDICAL CARE I NEED..... I HAVE BEEN TRYING TO GET TO THE (WARDEN) WITH A WRITTEN KITE.. BUT NO RESPONSE!!!!—SO YOU WILL FIND ENCLOSED A COPY OF A LETTER THAT WAS SENT TO THE [DIRECTOR OF THE DEPARTMENT

OF CORRECTIONS]. [MR. HAROLE CLARK]. 'IN MY ATEMPT TO GO THREW THE GRIEVANCE PROCEDURE., WITH-OUT FOUL-PLAY BY STAFF AT (GRCC)..... NOTICE: I HAVE PUT TO GATHER A PACKAGE OF "EMERGENCY/GRIEVANCE AND, "REGULAR-GRIEVANCE, TO "DEMONSTRATE". HOW I TRYED TO "RESOLVE THIS AS ANYWAY POSSIBLE.....

[FINDINGS OF FACT]—YOU WILL FIND IN THIS PACKAGES OF PAPER-TRAIL, ON HOW I'VE TRYED IN USEING THE"ADMINISTRATIVE REMEDIES"THREW-E/M-GRIEVANCE, TO EVEN GET MY MEDICATIONS ON A REGULAR BASICE!!!!!! I AM STILL IN THE PROCESS OF TRYING TO GET THE REGULAR-GRIEVANCES THAT WERE "RE-JECTED FOR WHAT EVER REASON. I WILL CONTINUE TO PERSUE "EXHAUSTION OF ADMINISTRATIVE REMEDIES."

AFFIDAVIT

COMMONWEALTH OF VIRGINIA)
COUNTY OF GREENSVILLE)

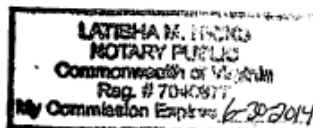
[I]; TED NELSON SMITH, #1414560, I'm presently confined at Greenville Correctional Center, 901 Corrections Way, Jarratt, Virginia 23870.

On April 28, 2012 at approximately 8:45 a.m., [I] witnessed Mr. Banks slip and fall in Greenville Correctional Center, Housing Unit #4-200 Pod. Due to the floor being wet, and there was no [WET FLOOR SIGN(s')] present that would or could state any caution, to indicate that the floor was wet. As a result of there being no indication present of the floor being wet, when Mr. Banks walked through the area between the telephones' and the stainless steel tables', near the control booth, he [Mr. Banks] fell and hit his head on the metal bench in front of the telephones'.

Anything further, the Affiant sayth not.
/s/ Ted SMITH

Done this 9th day of August, 2012 A.D.

Ted Smith
(Affiant's Signature)
Subscribed at Greenville
County of Greenville, State of Virginia
on this 9th day of August
2012
Latesha M. Hickey
(Notary's Signature)
June 30, 2014

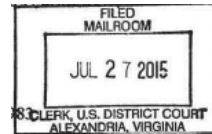


APPENDIX F

**“SECOND AMENDED COMPLAINT FOR CASE
NUMBER 1:14CV 205(CMH/JFA)”**

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA**

**COMPLAINT UNDER CIVIL RIGHTS ACT
42 U.S.C. § 1983**



Action Number 1: 14CV205(CMH/JFA)
(To be supplied by the Clerk, U.S. District Court)

Please fill out this complaint form completely. The Court needs the information requested in order to assure that your complaint is processed as quickly as possible and that all your claims are addressed. Please print/write legibly or type.

I. PARTIES

A. Plaintiff:

1. (a) STEVEN LEON BANKS (b) 1084631
(Name) (Inmate
number)

(c) Greensville Correctional Center
(Address)
901 Corrections Way, Jarratt, Va. 23870

Plaintiff **MUST** keep the Clerk of Court notified of any change of address due to transfer or release. If plaintiff fails to keep the Clerk informed of such changes, this action may be dismissed.

Plaintiff is advised that only persons acting under the color of state law are proper defendants under Section 1983. The Commonwealth of Virginia is immune under the Eleventh Amendment. Private parties such as attorneys and other inmates may not be sued under Section 1983. In addition, liability under Section 1983 requires personal action by the defendant that caused you harm. Normally, the Director of the Department of Corrections, wardens, and sheriffs are not liable under Section 1983 when a claim against them rests solely on the fact that they supervise persons who may have violated your rights. In addition, prisons, jails, and departments within an institution are not persons under Section 1983.

B. Defendant(s):

- | | | |
|---|----------------------------|-------------------------------|
| | | Physician/
Medical |
| 1. (a) <u>Vincent Gore</u> | (b) <u>Admin</u> | |
| (Name) | (Title/Job
Description) | |
| (c) <u>Greensville Correcetional Center</u> | | |
| (Address) | | |
| <u>Same.</u> | | |
| | | RN/Nurse |
| 2. (a) <u>Angela Smith</u> | (b) <u>Supv.</u> | |

(Name)

(Title/Job
Description)(c) **Same**

(Address)

3. (a)

(Name)

(b)

(Title/Job
Description)

(c)

(Address)

If there are additional defendants, please list them on a separate sheet of paper. Provide all identifying information for each defendant named.

Plaintiff MUST provide a physical address for defendant(s) in order for the Court to serve the complaint. If plaintiff does not provide a physical address for a defendant, that person may be dismissed as a party to this action.

II. PREVIOUS LAWSUITS

A. Have you ever begun other lawsuits in any state or federal court relating to your imprisonment?
Yes [] No [X]

B. If your answer to "A" is Yes: You must describe any lawsuit, whether currently pending or closed, in the space below. If there is more than one lawsuit, you must describe each lawsuit on another sheet of paper, using the same outline, and attach hereto.

1. Parties to previous lawsuit:

Plaintiff(s) N/A

Defendant(s) N/A

2. Court (if federal court, name the district; if state court, name the county):

N/A

3. Date lawsuit filed: N/A

4. Docket number: _____

5. Name of Judge to whom case was assigned: N/A

6. Disposition (Was case dismissed? Appealed? Is it still pending? What relief was granted, if any?):

N/A

III. GRIEVANCE PROCEDURE

- A. At what institution did the events concerning your current complaint take place:

Greensville Correctional Center

- B. Does the institution listed in "A" have a grievance procedure? Yes ☒ No ☐

- C. If your answer to "B" is Yes:

1. Did you file a grievance based on this complaint? Yes ☒ No ☐

2. If so, where and when: Greensville
Correctional Center/
2014

3. What was the result? UNFOUNDED

4. Did you appeal? Yes ☒ No ☐

5 Result of appeal: DENIED

D. If there was no prison grievance procedure in the institution, did you complain to the prison authorities? Yes ☐ No ☐

If your answer is Yes, what steps did you take? N/A

E. If your answer is No, explain why you did not submit your complaint to the prison authorities:

N/A

IV. STATEMENT OF THE CLAIM

State here the facts of your case. Describe how each defendant is involved and how you were harmed by their action. Also include the dates, places of events, and constitutional amendments you allege were violated.

If you intend to allege several related claims, number and set forth each claim in a separate paragraph. Attach additional sheets if necessary.

**COUNT I DELIBERATE INDIFFERENCE TO
SERIOUS MEDICAL CONDITION, AGAINST
VINCENT GORE**

1. On 04/28/12, the plaintiff slipped and fell on a wet floor located in his housing unit at Greenville Correctional Center ("GRCC"), injuring his head. Plaintiff was examined by a nurse who wiped the

blood from his head.

2. On 05/03/12, five days after plaintiff's injury he was taken to the hospital after complaining of blurry vision, dizziness and chronic pain in his head. The diagnoses was a severe concussion.

3. On 10/15/13, Dr. Flood here at GRCC submitted a request to Gore for approval of an off-site neurologist consult based on plaintiff's symptoms of extreme pain in head, dizziness and paralysis in plaintiff left side. However, Gore denied the request.

4. On 01/16/14, Dr. Yoder here at GRCC submitted a request to Gore for approval of an off-site neurologist consult for the same symptoms which plaintiff continues to suffer from in paragraph three. Gore also denied that request as well.

5. On 01/28/14, Dr. Louong [sic] submitted a request to Gore for approval of an off-site neurologist consult based on plaintiff still experiencing the symptoms as described above. Gore denied it.

SEE Attached Paper for
a continuation of claims

Continuation of Claims

6. Gore is employed by Armor Correctional Health Services as the medical administrator here at GRCC. One of his main job description's is approve or disapprove (at the institutional level) all requests for nonformulary medication requests, and all off-site specialist consults and medical procedures.

7. As described above, Gore has refused to approve all three (3) requests for a neurologist consult. Gore has acted deliberate indifference to all 3 legitimate request made by qualified physicians.

8. As a result of Gore's deliberate indifference to plaintiff's serious medical needs, plaintiff continues to suffer from chronic pain in his head, dizziness, and paralysis. Therefore, Gore has become personally involved in the deprivation of plaintiff's constitutional rights under the Eighth Amendment to the United States Constitution which guarantees the plaintiff to adequate medical treatment.

9. Plaintiff has pinpointed Gore's liability to this legal count of deliberate indifference to his serious medical needs.

**COUNT II DELIBERATE INDIFFERENCE TO
PLAINTIFF'S SERIOUS MEDICAL NEEDS
AGAINST GORE**

On 02/07/14, the plaintiff had a meeting with Gore to discuss a new treatment for (Plaintiff is unsure of the name) his disease of hepatitis -C that plaintiff is infected with. Treatment name "**HARVONI**"

2. This "new" treatment has proven to cure this disease of hep. - C.

3. During the meeting with Gore, plaintiff practically begged Gore to approve him for this treatment so he could be cured of this disease. However, Gore denied the request that came straight from the plaintiff; instead of a physician.

4. As a result of Gore's disapproval for plaintiff to receive this new treatment for the cure of the hepatitis - C disease, plaintiff continues to suffer from the side effects from the damage to his liver that this disease causes which will eventually lead to his death.

5. Based on Gore's deliberate indifference to plaintiff's serious medical condition, Gore has demonstrated personal involvement in the deprivation of plaintiff constitutional rights under the Eighth Amendment to the United States Constitution which guarantees plaintiff the right to adequate medical treatment.

6. Plaintiff has pinpointed Gore's liability to this count of deliberate indifference to his serious medical needs.

**COUNT III MEDICAL
MALPRACTICE AGAINST GORE**

1. On 03/05/14, the plaintiff had a medical consult with an on-site gastrologist, Dr. Rashard. This consult concerned a procedure to remove kidney stones from plaintiff's "bio duct".

2. Dr. Rashard informed plaintiff that he would recommend that this procedure be done to remove the stones.

3. Approximately ninety (90) days later, plaintiff had another visit with Dr. Rashard who informed

plaintiff that Dr. Gore disapproved the procedure to have the stones removed from his kidneys .

4. As a result of Gore disapproving this procedure to remove the stones from plaintiff's bio duct, plaintiff continues to suffer from severe pain in his abdominal.

5. Based on Gore's refusal to approve this procedure, he became personal involved and his inaction amounts to gross negligence and is the proximate cause of plaintiff's pain and suffering.

6. Plaintiff has pinpointed Gore's liability to this count of medical malpractice pursuant to Virginia law Code § 8.01-581.1.

COUNT I AGAINST SMITH FOR MEDICAL MALPRACTICE

1. On June 14, 2013, at 3:05 am, the plaintiff was placed on dialysis treatment in the medical housing unit at Greensville Correctional Center. Around 6:29 am, the water system on the dialysis machine went down requiring dialysis staff technicians Harding, Banks and Cluade to terminate plaintiff's treatment early.

2. Plaintiff was told by Tech. Claude that per A. Smith, the infirmary nurse manager, that the treatment for dialysis has been terminated for today, that plaintiff would not get his full dialysis treatment.

3. Smith was employed by Armor Correctional Health Services as a Infirmary Nurse Manager at the time of this incident. She is responsible for making all decisions at the nursing level regarding medical procedures in the infirmary.

4. Based on Smith making the final decision to terminate plaintiff's dialysis treatment and not

provide him dialysis treatment on another dialysis machine “that was available”, she is personally involved for liability purposes.

5. As a result of the early termination of plaintiff’s dialysis treatment, he became very ill and had to be placed in the infirmary as a resident. Plaintiff was in General Prison population and came to the infirmary for the treatment.

6. Smith is liable for the gross negligence which is the proximate cause of plaintiff’s injury. Thereby, constituting medical malpractice under Virginia law.

7. Plaintiff has pinpointed Smith’s liability for medical malpractice pursuant to Virginia Code § 8.01-581.1.

EXPERT CERTIFICATION

There is no need for a statement of expert certifications because it is common knowledge for the jury that the defendant’s action constituted medical malpractice.

SUPPLEMENTAL JURISDICTION

Plaintiff invokes supplemental jurisdiction pursuant to 28 U.S.C. § 1367 (a) for both counts of medical malpractice in this action.

PRAYER FOR RELIEF

WHEREFORE, the plaintiff prays that this court will enter judgment granting plaintiff:

(a) A declaration that the acts and omissions described herein violated plaintiff’s rights under the United States Constitution and under Virginia law.

71a

(b) Award punitive damages against Gore and Smith both jointly and severally in the amount of \$500,000.00.

(c) Compensatory damages against Gore in the amount of \$75,000.00.

(d) A jury trial on all issues triable by a jury.

(e) Plaintiff's cost of this suit.

Respectfully submitted,
/s/ Steven Leon Banks
Steven Leon Banks
plaintiff, *pro se*
July 20, 2015.

VERIFICATION

I, Steven Leon Banks do hereby certify that all facts and assertions herein are true to the best of my knowledge, and anything other, what I believe to be true.

/s/ Steven Leon Banks
Steven Leon Banks
July 20, 2015.

**PLACES OF INCARCERATION FOR LAST
SIX MONTHS**

Greensville Correctional Center.

**CONSENT TO TRIAL
BY A MAGISTRATE JUDGE**

YES.