

No. 19-7464

In the
Supreme Court of the United States
State of Louisiana

ORIGINAL
PETITION

Derrick D. Davis

Vs.

Raymond Laborde Correctional Center, Et. Al

Supreme Court, U.S.
FILED
DEC 12 2019
OFFICE OF THE CLERK

On Petition for a Writ of Certiorari to
United States Court of Appeals
Fifth Circuit

Petition for Writ of Certiorari

ORIGINAL SIGNATURE
↓
S/  #126965
Derrick D. Davis #126965
RLCC, Cajun 1, D-1 / Bed #11
1630 Prison Rd.
Cottonport, LA. 71327

QUESTION(S) PRESENTED

1. Whether the 5th Circuit and the United States District Court violated plaintiff's constitutional rights by denying plaintiff's writ without reviewing it on the merits?
2. Whether plaintiff deserved to be compensated for inadequate treatment at the hands of medical staff?
3. Whether petitioner's 8th Amendment rights were violated?
4. Did the Raymond Laborde Correctional Center commit deliberate indifference when they failed to treat plaintiff for his stroke when medical records indicate that they were aware of illness and its diagnosis?
5. On the face of the record does it show that Raymond Laborde Correctional Center medical staff showed neglect and deliberate indifference against plaintiff at any time during his four years in custody at their facility?

TABLE OF CONTENTS

Opinions Below	3
Table of Authorities	4
Constitutional and Statutory Provisions Involved	4
Statement of the Case	5-9
Reasons for Granting Writ	9-12
Conclusion	13

INDEX OF APPENDICES

Appendix A – *Writ to the Fifth Circuit Court of Appeal*

Appendix B – *Judgment from the Fifth Circuit Court of Appeal and Judgment*

Appendix C – *Judgment from the United States District Court*

TABLE OF AUTHORITIES CITED

<u>Cases:</u>	<u>Page(s):</u>
Dominoes v. Tx Dept. Crim. Justice,	8
Monroe v. Pope	9
Farmer v. Brennan.	5, 12
Cooper v. Pate	9
Meloy v. Bachmeier	12
Biven v. Six Named Agents	11
Hutto v. Finney	12
West v. Atkins	11
Parham v. Johnson	12
Hill v. DeKalb Reg. Youth Det. Ctr.	12
Taylor v. Adam	12
Chance v. Armstrong	12
Brock v. Wright	12
Gutierrez v. Peters	12

Statutes and Rules:

28 U.S.C. § 1915 (A)	5, 8
42 U.S.C. § 1983	5, 10
42 U.S.C. § 12101 – 12213	10
<i>Americans with Disabilities Act</i>	10

JURISDICTION

Jurisdiction of this Court is invoked pursuant to Article 5, Section 2, 3 and 5 of the Louisiana Constitution of 1974.

Constitutional and statutory provisions involved prison officials and medical staff violated the 8th Amendment's prescription against cruel and unusual punishment when they acted with 'deliberate indifference' to the serious medical need of plaintiff. Farmer v. Brennan, 511 U.S. 825, 834 (1994); Estelle v. Gamble, 429 U.S. 105 (1976). 'Deliberate Indifference' the U.S. Constitution is the supreme law of the land. The amendments to the Constitution provide individuals in this country with certain rights. Within the U.S. Constitution the main protection against actions by state officials is found in the Fourteenth Amendment. These guarantees are known as the Due Process Clause and the Equal Protection Clause. The courts have ruled that both clauses protect prisoners.

STATEMENT OF THE CASE

Petitioner filed a Civil Rights Complaint (42 U.S.C. § 1983) against the Raymond Laborde Correctional Center, Et Al, in Cottonport, Louisiana, complaining that he was denied adequate medical care.

(1)

In the state report and recommendation where the Court Honorable Judge Dee D. Drell based his judgment on ordering plaintiff's complaint denied and dismissed with prejudice under § 1915(e)(2)(b) and 1915(a), was a judicial error because the report and recommendation stated that plaintiff could not show that defendant's acted with deliberate indifference to plaintiff's serious medical needs and that plaintiff had filed complaints.

(2)

The Raymond Laborde Correctional Center did an M.R.I. on plaintiff at the Louisiana State Penitentiary Facility in Angola, who serve as outside provider for the Raymond Laborde Correctional Center. The facility didn't bother to do an M.R.I. before the filing of this lawsuit of

inadequate treatment, "subpoena records to support allegations of proof". Petitioner has been dealing with his injury here at the facility since 2016. The facility was made aware of petitioner's injury two years prior to the filing of the actual petition.

(3)

The M.R.I. images showed the physicians here at the facility that plaintiff really was suffering with a serious spinal injury; one that he had been complaining about without any medical attention for years. The M.R.I. showed that plaintiff had herniated, bulging discs in his lower and upper back and that the spacers in between his bone cartilage were deteriorating and causing plaintiff's bones to rub bone against bone, causing numbness in fingers and toes and causing excruciating pain.

(4)

Not only did he have back issues, but the M.R.I. images also showed that petitioner had a punched nerve that was causing him numbness from his left and right side of his top half of his body. Plaintiff has Rheumatoid Arthritis from the left side and across the right side of his shoulder area. This information can be verified if the court will so gracefully "subpoena the medical records" here at the Raymond Laborde Correctional Center from the M.R.I. images disk that was performed on plaintiff by the Louisiana State Penitentiary techs.

(5)

This disc that plaintiff is asking the court to subpoena will show the seriousness of plaintiff injuries and plaintiff ask the court to have their own authorizes professional physician to give their opinion as to how long would it take for plaintiff's injuries to proves to the stage they are at how from 2016. Plaintiff contends that this matter dealing with the inadequate medical treatment has been going on since 10-3-2016.

(6)

Plaintiff has been denied medical treatment since he's been here at the Raymond Laborde Correctional Facility. Petitioner filed this complaint against the facility after he had talked with all wardens and authorized medical director and nurse practitioner. If the court would see that deliberate indifference was committed by the facility medical staff, by subpoenaing the medical records because when plaintiff made his claims known to the court the facility decided to start taking him to appointments that were material to show deliberate indifference. The dates will prove that all appointments were after plaintiff filed his suit.

(7)

And if petitioner's injuries are serious enough for an outside provider, now, isn't it proof that it was serious (1) one or (2) two years ago when plaintiff was asking and complaining to the medical staff about these injuries, and their actions prove deliberate indifference because it shows that they knew about plaintiff's serious injuries and chose to ignore them until he decided to file suit of the inadequate medical treatment at the hands of RLCC medical staff.

(8)

The facility noticed that petitioner was serious about his lawsuit. How they are doing things that should have been done years ago.

If you would carefully look over the medical records and notice the dates that the MRI and the appointment to the neurologist were taken, you will see that all medical actions were taken after the filing of this complaint and shortly after the court provided them with a copy of my writ.

(9)

Now if you see that the medication isn't working or relieving pain that you are giving a patient, wouldn't you look for other options instead of prolonging something that's getting worse

with time? My medical records mention about me being paraplegic in my left arm and it mentions partially about a stroke. But nowhere in petitioner's medical chart does it show that petitioner was ever treated for this stroke. No rehab, no nothing. Now that petitioner filed suit, the facility scheduled an appointment at the Elayn Hunt Correctional Facility for petitioner to be examined for damages that the stroke might have caused (2) years after the original stroke happened.

(10)

See medical record for support of allegation. Petitioner even has received rehab session for his stroke at LSU Medical Center in Shreveport and the rehab therapist recommended surgery, but plaintiff still has not been scheduled for corrective nor ongoing rehab to restore the use of his left hand making him legally disabled and handicapped.

(11)

Plaintiff is a prisoner of the state who's seeking redress from an official or employee of the state and governmental entity and plaintiff complaint is subjected to screening pursuant to 28 U.S.C. § 1915(A). The court wanted plaintiff to show that prison personnel refused to treat him, ignored his complaints intentionally treated him incorrectly or engaged in any similar conduct that would clearly evidence a wanton disregard for any serious medical needs. Domino v. Tex. Dept. Crim. J., 239 F.3d 752, 756 (5th Cir. 2001), quoting Johnson v. Treen, 759 F.2d 1236-1238 (5th Cir. 1985).

(12)

And petitioner has shown just that because it didn't take the medical staff 2 years to treat plaintiff for a stroke or 3 years to schedule an MRI to diagnose plaintiff's spinal injuries that he's been complaining about for over 3 years supported by medical records, sick-calls and clinical visits at LSU Medical Center, Elayn Hunt's Correctional Facility and Louisiana State Prison. Which

shows within the last year and a half after the complaint was filed all the medical attention that petitioner was asking for all of a sudden came available now after years of neglect and the showing of deliberate indifference the medical staff at the Raymond Laborde Correctional Facility decided to stop ignoring plaintiff medical serious needs only because they wanted to be on records in case the courts granted plaintiff's writ. So this shows that if they knew now they knew when the matter was first addressed and chose to do nothing. In this matter the medical record speaks for itself. Plaintiff was neglected and denied adequate medical treatment at the hands of the Raymond Laborde Medical Staff, supported by the dates of treatments and time of the filing of actual complaint and arrival at facility.

REASONS FOR GRANTING PETITION

Starting with my having a stroke and never receiving any medical treatment or follow up examination to diagnose the damages or further injures, no rehab was given during this horrible time, rehab comes 2 years after original stroke. Now is this professional norm or is this the way you would have your family member treated?

For my minor paraplegic, I never was examined until years later by Dr. MeVea to see what triggered the stroke, never kept in the infirmary to run tests or to evaluate plaintiff even when his blood pressure was elevating to deadly highs on several different occasions once had to be hospitalized for trouble getting blood pressure regulated at the LSU Medical Center. See Medical Records at L.S.U. Medical Center for support.

In the Supreme Court cases Monroe v. Pope, 365 U.S. 167 (1961) and Cooper v. Pate, 378 U.S. 564 (1964), these cases became famous for circumstances such as this one. Where every person who, under color of statute ordinance, regulation, custom or usage, of any state or territory

or the district of its subjects or cases to be subjected any citizen of the United States or other person within 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 lawsuit in equity, or other proper proceeding for redress.

And by the medical staff not treating plaintiff for his injuries in a respectable manner falls into many of these categories mentioned above deprivation as one because not only is plaintiff being deprived of medical assistance.

The Americans with Disabilities Act on the ADA can be found at *42 U.S.C. § 12101-12213* the ADA prevents discrimination against people with disabilities. If you have any sort of physical or mental disability you may be able to file a 1983 lawsuit using the ADA.

And by the plaintiff suffering from a stroke when he arrived at the Raymond Laborde Correctional Center his wellbeing and medical treatment should have been a priority to the facility medical staff. But as you can see from the medical record and chart, plaintiff never received any treatment or rehab. After his stroke the medical staff neglected plaintiff medical needs even though they had knowledge of his stroke.

Plaintiff didn't receive rehab or any form of treatment until 2 years after his stroke. This information can be verified through "logbook and medical record/chart at this facility". Plaintiff just this year in 2019 started going to physical therapy to try and gain usage of his left hand which is weak to the point that he has to have assistance in carrying his food and retrieving his medication from the pill-call line, where water is mandated to have with you before entering the window dispensary to get your medication.

After petitioner filed this lawsuit he started getting treatment that he had and should have been getting years ago. plaintiff has been to LSU Medical Center and Louisiana State Prison at

Angola to appointments for his spinal injuries and back problem. Plaintiff was just scheduled for an appointment at Elayn Hunt Correctional Center for treatment for his stroke and plaintiff asks the court to “subpoena all medical records” from these facilities medical staff for verification as to the dates to show that the Raymond Laborde Correctional Center has shown neglect and deliberate indifference. The Raymond Laborde Medical Staff denied plaintiff adequate medical attention commonly related to stroke victims. Plaintiff was diagnosed as having a stroke, medical attention should have been given right then; such as rehab, tests, examination, admittance to the information for a couple of days of evaluation. However, the medical staff did none of this and support nothing to help plaintiff regain strength and support to his limbs.

But if you look at plaintiff's medical record no assistance was ever recorded as being administered. See logbook for 2017. And this makes a clear showing that the Raymond Laborde Correctional Center created deliberate indifference and neglect on the face of the record and shows that they knew about the underlying injury to plaintiff because (2) two years later they tried to cover their back by taking plaintiff to the appointments he should have received (2) two years prior, verifying that they know that the problem with plaintiff existed and chose to ignore medical treatment.

The official you sue must have been acting in under “Color of state law” when they violated your constitutional rights. This just means that the officials must have been “on the job” or otherwise exercising the power that comes from his position of authority the Bivens Action. Biven v. Six Named Agents of the Federal Bureau of the Narcotics, 403 U.S. 388 (1971); West v. Atkins, 487 U.S. 42, (1988).

Under the 8th Amendment you are only entitled to medical care for serious medical needs. Some courts have held that a serious medical need is “one that has been diagnosed by a physician

as mandated and recommend treatment.” An injury is one that’s so obvious that even a layperson would easily recognize the necessity for a doctor’s attention. Hill v. DeKalb Reg. Youth Det. Ctr., 40 F.3d 1176-1187 (11th Cir. 1994). Courts usually agree that a serious medical need is “one that if left unattended poses a substantial risk of serious harm.”

And at no point did the medical staff here at Raymond Laborde Correctional Facility know the true damage that the stroke had done to plaintiff because he wasn’t examined; only told that they believed he had suffered a stroke. And this is not the professional norm for medical staff anywhere.

Taylor v. Adams, 221 F.3d 1254, 1258 (11th Cir. 2000). In other words, if a doctor says you need treatment or it’s obvious, then it’s probably serious.

Chance v. Armstrong, 143 F. 3d 698, 702-703 (2nd Cir. 1998); Brock v. Wright, 315 F.3d 158 (2nd Cir. 2003); Estelle, 429 U.S. at 104. Gutierrez v. Peters, 111 F.3d 1369 (7th Cir. 1997). Through way of M.R.I. it was made clear to the physicians and medical staff the seriousness of plaintiff’s injuries.

Farmer v. Brennan, 511 U.S. 825, 832, 114 S. Ct. 1970, 128 L. Ed. 2d 811 (1994). And the medical staff can’t say that they weren’t delaying plaintiff relief because they had long been aware of plaintiff’s injuries for at least two years. The prison physician failed to respond appropriately to plaintiff’s serious medical needs. Estelle, 429 U.S. at 104-105; Meloy v. Bachmeier, 302 F. 3d 845, 849 (8th Cir. 2002), Hutto v. Finney, 437 U.S. 678 (1978); Parham v. Johnson, 126 F.3d 454, 461 (3rd Cir. 1997).

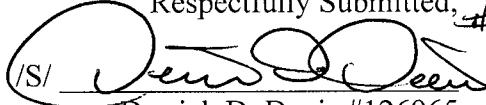
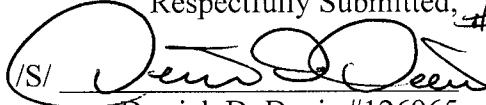
CONCLUSION

Raymond Laborde Correctional Center medical staff failed to give plaintiff effective, adequate medical treatment and in doing so created deliberate indifference and neglect because it's shown on medical records from LSU Medical Center, Elayn Hunt Correctional Center and the Louisiana State Prison and it's also shown by the Raymond Laborde medical staff knew about plaintiff's injuries and chose to ignore his medical needs.

And plaintiff asks that the United States Supreme Court will grant his writ and give him the relief and justice he deserved and allow his claims to be heard and ruled upon on the merits thereof.

The petition for writ of certiorari should be granted.

Respectfully Submitted,


/S/ 
Derrick D. Davis #126965

Date: December 16th, 2019