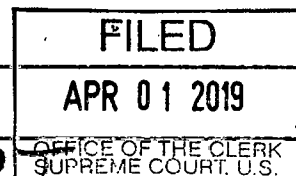


IN THE
18-9286
SUPREME COURT OF THE UNITED STATES
MARCH TERM 2019
NO.



PRENTIS RUPERT
Petitioner
- against -
Arthur Bentley, et al.,
Respondents

Petition For A Writ of CERTIORARI
TO THE UNITED STATES Court of Appeals
FOR THE 8 CIRCUIT

Prentis Rupert
PRENTIS Rupert
900 N. Rock Road
FORT PIERCE FL

34945

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Questions Presented

1. Petitioner Survived summary judgment motions of the Defendants, The District Court issued a Judgment that petitioner Claims should proceed on that was on 8-11-2017. Summary Judgment was Granted to the Defendants also Dismissing Petitioner Claims of inadequate medical care when it came to his Hepatitis C and a Tooth ache that was on 5-15-2018, there is no way both parties Can Be Granted Summary Judgment in a Case?
2. The Defendants where deliberate indifference to serious medical needs in not providing adequate medical care when it came to the Hepatitis C and a Tooth ache By Not running tests that would have actually shown petitioner Condition to Be serious By diagnosis a disease from its signs and symptoms?
3. There was a Global settlement Conference held as scheduled in Case Number 3:17-CV-119-Dpm-BD. The parties negotiated and reached an agreed settlement of all the Plaintiff's Claims in Case NO. 3:17-CV-119-Dpm-BD; 3:17-CV-92-Dpm-JTR and 3:17-CV-61-Dpm. The medical Defendants Counsel is Mitchell, Williams, Selig, Gates and Woobyard, P.L.L.C. who were Not present at the settlement Conference before Magistrate Judge Brett Deere. The separate Craighead County Defendants Breached the settlement Release Claim agreement By adding the medical Defendants who did not participate in the settlement Conference. Counsel for plaintiff was present and Counsel Defendant Keith Bowers was present Counsel for Marty Bays was present?

PARTIES

The petitioner is Prentis Rupert, a Prisoner at the St. LUCIE County Jail Fort Pierce FL 34945. The respondents are Arthur Bentley, Doctor, Kara Black, Head Nurse, Harry Hogan, L.P.N., P. Motts, Nurse Keith Bowers Jail Administrator

TABLE OF AUTHORITIES

Bailey v. Gardebring, 940 F.2d 1150, 1155 (8th Cir. 1991) ... 12

ESTELLE V. GAMBLE, 429 U.S. 97, 104 S.Ct. 285 ... 9

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DECISIONS Below

The decision of the United States Court of Appeals for the 8 Circuit is unreported.

The order of the United States District Court for the Eastern District of ARKANSAS is not reported.

JURISDICTION

The Judgment of the United States Court of Appeals for the 8 Circuit was entered on December 28, 2018. An order denying a Petition for rehearing was entered on January 31, 2019 and a copy of that order is attached as Appendix A to this Petition (A.1.). Jurisdiction is conferred by 28 U.S.C. § 1294 (1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves Amendment VIII to the United States Constitution, which provides: •

Excess bail shall not be required, Nor excessive fines, imposed, nor cruel and unusual punishments inflicted.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

The Amendment is enforced by Title 42, Section 1983, United States Code:

Every Person who, under color of any statute, Ordinance, regulation, custom, or usage, of any state or Territory or the District Columbia, subjects, or causes to be subjected, any citizen of the United States or other person with the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purpose of this section, any Act of Congress applicable exclusively to the District of Columbia shall be

considered to be a statute of the District of Columbia.

STATEMENT OF THE CASE

THE petitioner's complaint alleged that he was denied adequate medical care when it came to Hepatitis C and a Tooth ache, he was having while he was at the Craighead County Detention Center in 2017.

Defendants filed their motion for summary judgment that would be the separate Craighead County Defendant Keith Bowers, contending Plaintiff failed to exhaust his administrative remedies before filing his complaint. The Medical Dept. Defendants, Arthur Bentley, Kara Black, Hannah Hogan and P. Motts filed a motion to Adopt Defendant Bowers motion for Summary Judgment, stating the motion also applies to Plaintiff's claims against them. The court found the motion to Adopt should be GRANTED and the motion for Summary Judgment should be GRANTED in part and denied in part Plaintiff's claims regarding treatment for Hepatitis C and a toothache should proceed. Then Three days later 8/14/17 Docket text stating Amended and SUBSTITUTED proposed Findings and Recommendations Plaintiff Receive it stating the same thing as Doc. 38 The Defendants filed Two more Summary Judgment

Motions Doc. Nos. 46 and 53 in which the District Court also Granted the Defendants Motions for Summary Judgment and dismissed Plaintiff Claims with prejudice. THE medical Dept. Defendants KNEW about Plaintiff serious medical Condition Because ONE of the Nurse sent out a AUTHORIZATION FOR Release of information form Dated 11/26/2017 [App. A-20]

The Seperate Craighead County Defendants had a settlement Conference on September 14, 2018. The agreement Reached at that settlement Conference has Been Breached By the adding of the medical Defendants who didnt participate in the settlement Conference see [App. 32]

BASIS FOR FEDERAL Jurisdiction

This Case raises a question of interpretation of the deliberate indifference of THE EIGHTH Amendment to the united States Constitution.

THE district Court had Jurisdiction under the general federal question Jurisdiction Conferred by 28 U.S.C. 1331

Reasons for Granting the Writ

Petitioner contends that the Reason for Granting the Writ is That The Defendant Keith Bowers, filed a motion for Summary Judgment (Doc. No. 32) and Defendants Arthur Bentley, Kara Black, Hannah Hogan, and P. Motts filed a motion to Adopt Defendant Bowers's motion for Summary Judgment, stating the motion also applies to Plaintiff's Claims against them. (Doc. No. 36.)

After a Careful review the Court Decision was the motion to Adopt should be Granted and the motion for Summary Judgment should be Granted in part and Denied in part. Plaintiff's Claims regarding treatment for hepatitis C and a Toothache should proceed; [App. 1a]. Under Rule 56 (c), Summary Judgment is proper 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. The Defendants contend Plaintiff did not comply with the grievance procedure as to any of the Claims raised in his Complaint. In support of this argument, they point to Defendant Power's testimony that a review of Plaintiff's Jail file did not show any grievances concerning the specific medical issues raised in his

Complaint - namely, hepatitis C, a Toothache, a broken toe, and "funny smelling urine". But Plaintiff's Jail file does include one grievance, apparently submitted on the Kiosk Communication system, which was clearly medical in nature. [App. 2a]. Plaintiff has submitted a Response and supporting documents. [App. 2a].

Plaintiff survive the Defendants Motion for Summary Judgment and his claims was allowed to proceed on the Court did find that there is a genuine issue. But there was no trial. Petitioner doesn't understand how his claims was allowed to proceed on and the District Court didn't issue a scheduling order for trial. Defendant Keith Bowers filed another Motion for Summary Judgment (Doc. No. 46). Then the Medical Dept. Defendants filed another Motion for Summary Judgment (Doc. No. 53). see [APP. A-3]. Judgment was entered on 5/15/18 for the Defendants. Plaintiff just don't understand how he survive Summary Judgment and the District Court Rule his claims should proceed, but he didn't get to go to trial. Defendants, Arthur Bentley, Kara Black, Hannah Hogan and P. Motts Keith Bowers were all deliberate indifference to Plaintiff's serious medical needs. The plaintiff was denied adequate medical care when it came to his hepatitis C and a tooth ache. The separate Clearhead County Defendant has breached the Settlement Release Claim agreement between the plaintiff and Keith Bowers. see [App. 4a].

A. THE Deliberate indifference standard

THE Plaintiff must prove that the defendants acted with deliberate indifference to his serious Medical Needs, and while actual knowledge must be shown under Farmer, Plaintiff will demonstrate 'Both Components', First the objective Component is the seriousness of the Challenged Conditions. and second the Subjective Component the state of mind of the official. Plaintiff has Hepatitis C which is a Serious Medical issue and During the time he was at the Craighead County Detention Center Plaintiff had an Tooth ache.

These are serious medical issues that where not Being address, Hepatitis C is a very serious medical issue that the Craighead County Defendants Denied Plaintiff adequate medical care, Plaintiff Put in a Sick Call Request on or about 1/25/2017 [App. A-6]. During the time at Craighead County Detention Center Plaintiff was Not Seen By a health care provider regularly, people who have Chronic hepatitis should see their health care provider regularly, about every 90 days for blood work to see if the virus is hurting the liver. Defendants P. motts Arthur Bentley, KARA Black, See [App. A-7, 8, 9, 10] ON or about February 16, 2017, Plaintiff grieved see [App. 1a p.5] Defendant Keith Bowers was aware of

the serious medical issue because he is the Health Authority according to the Craighead County Detention Center Policy see [App. A-23]. Defendants Arthur Bentley, Kara Black, H. Hogan and P. Motts all knew of the pain Plaintiff was having with the abscess tooth ache. All of the medical Defendants knew of this on going problem, P. Motts, H. Hogan, Kara Black and Dr. Bentley all told Plaintiff at one time or another that his family would have to make him a dental appointment in order to get his tooth pulled, but C.C.D.C. Access to Care Policy don't say anything about inmates family making appointment see [App. A-24]. In the medical progress note on or about June 15, 2017 was the first time Kara Black even made a referral to a dentist see [App. A-17]. *Moore v. Jackson*, 123 F.3d 1082, 1087, n.3 (8th Cir. 1997) holding three-month delay in treating a toothache in the face of the prisoner's repeated complaints supported deliberate indifference claim. *Sulton v. Wright*, 265 F. Supp. 2d 292, 300 (S.D.N.Y. 2003) ("even if an inmate receives extensive medical care, a claim is stated if... the gravamen of his problem is not addressed"); Defendant Bowers said in an affidavit he was not aware that Plaintiff had a serious health condition in 2017 while he was at detention center that was not being evaluated by the detention center medical dept.

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Plaintiff says Defendant Bowers knew of the serious medical issue because Plaintiff sent him a Request on February 14 asking him authorize the provision of hepatitis C medication. see [App. 2a p. 6]. as Plaintiff stated before he was denied adequate medical care the minimal of basic human needs. Here are some of the basic minimal needs a person with Hepatitis C needs, During the time at C.C.D.C. the medical Dept. never checked Plaintiff enzyme level or viral load, AST, ALT, Kidneys or liver to see if there was liver scarring or liver cancer, these are the basic minimal needs of a person with Hep. C, Not even saying anything about the treatment it self, the Defendant's All where deliberate indifference to Plaintiff serious medical needs, because the exhibits don't say other wise, C.C.D.C. Did not fulfilled its constitutional obligation By seeing that the Plaintiff was taken to the dentist who could provide the necessary treatment for his abscess toothache, Nor did they have any test run on the Plaintiff to see how serious was his condition. These elementary principles establish the government's obligation to provide medical care for those whom it is punishing by incarceration, An Inmate must rely on prison authorities to treat his medical needs; if the authorities fail to do so, those needs will not be met. ESTELLE V. GAMBLE, 429 U.S. 97, 104 S. Ct. 285 the denial of medical care resulted in pain and suffering with no penological purpose. THE Plaintiff Jail file-

Medical Records Doesn't Show any Tests Being ran on Plaintiff Concerning Chronic Care, No Blood work to Check Plaintiff enzyme levels or Plaintiff viral loads, AST, ALT, Kidney function or to see if there was scarring of the liver. deliberate indifference to Medical Needs amounts to an Eighth Amendment violation only if those needs are serious. Thus, a twofold showing is required: (1) the existence of serious medical needs, which need not be life-threatening; and (2) a deliberate indifference to, or callous disregard of, such Medical Needs. Knowledge of the need for medical care and an intentional refusal to provide it are sufficient to establish the requisite deliberate indifference. (1) of the twofold Plaintiff has Hepatitis C virus. The C.C.D.C. violated Eighth Amendment in their treatment of Plaintiff ~~Hepatitis C~~ (2) the Medical Dept. Received a Authorization For Release of Information form Dated 1/26/2017 [App. A-20].

(N.Mates faced, among other things, life-threatening infections, had risk of bleeding from any site of the body, and potential organ failure. U.S. Const. Amend. 8. *Hoffer v. Jones*, 290 F. Supp. 3d 1292 (N.D. Fla. 2017). Then when plaintiff ask for the Treatment for Hep C he's Told the medication was extremely expensive. see [App. 5a Thru 17a]

Prison official who actually knew of a substantial Risk to inmate health or safety maybe found free from liability if they responded reasonably to the risk, even if the harm ultimately was not averted. *Farmer v. Brennan*, 511 U.S. 825, 114 S.Ct. 1970.

B. Importance of The Questions Presented

The importance of the questions presented are Did the District Court Error in Granting Summary Judgment to the Defendants when petitioner survived summary judgment motions filed by Defendants, see [App. 1a p.3].

Petitioner says that his Claims was allowed to proceed on. see [App. 2a p.3]. The Defendants where deliberate indifference to plaintiff serious medical needs, Defendant Keith Bowers is the Jail administrator and he is also the Health Authority According to medical policy of the C.C.D.C. see [App. A-23] in an Affidavit of Keith Bowers he stated he was Not aware that plaintiff had a serious health condition in 2017 that was Not Being evaluated by the Detention Center Medical Dept. see [App. A-19]. on February 5, and February 16, 2017 Plaintiff put in grievances letting Defendant Keith Bowers know of his condition see [App. 2a p.5]. A cavity present a serious medical need if it is Not Treated; Dental Care is "one of the most important medical needs of inmates". According to C.C.D.C. emergency medical care policy (24) hour emergency medical, mental health, and Dental care is available to all detainees see [App. A-26], there Medical Records Policy also says: see [App. A-25] and see Access to Care Policy [App. A-24] Also see Continuity of Care During Incarceration and Discharge Planning [App. A-22] see the oral care policy [App. A-21]. It is Not however permissible to deny an inmate adequate medical care because it is costly, the plaintiff was Never sent to a specialist for a diagnose about familiar forms of treatment for his serious medical illness.

According to Bailey v. Gardebring, 940 F.2d 1150, 1155 (8th cir. 1991) failure to provide treatment is Not deliberate indifference if there is No accepted form of Treatment for the patient's Condition. ON 1/22/2017 Plaintiff Complained about G Tooth ache see [App. A-4] and [App. A-5] ON 1/25/2017 Plaintiff Complained about his Hep C. ON 2/05/2017 Plaintiff Complained Issues Related to his Hep C [App. A-7] ON 02-06-2017 Plaintiff Was seen By the Nurse p. Mitts [App. A-8] ON 2/7/2017 Plaintiff Complained to the head med Dr. [App. A-9] ON 2/13/2017 Plaintiff sent Head Nurse Kara Black a Sick Call Request [App A-10] ON 2/14/2017 Plaintiff sent in other sick call Request [App. A-11] 02/15/2017 plaintiff was ~~not seen~~ seen for toothache [App. A-12] ON 2/17/2017 Plaintiff sent in another sick call Request [App. A-13] ON 3/10/2017 Plaintiff sent in another Sick call Request [App. A-14] was seen ON 3/11/2017 [App. A-15] sent in another sick Request ON 4/20/2017 [App A-16] after Plaintiff file suit on C.C.D.C. ON 6/15/2017 plaintiff was referred to Dentist [App. A-17]

Defendant Keith Bowers Breached the Settlement Release Claim agreement By adding the medical Defendants who's Counsel Did not participate in the settlement Conference see [App. 39] and [App. 4a]

Plaintiff declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. 28 U.S.C.A. § 1746.

CONCLUSION

Plaintiff has shown that all of his Appendix How THE Defendants have been Deliberate indifference to his serious medical needs and have Denied him adequate medical care for his serious medical needs. Also Defendant Keith Bowers had The Medical Dept added to a Release Claim, But the medical dept. has their own attorney. They should not have been added for THE foregoing reasons, certiorari should be granted in this case.

DATE: 03-27-2019
Respectfully submitted,
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