

EXHIBIT 1

LORBR 540*23 *
PAGE 001 *

SENTENCE MONITORING
COMPUTATION DATA
AS OF 02-15-2022

* 02-15-2022
* 07:09:49

REGNO...: 25503-052 NAME: GIBEAULT, ROBERT E JR

FBI NO.....: 225898KA2 DATE OF BIRTH: 02-11-1969 AGE: 53
ARS1.....: LOR/A-DES
UNIT.....: SOUTH QUARTERS.....: S04-201L
DETAINERS.....: NO NOTIFICATIONS: NO

FSA ELIGIBILITY STATUS IS: INELIGIBLE

THE FOLLOWING SENTENCE DATA IS FOR THE INMATE'S CURRENT COMMITMENT.

HOME DETENTION ELIGIBILITY DATE.....: 03-23-2026

THE INMATE IS PROJECTED FOR RELEASE: 09-23-2026 VIA GCT REL

-----CURRENT JUDGMENT/WARRANT NO: 010 -----

COURT OF JURISDICTION.....: NEW YORK, NORTHERN DISTRICT
DOCKET NUMBER.....: DNYN118CR000223-001
JUDGE.....: D'AGOSTINO
DATE SENTENCED/PROBATION IMPOSED: 03-13-2020
DATE COMMITTED.....: 02-19-2021
HOW COMMITTED.....: US DISTRICT COURT COMMITMENT
PROBATION IMPOSED.....: NO

	FELONY ASSESS	MISDMNR ASSESS	FINES	COSTS
NON-COMMITTED..:	\$400.00	\$00.00	\$00.00	\$00.00

RESTITUTION...: PROPERTY: NO SERVICES: NO AMOUNT: \$1,500.00

-----CURRENT OBLIGATION NO: 010 -----

OFFENSE CODE.....: 512 18:2251-2,2260 OBSCENE MATTR FSA INELIGIBLE
OFF/CHG: 18:2252A(A)(2)(A)&(B)(1), (A)(5)(B)&(B)(2) DIST/POSS OF CHILD
 PORN DEPICTING PREPUBESCENT MINORS UNDER AGE 12

SENTENCE PROCEDURE.....: 3559 PLRA SENTENCE
SENTENCE IMPOSED/TIME TO SERVE..: 96 MONTHS
TERM OF SUPERVISION.....: 15 YEARS
DATE OF OFFENSE.....: 09-15-2017

G0002 MORE PAGES TO FOLLOW . . .

⇒25503-052⇒

Robert Gibeault Jr.
Federal Correctional Institution
P.O. BOX 1000
Cresson, PA 16630
United States

EXHIBIT 2

MANDATE

20-1003-cr

United States of America v. Robert E. Gibeault, Jr.

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 8th day of December, two thousand twenty-one.

PRESENT: GUIDO CALABRESI,
DENNY CHIN,
WILLIAM J. NARDINI,
Circuit Judges.

UNITED STATES OF AMERICA,

Appellee,

v.

No. 20-1003-cr

ROBERT E. GIBEAULT, JR.,

Defendant-Appellant.

For Appellee:

CARINA H. SCHOENBERGER, Assistant
United States Attorney, *for* Antoinette T.
Bacon, Acting United States Attorney for
the Northern District of New York,
Syracuse, NY, *for Appellee.*

For Defendant-Appellant:

DANIEL M. PEREZ, Law Offices of Daniel
M. Perez, Newton, NJ, *for Defendant-
Appellant.*

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MANDATE ISSUED ON 01/28/2022

On appeal from the United States District Court for the Northern District of New York (Mae A. D'Agostino, J.).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the judgment of conviction and sentence entered by the district court on March 16, 2020, is **AFFIRMED**.

Defendant-Appellant Robert E. Gibeault, Jr. appeals from a judgment of conviction and sentence entered by the district court on March 16, 2020, pursuant to a conditional plea agreement between Gibeault, Jr. and the Government dated October 18, 2019. On appeal, Gibeault, Jr. challenges the district court's denial of his motion to suppress evidence and request for an evidentiary hearing pursuant to *Franks v. Delaware*, 438 U.S. 154 (1978). We assume the reader's familiarity with the underlying record.

In 2017, law enforcement officers conducted undercover investigations on the BitTorrent peer-to-peer file-sharing network in which they downloaded several files depicting child pornography from a user with the IP address 72.244.103.211 (the "IP address"). Special Agent James Hamilton ("SA Hamilton") from the United States Immigration and Customs Enforcement Office of Homeland Security Investigations ("HSI") determined that the IP address was assigned to an account registered to "Robert Gibeault" residing at 321 Old West Road, Gansevoort, New York 12831 ("321 Old West Road" or the "property"). Further investigation revealed that "Robert E. Gibeault" and "Jill A. Gibeault" lived at 321 Old West Road. SA Hamilton then surveilled the property and discovered that the home had two available wireless network connections and a single mailbox with the number 321. SA Hamilton then obtained a search warrant from a federal magistrate judge.

The search warrant identified as the places and items to be searched "the property located at 321 Old West Road, Gansevoort, NY," including "all rooms, attics, closed containers, and other places therein . . . under the control of the occupants of the residence . . . the persons of Robert GIBEAULT and Jill GIBEAULT, . . . [and] any computers, computer equipment, or computer storage media and electronic storage media located during the course of said searches." App'x at 19. The search warrant also identified as among the items to be seized and searched "records and evidence identifying who the particular user was who distributed, transmitted, downloaded or possessed any child pornography found on any computer or computer media (evidence of attribution)." *Id.* at 22.

SA Hamilton and other law enforcement officers executed the search warrant on November 2, 2017. Upon arriving at 321 Old West Road, SA Hamilton met Robert E. Gibeault, Sr., who informed him that Jill Gibeault and Gibeault, Jr. were inside the home. When SA Hamilton was unable to locate Gibeault, Jr., Gibeault, Sr. informed SA Hamilton that his son was in the sunroom at the back of the house. SA Hamilton left the home through the front door, walked to the back of the house, and walked to the sliding glass door to the sunroom. The door had a paper sign taped to it that read "321 Old West Rd. APT. 2." *Id.* at 63. SA Hamilton asked Gibeault, Jr., whom he

could see through the sunroom door, to open the door. Gibeault, Jr. did. After securing the room, SA Hamilton called the U.S. Attorney's Office in Albany, New York to confirm his belief that the sunroom fell within the scope of the search warrant. Based on what SA Hamilton observed—the sunroom shared the same roof, exterior walls, and basement as the rest of home; inside it had a toilet, sink, and minimal cooking facilities; and the door to the sunroom was labeled as “APT. 2”—an Assistant U.S. Attorney stated that the warrant covered the sunroom. SA Hamilton and other agents then searched the room. They seized, among other electronic devices, a laptop that contained approximately 390 videos and 85 images depicting child pornography.

On July 19, 2018, a federal grand jury returned an indictment charging Gibeault, Jr. with five counts of distributing child pornography, in violation of 18 U.S.C. § 2252A(a)(2)(A) and (b)(1), and one count of possessing child pornography, in violation of 18 U.S.C. § 2252A(a)(5)(B) and (b)(2). On October 19, 2018, Gibeault, Jr. moved to suppress the evidence obtained pursuant to the search warrant executed on November 2, 2017. Gibeault, Jr. argued that the search of his living quarters was not authorized by the warrant because he lived in “Apartment 2” at 321 Old West Road, which the warrant did not identify. In the alternative, Gibeault, Jr. requested that the district court conduct a *Franks* hearing to supplement the factual basis for the warrant. On November 16, 2018, the district court denied the motion to suppress, concluding that (1) the magistrate judge “had a substantial basis for his determination that probable cause existed to search the entire property at 321 Old West Road,” (2) the search warrant “satisfies the particularity requirement of the Fourth Amendment in light of the information available to SA Hamilton at the time,” and in any event, (3) the good faith exception applied. The district court also denied Gibeault, Jr.’s request for a *Franks* hearing. Thereafter, pursuant to a conditional plea agreement, Gibeault, Jr. pled guilty to one count possession and three counts distribution of child pornography, as charged in the indictment. Gibeault, Jr. was sentenced on March 13, 2020, to 96 months of imprisonment and 15 years of supervised release. This appeal followed.

“When considering a ruling on a motion to suppress evidence, we review a district court’s legal conclusions *de novo*, its findings of fact for clear error, and its decisions on mixed questions of law and fact . . . *de novo*.” *United States v. Weaver*, 9 F.4th 129, 138 (2d Cir. 2021). We also review a district court’s application of exceptions to the exclusionary rule *de novo*. See *United States v. Eldred*, 933 F.3d 110, 114 (2d Cir. 2019). And “[w]hen assessing a district court decision on a *Franks* hearing, we review legal questions *de novo* and questions of fact for clear error.” *United States v. Caraher*, 973 F.3d 57, 62 (2d Cir. 2020).

Gibeault, Jr.’s arguments rely on the contention that 321 Old West Road is a “multi-family dwelling.” Gibeault, Jr. Br. at 31. Gibeault, Jr. contends that because the search warrant does not identify the property as such, the warrant fails to (1) establish probable cause as to his unit, Apartment 2; and (2) meet the Fourth Amendment’s particularity requirement. Moreover, Gibeault, Jr. argues that the good faith exception does not apply to the officers because their conduct was not objectively reasonable. We disagree.

The Fourth Amendment protects “against unreasonable searches and seizures” and provides that warrants must be supported by “probable cause” and describe with particularity “the place to be searched, and the persons or things to be seized.” U.S. Const. amend. IV. “In evaluating probable cause in any given case, a judge must ‘make a practical, common-sense decision whether, given all the circumstances set forth in the affidavit before [the judge], . . . there is a fair probability that contraband or evidence of a crime will be found in a particular place.’” *United States v. Raymond*, 780 F.3d 105, 113 (2d Cir. 2015) (quoting *Illinois v. Gates*, 462 U.S. 213, 232 (1983)). A reviewing court generally gives “substantial deference to the finding of an issuing judicial officer that probable cause exists,” thereby limiting the Court’s “inquiry to whether the officer ‘had a substantial basis’” for the probable cause determination. *Id.* (quoting *United States v. Wagner*, 989 F.2d 69, 72 (2d Cir. 1993)).

Here, the magistrate judge had a substantial basis for finding that the search warrant affidavit provided probable cause to believe that the entire property at 321 Old West Road, including the sunroom, contained evidence of child pornography. SA Hamilton’s affidavit attested in relevant part that (1) files depicting child pornography were downloaded on multiple occasions by a user of IP address 72.224.103.211; (2) the IP address was assigned to a “Robert Gibeault” at 321 Old West Road; (3) the property had two secure wireless internet connections; and (4) the property might contain storage media predominantly used by persons not suspected of a crime because several persons could live at 321 Old West Road, meaning anyone on the premises could access the two wireless connections and be the user of the IP address.

Regardless of whether the sunroom could be considered a separate “apartment,” the search warrant satisfied the Fourth Amendment’s particularity requirement. “[T]he scope of a lawful search is ‘defined by the object of the search and the places in which there is probable cause to believe that it may be found.’” *Maryland v. Garrison*, 480 U.S. 79, 84–85 (1987) (quoting *United States v. Ross*, 456 U.S. 798, 824 (1982)). As the warrant was supported by probable cause to search the *entire* premises, and at the time of the search SA Hamilton reasonably perceived Gibeault, Jr.’s room and the rest of the property as one and the same, the execution of the warrant reasonably included the entirety of 321 Old West Road, which is “consistent with a reasonable effort to ascertain and identify the place intended to be searched within the meaning of the Fourth Amendment.” *Id.* at 79, 88–89. The objective facts available to SA Hamilton at the time he applied for a warrant from the magistrate judge suggested 321 was a single-family dwelling, with no distinction between Gibeault, Jr.’s room and the rest of the premises at 321 Old West Road. Public records listed the property address as 321 Old West Road, with no apartment numbers, and SA Hamilton’s surveillance revealed the property to have one mailbox and one driveway. *See United States v. Kyles*, 40 F.3d 519, 524 (2d Cir. 1994).

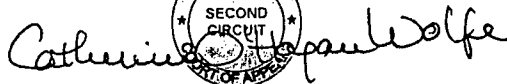
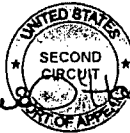
Finally, the district court correctly concluded that a *Franks* hearing was not warranted because Gibeault, Jr. failed to make a substantial preliminary showing that (1) SA Hamilton made “a false statement knowingly and intentionally, or with reckless disregard for the truth”; and (2) “the allegedly false statement is necessary to the finding of probable cause.” *Franks*, 438 U.S. at

155-56. As we outline above, SA Hamilton conducted a thorough investigation—he physically surveilled 321 Old West Road and researched records pertaining to the property—efforts that all suggested 321 Old West Road to be a single-, not multi-, family home, and gave rise to probable cause to search the *entire* property, regardless of the characterization of the sunroom.

* * *

We have considered Gibeault, Jr.'s remaining arguments and conclude that they are without merit. For the foregoing reasons, the order and judgment of the district court is **AFFIRMED**.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk of Court

A True Copy

Catherine O'Hagan Wolfe, Clerk

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United States Court of Appeals, Second Circuit




EXHIBIT 3

UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 21st day of January, two thousand twenty-two,

Before: Guido Calabresi,
Denny Chin,
William J. Nardini,
Circuit Judges.

United States of America,

Appellee,

ORDER
Docket No. 20-1003

v.

Robert E. Gibeault, Jr.,

Defendant - Appellant.

Robert E. Gibeault, Jr. having filed a petition for panel rehearing and the panel that determined the appeal having considered the request,

IT IS HEREBY ORDERED that the petition is DENIED.

For The Court:
Catherine O'Hagan Wolfe,
Clerk of Court

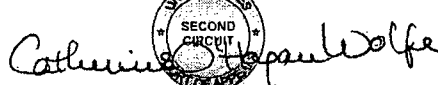
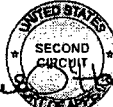



EXHIBIT 4

**UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT**

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 27th day of January, two thousand twenty-two.

Before: William J. Nardini,
Circuit Judge.

United States of America,

Appellee,

v.

Robert E. Gibeault, Jr.,

Defendant - Appellant.

ORDER

Docket No. 20-1003

Daniel M. Perez moves to be relieved as counsel for the Appellant.

IT IS HEREBY ORDERED that the motion is GRANTED.

For the Court:

Catherine O'Hagan Wolfe,
Clerk of Court



Catherine O'Hagan Wolfe

EXHIBIT 5

**Bureau of Prisons
Health Services
Clinical Encounter**

Inmate Name: GIBEAULT, ROBERT E JR
Date of Birth: 02/11/1969
Encounter Date: 03/05/2022 11:30

Sex: M Race: WHITE
Provider: Mock, Shianne NRP,

Reg #: 25503-052
Facility: LOR
Unit: S04

EMT/Para - Evaluation encounter performed at Health Services.

SUBJECTIVE:

COMPLAINT 1 Provider: Mock, Shianne NRP, Paramedic

Chief Complaint: Dizziness

Subjective: Inmate reported to pill line with c/o HA and dizziness. He stated that he developed a pressure like HA which has now settled behind the left eye with radiation down the back of his neck. He stated that he feels disoriented with motor and balance deficits.

H/O mild small vessel ischemic disease, mild brain atrophy, and left eye VF deficit

Pain: Yes

Pain Assessment

Date: 03/05/2022 11:30
Location: Head
Quality of Pain: Pressure-like
Pain Scale: 7
Intervention: ED
Trauma Date/Year:
Injury:
Mechanism:
Onset: 1-2 Days
Duration: 1-2 Days
Exacerbating Factors: constant
Relieving Factors: stated has diminished but settled behind left eye
Reason Not Done:
Comments:

Pain Assessment

Date: 03/05/2022 11:30
Location: Eye-Left
Quality of Pain: Sharp
Pain Scale: 7
Intervention: ED
Trauma Date/Year:
Injury:
Mechanism:
Onset: 12-24 hours
Duration: 12-24 Hours
Exacerbating Factors: constant
Relieving Factors: closing left eye
Reason Not Done:
Comments:

University of Pittsburgh Medical Center

Patient: GIBEAULT, ROBERT E MRN: 971389240 FIN: 0743228402064
Age: 53 years Sex: Male DOB: 2/11/1969
Associated Diagnoses: None
Author: BATZEL MD, LINNANE R

GIBEAULT
25503-052

Basic Information

Visit Information: Patient seen on 3/5/2022 8:39:00 PM.
Nursing documentation reviewed: Yes.

Chief Complaint

Chief Complaint (As documented by Nursing):
Visual disturbance, pain behind eyes.

Mode of Arrival: Ambulatory
Triage Intervention(s): Surgical mask

History of Present Illness

Patient states that about a year ago he had similar symptoms he saw an ophthalmologist who looked at his retina and his eye and said that everything was okay and sent him to the ER and he had a CAT scan. They told him that he had some atrophy but that he needed an MRI he never had the MRI done. Since that episode he has had a visual field defect which she describes as being in the 9 or 10 o'clock position and says that it is wavy in that area but he does not know if he truly cannot see in his brain fills in the vision or if it is just distorted. That has been chronic for a year. He started getting the pain again 3 days ago it is settled behind his left eye and he has gotten some problems with his vision where if he has both eyes open he gets dizzy and has blurry and double vision. He has been keeping his left eye closed for the last day and a half because of the blurry vision. No nausea vomiting weakness or numbness he is walking okay if he has 1 eye closed. Last eye exam was a year ago

Histories

Reviewed and Agree: Reviewed and agree with nursing documentation of PFSH except as otherwise noted.
Past Medical History

PMH: No positive past medical history documented per nursing.
Diabetes

Past Hospitalizations and/or Surgeries

Past Hospitalizations and/or Surgeries: No documentation per Nursing.

Social History

Social History:

Smoking: No documentation per Nursing.
Alcohol Use: No documentation per Nursing.
Substance Use: No documentation per Nursing.

Smoke: No tobacco
ETOH: None
Lives with: Incarcerated

3/14/22
K. Swindell, M.D.
Clinical Director

FCI LORETTO

Allergies

Home Medications (from 'Document Medication by Hx')

There is no Home Medication Information to display.

Review of Systems

UFMC ALTOONA
PA

*** RADIOLOGY REPORT ***

Patient Name: GIBEAULT, ROBERT E DOB: 02/11/1969
 MRN: 971389240 Gender: M Location: KED (ALF)
 Patient Phone Number: 814-472-4140
 Exam Desc: MR BRAIN WITH AND WITHOUT CONTRAST

Collection Date: 03/05/2022 18:40
 Dictated on : 03/05/2022 19:30

Attending MD: ED PHYSICIAN ALTOONA

Requesting MD: LINNANE R BATZEL

Accession #: 103155216

Visit Number: 0743228402064

Attending Interpreter: PETER KOMLOSI
 Assisting Interpreter:

*** FINAL REPORT ***

Reason for the Exam:

pt states no known trauma. pt c/o left eye pain, distortion of vision, eyes not functioning together, off balance, and disoriented, symptoms x a few days. pt states episode of same symptoms occurred approx. 1 year ago and then subsided. see mri orbit

INDICATION: Male of 53 years with a history of see mri orbit, pain behind the eyes, particularly on the left.

COMPARISON: None.

TECHNIQUE: Multiplanar multisequence MRI of the brain and orbits prior to and following the uneventful administration of 20 mL of MultiHance intravenous contrast.

FINDINGS: No restricted diffusion to suggest acute infarct. Suspected skull base flow voids are preserved. The basal cisterns are patent. Slight prominence of the ventricles, compatible with minimal brain parenchymal volume loss. Mild mucosal thickening in the left maxillary sinus. The brain parenchyma demonstrates normal signal characteristics. The region of the sella and foramen magnum is unremarkable. The marrow signal is within normal limits. No orbital masses. The globes are intact. The optic nerves, optic nerve sheath complexes, extraocular muscles appear unremarkable without abnormal enhancement. The optic chiasm, suprasellar cistern are also unremarkable. No abnormal parenchymal enhancement.

IMPRESSION:

1. No acute infarct, intracranial hemorrhage or mass effect.
2. Unremarkable orbital MRI examination.

RELEVANT CLINICAL INFORMATION: see mri orbit

Dictated by: PETER KOMLOSI

Signed by: PETER KOMLOSI

Signed on: 03/05/2022 at 7:30 PM

<<< PAGE 1 >>>

EXHIBIT 6

Robert Gibeault Jr

ROBERT L. BERGREN, M.D.
 P. WILLIAM CONRAD, M.D., PH.D.
 JARED E. KNICKELHEIN, M.D., PH.D.
 KARL R. OLSEN, M.D.
 DEEPAM RUSIA, M.D., M.B.A.
 SHRIPAD Y. SHUKLA, M.D.
 AVNI P. VYAS, M.D.

**RETINA
 VITREOUS
 CONSULTANTS**

GIBEAULT
25503-052

3/17/2022

James Repko OD
 P.O. Box 182
 Cresson, PA 16630

*Rec
 3/23/2022*

RE: Robert Gibeault Jr
 DOB: 02/11/1969

Dear Doctor Repko,

Thank you for referring Robert Gibeault Jr. As you know, he is a 53-year-old male, who presents today for an evaluation of possible iritis and possible muscle paralysis of the left eye. He had noted some blurry and double vision, as well as headache and dizziness on March 5, 2022. At that time, he was seen in the emergency department where he had an MRI with and without contrast of the brain and orbits, which was negative for any acute findings.

His medical history includes Type 2 diabetes, unspecified disorder of his brain, hyperlipidemia, hypertension, dental disease, enlarged prostate, bronchitis, and apparently some type of mycoplasma infection of an unspecified site.

Visual Acuity:

Va RE		Distance				Near		
Dva cc	mod	Dva sc	mod	Dva ph	mod	PAM	Nva cc	mod
20/50	-1			20/25	-1			

Va LE		Distance				Near		
Dva cc	mod	Dva sc	mod	Dva ph	mod	PAM	Nva cc	mod
20/50	-1			NI				

Intraocular Pressure

DATE	TIME	METHOD	RE	LE
03/17/2022	10:28 AM	Tonopen	12	15

Slit Lamp Examination:

Conjunctiva:

RE white and quiet
 LE white and quiet

Cornea:

RE normal endothelium, epithelium, stroma and tear film
 LE normal endothelium, epithelium, stroma and tear film

[Signature]
 K. Swindell, M.D. 3/24/22
 Clinical Director

Robert Gibeault Jr

Iris:

RE iris normal
LE iris normal

Anterior Chamber:

RE anterior chamber is deep and quiet
LE anterior chamber is deep and quiet

Lens:

RE nuclear sclerosis 1+
LE nuclear sclerosis 1+

Fundus Exam:**Vitreous:**

RE vitreous clear
LE vitreous clear

Optic Nerve:

RE flat, sharp, good color
LE flat, sharp, good color

CD Ratio:

RE cup to disc ratio .3
Horizontal: .3
Vertical: .3
LE cup to disc ratio .4
Horizontal: .4
Vertical: .4

Macula:

RE normal
DM, no DR
LE drusen

Retinal Vessels:

RE mild tortuosity
LE normal vessels

Periphery:

RE flat x 360 degrees, no RD, no holes
LE flat x 360 degrees, no RD, no holes

OCT:

RE: Shows an attached posterior hyaloid face with a few drusen. There is no CME or subretinal fluid.
LE: Shows an attached posterior hyaloid face. There are nasal drusen. There is no CME or subretinal fluid.

Comment:

Mr. Gibeault has developed a pupil sparing cranial nerve three palsy on the left eye. I did not personally examine his pupils, but I discussed this with our technician, who dilated him, and I also reviewed your clinic notes. In both cases, the pupils were felt to be normal and APD was evident. The cause of his cranial nerve three palsy is unclear. The most candidate for the diagnosis in my opinion is a microvascular third nerve palsy. If this is the case, then no intervention is needed, and he should just simply be monitored. Over time, I discussed that this can spontaneously improve and if not, he may need strabismus surgery.

Robert Gibeault Jr

Another possible cause on the differential includes giant cell arteritis. This is an uncommon cause of diplopia but certainly can cause his symptoms. What is concerning about his case is that he has temporal tenderness on the left side and headache. This increases the concern for giant cell arteritis. He has not had an ESR, or a CRP done as part of his workup so far, as far as the records go that I have available here, and therefore I recommended that he go to the hospital for ESR and CRP testing. If these are normal, then I would consider giant cell arteritis to be unlikely, and I would probably not recommend any treatment or further diagnostic workup for him. If, however, these are concerning or if his symptoms evolve and become more concerning, then perhaps a temporal artery biopsy and steroids could be considered.

Another possible cause on the differential is a cranial microaneurysm causing compression of the cranial nerve. Certainly, this can present with headache as well, but his headache in the setting of this would most likely be due to a subarachnoid hemorrhage. He had an MRI with contrast that did not show any hemorrhage. So, I think that this is unlikely. Additionally, his pupil is not involved, and pupil involvement is more common in these cases. However, since we are sending him to the emergency department anyway, I recommended they do an evaluation with an angiogram. A CTA and MRA would likely be appropriate in this case. Either one of those to rule out a microaneurysm.

Another possible etiology is myasthenia gravis. He has a history of having some kind of diplopia about a year ago, and he mentions that his left eye was actually turned inwards during that case. It sounds like he had a sixth nerve palsy at that time. Certainly, this increases the concern for myasthenia. However, he has not really had any fluctuations of his diplopia over the last week, and myasthenia whether ocular or myasthenia gravis typically would be considered to be more of a fluctuating issue, but that is certainly on the differential.

He was recently started on topical steroids for possible uveitis for the left eye. I do not see any inflammation today. That could be because his inflammation is being suppressed by the topical steroids, or maybe he does not have uveitis. I recommended that he continue his rapid steroid taper, as you had recommended.

He has a history of diabetes. Fortunately, there are no signs of diabetic retinopathy. His retina looks completely normal. I recommended that he follow up here as needed. I recommended that he see a comprehensive ophthalmologist in about a week to follow up on his third nerve palsy.

Thank you for the opportunity to participate in his care.

ADDENDUM:

I spoke to an emergency department physician, Dr. Diehl, at Conemaugh Emergency Department. I informed him of my findings here today in the office, and my recommendations.

Sincerely,

Deepam Rusia, M.D., M.B.A.

Gibeault, Robert
MRN: 3667246, DOB: 2/11/1969, Sex: M
Adm: 3/17/2022, D/C: 3/17/2022

AFTER VISIT SUMMARY



Robert Gibeault MRN: 3667246 3/17/2022 Memorial Medical Center Emergency Department 814 534-9000

Instructions

Thank you for visiting the emergency department. We encourage you to follow-up with your retinal specialist and neurologist. We would also like you to follow-up with your PCP. We recommend applying artificial eyedrops into your left eye to prevent corneal abrasion. You should return back to the emergency department with any new or concerning symptoms.



View the attached information:
Visual Disturbances (English)



Call Memorial Medical Center Emergency Department in 2 days (around 3/19/2022)
Specialty: Emergency Medicine
Contact: 1086 Franklin Street
Johnstown Pennsylvania 15905
814-534-9000

What's Next

You currently have no upcoming appointments scheduled.

Your Medication List

You have not been prescribed any medications.

Conemaugh MyChart Sign-Up

Send messages to your doctor, view your test results, renew your prescriptions, schedule appointments, and more.

Go to <https://mychart.conemaugh.org/mychart-2017-portal>, click "Sign Up Now", and enter your personal activation code: 5N47W-S7HC6-88FR. Activation code expires 4/16/2022.

Today's Visit

You were seen by Cory Gray, DO

Reason for Visit
Eye Problem

Diagnoses

- Drooping eyelid
- Third nerve palsy of left eye

Lab Tests Completed

- BASIC METABOLIC PANEL
- C-Reactive Protein (Inflammatory)
- CBC with Auto Differential reflex to Manual Differential, if abnormal
- SEDIMENTATION RATE, AUTOMATED

Imaging Tests

- CTA head including image post processing
- CTA neck including image post processing

Medications Given

- iopamidol (Isovue-370) Last given at 2:38 PM
- sodium chloride Last given at 2:39 PM



Blood Pressure
133/59



Temperature (Oral)
97.1 °F



Pulse
68



Respiration
16



Oxygen Saturation
98%

CONEMAUGH MEMORIAL
MEDICAL CENTER (MAIN
CAMPUS)
1086 Franklin Street
Johnstown PA 15905

Gibeault, Robert
MRN: 3667246, DOB: 2/11/1969, Sex: M
Adm: 3/17/2022, D/C: 3/17/2022

Gibeault, Robert
MRN: 3667246, DOB: 2/11/1969, Sex: M
Adm: 3/17/2022, DIC: 3/17/2022

ED Triage Notes by Raquel George, RN at 03/17/22 1158

Author: Raquel George, RN	Service: —	Author Type: Registered Nurse
Filed: 03/17/22 1159	Date of Service: 03/17/22 1158	Status: Signed
Editor: Raquel George, RN (Registered Nurse)		

pt stated 2 weeks ago eye lid became weak and closed - denies trauma - seen at Rusia MD today sent to ER^[RG 1]

Electronically signed by Raquel George, RN at 03/17/22 1159
Attribution Key

RG.1 - Raquel George, RN on 03/17/22 1158

ED Provider Notes by Mackenzie M Magley, DO at 03/17/22 1240

Author: Mackenzie M Magley, DO	Service: Emergency Medicine	Author Type: Resident
Filed: 03/17/22 1629	Date of Service: 03/17/22 1240	Status: Cosign Needed
Editor: Mackenzie M Magley, DO (Resident)		
Cosigner: Cory Gray, DO		

Chief Complaint

Patient presents with:
• Eye Problem^[MM 1]

History of Present Illness:^[MM 2] Robert Gibeault^[MM 1] is a^[MM 2] 53 y.o. male^[MM 1] with a past medical history of type 2 diabetes who presents to the emergency department today from the retinal specialist office with a chief complaint of a left eyelid ptosis with a left cranial 3 eyelid palsy. According to the patient, he is a current inmate at the prison. Patient states that he has a prior history of Lyme's disease with ptosis that he developed over a year ago. Patient states that his symptoms had resolved and reemerged roughly around 2 weeks ago. Patient states that he went to UPMC Altoona for his initial evaluation. They performed a CT scan and MRI of his head. Patient states that he was at the retinal specialist office today and was transferred here to get a CTA of his head and neck as well as blood work to rule out a dissection. The retinal specialist was concerned about temporal arteritis. Patient reports no trauma or falls. He reports pain on the muscle above his eye. He reports some double vision as well as blurred vision. Patient states that they did dilate his eyes. He does not wear glasses at baseline. Patient reports no recent rashes as well as any sore throat, rhinorrhea, or ear pain. He also reports no recent illnesses including any fevers, chills, cough, chest pain, shortness of breath, abdominal pain, nausea, vomiting or diarrhea. There are no other associated symptoms or modifying factors noted.

PAST MEDICAL HISTORY: Patient has past medical history of type II diabetes.^[MM 2]

History reviewed. No pertinent surgical history.

Allergies

Allergies	Reactions
• Lisinopril	Unknown

Home Medications

None

History reviewed. No pertinent family history.^[MM 1]

Generated on 3/18/22 8:07 AM

Gibeault, Robert
MRN: 3667246, DOB: 2/11/1969, Sex: M
Adm: 3/17/2022, DIC: 3/17/2022

ED Provider Notes by Mackenzie M Magley, DO at 03/17/22 1240 (continued)

Platelets	250
MPV	
Neutrophils %	72.0 (*)
Lymphocytes %	20.2
Monocytes %	6.5
Eosinophils %	0.8
Basophils %	0.3
Immature Granulocytes %	0.2
Absolute Neutrophils	7.2
Lymphocytes Absolute	2.0
Monocytes Absolute	0.7
Eosinophils Absolute	0.1
Basophils Absolute	0.0
Immature Granulocyte Absolute	0.0
BASIC METABOLIC PANEL - Abnormal	
Sodium	138
Potassium	4.7
Chloride	104
CO2	26
Anion Gap	8
Calcium	9.50
BUN	13
Creatinine	0.90
eGFR	102
Glucose, Fasting	203 (*)
SEDIMENTATION RATE, AUTOMATED - Normal	
Sed Rate	1
C-REACTIVE PROTEIN (INFLAMMATORY) - Normal	
CRP	<0.4

CTA head including image post processing
Final Result

FINDINGS AND IMPRESSION:

1. The intracranial internal carotid arteries, anterior cerebral arteries, middle cerebral arteries, posterior cerebral arteries and basilar artery are all patent and well-opacified with contrast without evidence of occlusion or hemodynamically significant stenosis.
2. No definite Intracerebral aneurysm or vascular malformation is detected.

TIME OF DICTATION: 3/17/2022 3:18 PM

CTA neck including image post processing
Final Result

FINDINGS AND IMPRESSION:

1. The common carotid arteries, extracranial internal carotid arteries, external carotid arteries and vertebral arteries are all patent and well-opacified with contrast

Gibeault, Robert
MRN: 3667246, DOB: 2/11/1969, Sex: M
Adm: 3/17/2022, DIC: 3/17/2022

ED Provider Notes by Mackenzie M Magley, DO at 03/17/22 1240 (continued)

without evidence of occlusion, hemodynamically significant stenosis, dissection, pseudoaneurysm, spasm or fibromuscular dysplasia.
TIME OF DICTATION: 3/17/2022 3:28 PM

CTA head including image post processing

Result Date: 3/17/2022

CTA HEAD CT angiography of the major intracranial arteries was performed WITH intravenous contrast administration. 3-D images of the major intracranial arteries were reconstructed and reviewed. INDICATION: Diplopia cranial nerve III palsy. 2 weeks ago, pain to left eye, cant control where eye sees, same episode one year ago. The patient had 0 prior CT and/or cardiac nuclear medicine examinations in the past 12 months within the Conemaugh Health System.

FINDINGS AND IMPRESSION: 1. The intracranial internal carotid arteries, anterior cerebral arteries, middle cerebral arteries, posterior cerebral arteries and basilar artery are all patent and well-opacified with contrast without evidence of occlusion or hemodynamically significant stenosis. 2. No definite intracerebral aneurysm or vascular malformation is detected. TIME OF DICTATION: 3/17/2022 3:18 PM

CTA neck including image post processing

Result Date: 3/17/2022

CT ANGIOGRAPHY OF THE NECK. CT angiography of the major arteries of the neck was performed WITH the administration of intravenous contrast. 3-D images of the major arteries of the neck were reconstructed and reviewed. INDICATION: Other - Specify in Free Text Field Ptosis was cranial nerve III palsy. 2 weeks ago, pain to left eye, cant control where eye sees, same episode one year ago. The patient had 0 prior CT and/or cardiac nuclear medicine examinations in the past 12 months within the Conemaugh Health System.

FINDINGS AND IMPRESSION: 1. The common carotid arteries, extracranial internal carotid arteries, external carotid arteries and vertebral arteries are all patent and well-opacified with contrast without evidence of occlusion, hemodynamically significant stenosis, dissection, pseudoaneurysm, spasm or fibromuscular dysplasia. TIME OF DICTATION: 3/17/2022 3:28 PM

No orders to display^[MM 1]

ED COURSE:^[MM 2]

Vitals:

	03/17/22 1159	03/17/22 1200	03/17/22 1235	02/17/22 1633
BP:		131/79	121/71	(!) 133/59
Pulse:		63	(!) 59	68
Temp:		36.7 °C (98 °F)	36.2 °C (97.1 °F)	
Resp:		18	16	16
Height:	5' 9" (1.753 m)			
Weight:	258 lb (117 kg)			
SpO2:		96%	96%	98%
TempSrc:		Oral	Oral	
Pain Score:	4 - Moderate pain			0 - No pain

Gibeault, Robert
MRN: 3667246, DOB: 2/11/1969, Sex: M
Adm: 3/17/2022, D/C: 3/17/2022

ED Provider Notes by Mackenzie M Magley, DO at 03/17/22 1240 (continued)

Medications:
sodium chloride flush 2.5 ml. (has no administration in time range)
iopamidol. (Isovue-370) 76 % injection 125 ml. (75 ml. intravenous Given 3/17/22 1438)
sodium chloride flush 10 ml. (10 ml. intravenous Given 3/17/22 1438)(MM 1)

In summary,^(MM 2) Robert Gibeault^(MM 1) is a^(MM 2) 53 y.o. male^(MM 1) who presented to the emergency department today for the above chief complaint. On arrival to the emergency department, the patient was noted to be afebrile with all other vitals grossly within acceptable limits. Patient was initially seen and assessed by both myself as well as my attending physician, Dr. Gray. Patient was noted to have left eyelid ptosis with a left cranial nerve III palsy. The remainder of his exam is otherwise unremarkable. He denies any other neurological findings noted. Patient was seen at the retinal specialist today. Dr. Rusia had called down to the ED and was requesting an ESR as well as a CRP in addition to a CTA of the head and neck. He had reported that the patient was seen at UPMC over a week ago and had a negative CT scan of his head and MRI. He was concerned about left sided temporal arteritis, however, he could not rule out a aneurysm or dissection. Patient had reported a prior history of Lyme's disease and had similar symptoms over a year ago. Given his concern, we did order labs as well as a CTA of his head and neck. Patient's labs were essentially unremarkable. He had no leukocytosis. His sed rate was noted to be 1 and his CRP was undetectable. Patient's glucose was noted to be 203.^(MM 3) We did perform a chart review and noted that the patient had a CT scan as well as an MRI of his head at UPMC Altoona on 3/1/2022. Patient's CTA of his head and cervical spine. Patient CTAs showed no evidence of any intracerebral aneurysm or vascular malformation. Patient's carotid, external carotid arteries, and vertebral arteries were both patent. There was no sign of any dissection, spasm or fibromuscular dysplasia. At this time, we do not have an explanation for the patient's cranial nerve III palsy. Patient has had this for approximately 16 days in duration. He did feel that he may benefit from an outpatient neurology consultation as well as reevaluation by the ophthalmologist. We did recommend putting Akwa Tears into his eye to prevent corneal abrasion. Patient was instructed to follow-up with the physician at the prison. They were instructed to return back to the emergency department with any new or concerning symptoms. Patient and the prison guards verbalized understanding and agreement with this plan. Patient was discharged home in stable condition.^(MM 4)

DIAGNOSTIC IMPRESSION:^(MM 2)

- 1. Ptosis of left eyelid
- 2. Cranial nerve III palsy, left^(MM 1)

DISPOSITION:^(MM 2) Discharge

ED Prescriptions
None^(MM 1)

MDM
Number of Diagnoses or Management Options

Amount and/or Complexity of Data Reviewed

Robert Gibault Jr

ROBERT L. BERGREN, M.D.
 P. WILLIAM CONRAD, M.D., PH.D.
 JARED E. KNICKELBEIN, M.D., PH.D.
 KARI R. OLSEN, M.D.
 DEEPAK RUSIA, M.D., M.B.A.
 SRIPPAAD Y. SHUKLA, M.D.
 ANVI P. VYAS, M.D.

**RETINA
 VITREOUS
 CONSULTANTS**

GIBBAULT
25503-02

3/25/2022

James Repko OD
 P.O. Box 182
 Cresson, PA 16630

FCI LORETTO

3/26/22
 K. Swindell, M.D.
 Clinical Director

RE: Robert Gibault Jr
 DOB: 02/11/1969

Dear Doctor Repko,

I am writing to update you on Robert Gibault Jr. He is a 53-year-old male with a history of third nerve palsy in the left eye. The cause of this is unclear. This is a pupil-sparing cranial nerve 3 palsy. He had ESR and CRP drawn at the hospital which was normal. He also had a CT angiogram which also did not show any aneurysm. His primary care doctor was concerned about giant cell arteritis given his temporal facial pain, as well as development of a lower left side facial droop that occurred after his visit with us here last time. He has been started on prednisone and there is a plan for a temporal artery biopsy. Today the patient feels his symptoms have not really improved compared to his last visit.

Visual Acuity:

Va RE							Distance		Near	
Dva cc	mod	Dva sc	mod	Dva ph	mod	PAM	Nva cc	mod		
		20/50	12	20/32						

Va LE							Distance		Near	
Dva cc	mod	Dva sc	mod	Dva ph	mod	PAM	Nva cc	mod		
		20/63	+2	20/40	-2					

Intraocular Pressure

DATE	TIME	METHOD	RE	LE
03/25/2022	12:55 PM	Tonopen	15	20

Slit Lamp Examination:

Conjunctiva:

RE white and quiet
 LE white and quiet

Cornea:

RE normal endothelium, epithelium, stroma and tear film
 LE normal endothelium, epithelium, stroma and tear film

EXHIBIT 7

Inmate

2026

Jan 2

Reg#: 25503-052

GIBEAULT, ROBERT E JR

Details

Activity: Optometry Exam

Sched. Provider: Optometrist

Priority: Normal

Frequency: One Time

Scheduled Date: 02/23/2021

End Date:

M T W T F S S

Time(s): 0000

Status: Completed

Actual Provider: Eppley, Donald HIT

Completed Date: 03/22/2021 Time: 0730

Comments: 52 yo IDDM with Hyperlipidemia.

During 2018 Pt report he received a CT of the Head due to a h/o loss of VF of the Left Eye which occur on a sudden basis. Pt reports that the CT of the Head revealed "Mild Small Vessel Ischemic Disease" and "Mild Brain Atrophy" per

Scheduled By: Golden, Robin PA-C

Last Entered By: Eppley, Donald HIT

Last Updated Dt: 03/22/2021 15:34:29 EST

Orig. Entered Dt: 02/23/2021 8:20:19 EST

Entry Error

Apply

Save

Cancel

Close

EXHIBIT 8

Inmate Name: GIBEAULT, ROBERT E JR
Date of Birth: 02/11/1969
Encounter Date: 03/21/2022 11:35

Sex: M Race: WHITE
Provider: Swindell, Kim MD/CD

Reg #: 25503-052
Facility: LOR
Unit: S04

Offsite Appt

Reason for Request:

Neurology: CN3 palsy; suspected giant cell arteritis; CT and MRI imaging without evidence of acute infarct, stroke, intracranial hemorrhage, intracranial aneurysm. PLEASE send along DISC copies and reports of recent MRI study (UPMC Altoona), and CT and MRI imaging done at Conemaugh

Other:

- 1) Suspected temporal arteritis; it is noted that ESR and CRP obtained at most recent ED visit were normal; inflammatory markers are expected to be elevated in the setting of vasculitis; pt has followup in place with ophthalmologist; a referral request for vascular surgery for consideration of temporal artery biopsy was submitted; a neurology evaluation may also be helpful.
- 2) Pt was provided with an eye patch

Patient Education Topics:

<u>Date Initiated</u>	<u>Format</u>	<u>Handout/Topic</u>	<u>Provider</u>	<u>Outcome</u>
03/21/2022	Counseling	Plan of Care	Swindell, Kim	Verbalizes Understanding

Copay Required: No

Cosign Required: No

Telephone/Verbal Order: No

Completed by Swindell, Kim MD/CD on 03/21/2022 11:47

Requested to be reviewed by Golden, Robin PA-C.

Review documentation will be displayed on the following page.

Inmate Name: GIBEAULT, ROBERT E JR
Date of Birth: 02/11/1969
Encounter Date: 04/01/2022 14:00

Sex: M Race: WHITE
Provider: Swindell, Kim MD/CD

Reg #: 25503-052
Facility: LOR
Unit: S04

Chronic Care Clinics-Cardiac-Comprehensive
Metabolic Profile (CMP)

Lab Tests-A-Acetylcholine Receptor Binding Antibody One Time 04/05/2022 00:00 Routine

Lab Tests-P-Protein Electrophoresis Urine 24 Hr
reflex to IFE

Chronic Care Clinics-Diabetic-Hemoglobin A1C One Time 09/05/2022 00:00 Routine
Chronic Care Clinics-Diabetic-Hemoglobin A1C One Time 06/14/2022 00:00 Routine

Schedule:

<u>Activity</u>	<u>Date Scheduled</u>	<u>Scheduled Provider</u>
Chart_Review	09/18/2022 00:00	Physician
Chronic Care Visit	03/06/2023 00:00	Physician

Other:

- 1) BP above goal and microalbuminuria in setting of non-compliance with prescribed ARB
- 2) HA1c improved somewhat, but remains above goal; recheck in 3mo
- 3) Pt with L CN3 palsy without evidence of stroke, hemorrhage, or aneurysm on neuroimaging; temporal arteritis suspected given clinical findings (with exception of elevated inflammatory markers), therefore prednisone was initiated; will extend prednisone course, as ordered; in the absence of temporal artery biopsy, cannot definitively diagnose temporal arteritis; microvascular ischemia is possible, given diabetes and HTN; myasthenia gravis is considered, therefore neurology evaluation requested
- 4) CN palsy has been described in the setting of Waldenstrom macroglobulinemia; urine PE and IF, as ordered

Patient Education Topics:

<u>Date Initiated</u>	<u>Format</u>	<u>Handout/Topic</u>	<u>Provider</u>	<u>Outcome</u>
04/04/2022	Counseling	Plan of Care	Swindell, Kim	Verbalizes Understanding
04/04/2022	Counseling	Diabetes Counseling	Swindell, Kim	Verbalizes Understanding

Copay Required: No

Cosign Required: No

Telephone/Verbal Order: No

Completed by Swindell, Kim MD/CD on 04/04/2022 11:52

Requested to be reviewed by Golden, Robin PA-C.

Review documentation will be displayed on the following page.