APP. B

United States Court of Appeals for the Fifth Circuit

No. 23-50629
Summary Calendar

United States Court of Appeals
Fifth Circuit
FILED
May 7, 2024
Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

MIKE GARCIA,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5:08-CR-47-20

Before KING, HAYNES, and GRAVES, *Circuit Judges*.

PER CURIAM:*

Mike Garcia, federal prisoner # 11689-280, appeals the denial of his motion for compassionate release. *See* 18 U.S.C. § 3582(c)(1)(A). Garcia argued that he warranted a reduced sentence in light of his medical conditions and psychological trauma, but the district court determined that granting Garcia relief would not adequately reflect the seriousness of his

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

offense, promote respect for the law, provide just punishment for the offense, adequately deter criminal conduct, or protect the public from future crimes. *See* 18 U.S.C. § 3553(a)(2)(A)-(C). The district court also determined that an early release was not necessary to provide Garcia with needed medical care. *See* § 3553(a)(2)(D).

Section 3582(c)(1)(A) permits a district court to reduce or modify a term of imprisonment, probation, or supervised release if "extraordinary and compelling reasons warrant such a reduction." § 3582(c)(1)(A)(i). Even if a prisoner offers extraordinary and compelling circumstances warranting a sentence reduction, he still "must convince the district judge to exercise discretion to grant the motion after considering the § 3553(a) factors." *United States v. Shkambi*, 993 F.3d 388, 392 (5th Cir. 2021).

Garcia fails to show that the district court abused its discretion by denying compassionate release. *See United States v. Chambliss*, 948 F.3d 691, 693 (5th Cir. 2020). He fails to address in any cogent manner the district court's consideration of the § 3553(a) factors or argue that consideration thereof would support his claim for compassionate relief and has therefore waived any argument that the court erred in that dispositive determination. *See United States v. Reagan*, 596 F.3d 251, 254 (5th Cir. 2010). Even pro se appellants must still brief the relevant issues. *See Grant v. Cuellar*, 59 F.3d 523, 524 (5th Cir. 1995). To the extent Garcia attempts to make a § 3553(a) argument for the first time in his reply brief, we decline to consider it. *See United States v. Aguirre-Villa*, 460 F.3d 681, 683 n.2 (5th Cir. 2006). And even were we to do so, Garcia still fails to show an abuse of discretion warranting relief on appeal because he addresses, at most, only one of the several § 3553(a) factors on which the district court relied in denying relief.

The judgment is AFFIRMED.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

UNITED STATES OF AMERICA

V.

MIKE GARCIA #11689-280

No. SA-08-CR-047(20)-OLG

ORDER

Upon the second motion of the defendant for a reduction in sentence pursuant to 18 U.S.C. § 3582(c)(1)(A), and after considering the applicable factors set forth in 18 U.S.C. § 3553(a), the motion is denied after complete review of the motion on the merits. Even if Defendant demonstrated compelling or extraordinary reasons for a sentence reduction in this case, the § 3553(a) factors do not support an early release.

Defendant, an alleged officer in the Texas Mexican Mafia, was convicted of conspiracy to conduct or participate in the affairs of an enterprise through a pattern of racketeering. At his and his co-defendants' trial, evidence of 26 murders and attempted murders was introduced. Defendant was a participant in three of the murders and distributed over 30 kilograms of heroin and 150 kilograms of cocaine. Based on his conduct and criminal history, his Guidelines range was calculated at life. After considering the sentencing factors in 18 U.S.C. § 3553(a), the Court sentenced Defendant to life. Despite Defendant's serious medical conditions, his medical records reflect he is receiving extensive medical care in the BOP.

Releasing the defendant would not adequately reflect the seriousness of his offense, promote respect for the law, provide just punishment for the offense, adequately deter criminal conduct, or protect the public from further crimes. No sentence reduction is necessary to provide Defendant with needed medical care. *See* 18 U.S.C. § 3553(a).

IT IS THEREFORE ORDERED that the Motion for a Reduction in Sentence, filed by Defendant Mike Garcia on May 23, 2023, is DENIED.

IT IS SO ORDERED.

6.17.23

DATE

UNITED STATES DISTRICT JUDGE

APP. D

8.2 FAMILY AND EMPLOYEE ASSISTANCE TEAM (FEAT) (CRITICAL INCIDENT RESPONSE TEAMS)

Among the newer components of the Bureau's Employee Assistance Program is the development of the Family and Employee Assistance Team (FEAT). This team, consisting of a psychologist, a chaplain, and support staff, is tasked with providing assistance to employees who have been involved in traumatic events such as assaults, hostage situations, staff death/suicide, natural disasters, or other emergency situations which may have an adverse psychological impact.

Through this program, crisis counseling, psychological and spiritual care, and support services are offered to Bureau employees who have been involved in a traumatic event and, when appropriate, to family members who have been negatively impacted by this event. Staff members who have witnessed traumatic events or who have assisted in the management of traumatic events may also avail themselves to post incident, employee assistance services.

Research has shown that being the victim of a traumatic event can lead to the development of disturbing psychological and physiological symptoms. When victims receive early support and therapeutic intervention, these symptoms can often be moderated. When no services are received, victims may develop symptoms of **post-traumatic** stress disorder.

Specialized training in critical incident counseling is periodically offered to interested psychologists, chaplains, and support staff through the MSTC.

pro

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF TEXAS

SAN ANTONIO, DIVISION

UNITED STATES OF AMERICA, PLAINTIFF	CASE NO.: SA 08-CR-47 OLG
V.	THE HONORABLE JUDGE
MIKE GARCIA DEFENDANT	ORLANDO L. GARCIA, PRESIDING

PETITION FOR A REDUCTION IN SENTENCE

JURISDICTION

JURISDICTION OF THE COURT IS FOUND PURSUANT TO 18 USC 3582.

ADMINISTRATIVE REMEDY

THE FIRST STEP ACT (2018) REVISED PERTINENT PORTIONS OF 18 USC 3582. PRIOR TO FSA THE BUREAU OF PRISONS BOP HAD SOLE AUTHORITY TO FIND A PRISONER ELIGIBLE OR INELIGIBLE FOR COMPASSIONATE RELEASE. THE FSA MODIFICATION DID NOT HAVE THE BOP MAKE THE DECISION, CONGRESS ALTERED 3582 TO PROVIDE AN

AVENUE, STATUTORILY, TO BE HEARD BY THE DISTRICT COURT,

"[W]HEN SEEKING COMPASSIONATE RELEASE IN THE DISTRICT COURT, A DEFENDANT MUST FIRST FILE AN ADMINISTRATIVE REQUEST WITH THE BUREAU OF PRISONS AND THEN EITHER EXHAUST ADMINISTRATIVE APPEALS OR WAIT THE PASSAGE OF THIRTY DAYS FROM THE DEFENDANT'S UNANSWERED REQUEST TO THE WARDEN FOR RELIEF." UNITED STATES V. SAMIN ABDEL RAHMAN, 2022 US DIST. LEXIS 137281 AT 4 (MD. FL. AUG. 2, 2022)(11TH CIR.).

THE PETITIONER HAS FULLY COMPLIED

ON MARCH 31, 2020, THE PETITIONER SUBMITTED A REQUEST FOR COMPASSIONATE RELEASE TO THEN WARDEN, M.D. SMITH. THE WARDEN'S RESPONSE WAS A FAVORABLE ANSWER. WARDEN SMITH ADVISED THE PETITIONER THAT HIS DECISION WOULD BE FORWARDED TO THE OFFICE OF THE THE GENERAL COUNSEL (EX. 1).

WARDEN SMITH SAID, IN PART:

"AFTER A CAREFUL REVIEW OF YOUR REQUEST, INCLUDING FACTORS LISTED IN SECTION 7 OF THE PROGRAM STATEMENT, IT HAS BEEN DETERMINED THAT YOUR REQUEST WARRANTS FURTHER CONSIDERATION." (EX. 1)(EX. 2)

THE WARDEN'S RESPONSE (EX.1), TELLS THE READER OF THE LETTER THAT THE PETITIONER MEETS THE REQUIREMENTS OF POLICY STATEMENT 5050.50, SECTIONS 7 AND 8 (EX.1)(EX.2).

NO FURTHER WORD WAS FORTHCOMING. ON MAY 4, 2022, COUNSELOR MR. WILLIAMS, ADVISED THE PETITIONER OF AN ADMINISTRATIVE DELAY (EX.3). MR. WILLIAMS FOLLOWED-UP ON DECEMBER 16, 2022. BY EXPLAINING THAT THE PETITIONER'S REQUEST FOR ADMINISTRATIVE REMEDY "APPEARS TO BE LOST." (EX.4). PETITIONER WAS GIVEN A NEW FORM AND WAS INSTRUCTED TO RESUBMIT THE REQUEST. (EX. GRV. 9).

A NEWLY ASSIGNED WARDEN, E. WILLIAMS, SENT A RESPONSE TO THE PETITIONER IN WHICH HE TOLD THE PETITIONER THAT THE GENERAL COUNSEL DENIED HIS ADMINISTRATIVE PLEA ON APRIL 30, 2020, CONTRADICTING THE TWO NOTIFICATIONS THAT HAD ADVISED PETITIONER FIRST OF AN ADMINISTRATIVE DELAY (EX.3) AND SECONDLY THAT THE ADMINISTRATIVE REQUEST HAD BEEN LOST, (EX.4).

WARDEN E. WILLIAMS SENT HIS LETTER ON JANUARY 23, 2023, (EX.6); HOWEVER, THE PETITIONER HAS NOT RECEIVED A COPY OF THE DENIAL FROM GENERAL COUNSEL OR FROM THE WARDEN. HE HAS NOT BEEN TOLD THE REASONS FOR WHICH THE PETITIONER WAS DENIED RELIEF HE REQUESTED.

THE FACT THAT THE OFFICE OF GENERAL COUNSEL FOUND THE "LOST" REQUEST BUT DID NOT SEND THE DENIAL TO THE PETITIONER

IS CONFUSING. RESPECTFULLY, THE PETITIONER REMINDS THE COURT THAT, COUNSELOR WILLIAMS ADVISED HIM THAT THE ADMINISTRATIVE REMEDY WAS LOST, AND, FURTHER, TO RESUBMIT. THE PETITIONER FOLLOWED MR. WILLIAMS' INSTRUCTIONS. THE DATE WAS APRIL 14, 2022. (EX. 5)(EX. 4). ON JANUARY 23, 2023, WARDEN WILLIAMS NOTIFIED PETITIONER THAT THE GENERAL COUNSEL HAD DENIED HIS ORIGINAL REQUEST. THE DATE OF THE DENIAL WAS APRIL 30, 2020. SO MUCH FOR DUE PROCESS. (EX. 6). THE WARDEN SAID THE DECISION COULD NOT BE APPEALED.

WARDEN SMITH SAID IN EXHIBIT 1:

"IF YOUR REQUEST IS DENIED BY THE OFFICE OF GENERAL COUNSELOR OR THE DIRECTOR OF THE PRISONS YOU WILL BE PROVIDED WRITTEN NOTIFICATION AND A STATEMENT OF REASONS FOR THE DENIAL."

THREE YEARS HAVE PASSED AND SUCH WRITTEN NOTIFICATIONS AND REASONS FOR THE DENIAL HAVE NOT BEEN SENT TO PETITIONER.

"WE THINK ACCARDI STANDS FOR THE UNREMARKABLE PROPOSITION THAT AN AGENCY MUST ABIDE BY ITS OWN REGULATIONS. SEE SERVICE V. DULLES, 354 U.S. 363, 372, 77 S. CT. 1152, 1157, 1 L.Ed 2d 1403 (1957)." CHEVRON OIL CO. V. ANDRUS, 588 F. 2d 1383, 1386 (5TH AND 11TH CIR. 1979). [ACCARDI V. SHAUGHNESSY, 347 U.S. 260, 74 S. CT. 499, 98 L. Ed 681 (1954)].

ALL ADMINISTRATIVE REMEDIES HAVE BEEN EXHAUSTED. (EX. 6 & 9)

BACKGROUND

THE PETITIONER WAS ARRESTED ON FEBRUARY 2, 2008. AT THAT TIME HE HAD TWO HEALTHY LEGS AND HE WALKED NORMALLY. HOWEVER, HE WAS THEN, AND HE IS NOW, DIABETIC.* EARLY ON HE REQUIRED 4-15 UNIT SHOTS OF INSULIN DAILY. PRESENTLY HE RECEIVES 4 INJECTIONS OF INSULIN DAILY, WHICH MAY RANGE UP TO 45 UNITS OF INSULIN. BUT THE AMOUNT OF EACH DOSE IS DETERMINED BY HIS BLOOD GLUCOSE LEVEL AT THE MOMENT.

THOSE WHO ARE DIAGNOSED WITH DIABETES SOON LEARN THE IMPORTANCE OF CHECKING THE CONDITION OF ONE'S FEET EACH DAY. THUS, WHEN THE PETITIONER DISCOVERED A SMALL LESION ON HIS RIGHT FOOT, HE PROMPTLY REPORTED TO THE NEXT SICK CALL. HE WAS IN THE ALLENWOOD, USP, IN PENNSYLVANIA.

A DOCTOR CHECKED THE SORE. HE ASSURED THE PETITIONER THAT IT WAS NOT INFECTED. HE TOLD THE PETITIONER THAT HE HAD EXAMINED X-RAYS OF THE LESION AND THEY SHOWED NO SIGN OF INFECTION. THE NURSE ECHOED THE DOCTOR'S CONCLUSIONS. SHE SAID THERE WAS "NOTHING WRONG" WITH THE PETITIONER.

AFTER A WEEK, SEVERE PAIN WAS IN HIS RIGHT FOOT AND LEG. OTHER PRISONERS REPORTED HIS CONDITION TO THE CAPTAIN.

* NOTE: TYPE 2 DIABETES MELLITUS. (APP. A, P1).

THE CAPTAIN WENT TO SEE THE FOOT AND LEG FOR HIMSELF. THEN HE PUSHED THE PETITIONER IN A WHEELCHAIR TO THE NURSE'S STATION. THE NURSE HOWEVER, INSISTED THAT NOTHING WAS WRONG WITH THE PETITIONER. THE CAPTAIN REPLIED, "THIS MAN NEEDS TO GO TO THE HOSPITAL." THE NURSE WAS FIRM. SHE WOULD NOT CONCEDE THAT HE NEEDED HOSPITAL MEDICAL ATTENTION. DESPITE HER RECALCITRANCE THE CAPTAIN PREVAILED. (APP. A - MR. 20).

THE PETITIONER WAS TAKEN TO THE EMERGENCY ROOM OF A LOCAL HOSPITAL. HE WAS EXAMINED BY A DOCTOR. THE DOCTOR MADE 2 INCISIONS 90 DEGREES APART, ON HIS FOOT. A FLUID FLOWED FROM THE INCISIONS. THE DOCTOR LEFT THE ROOM. WHEN HE RETURNED HE SAID HE WAS SORRY BUT HE WAS UNABLE TO SAVE THE FOOT AND LEG; THEY WERE GOING TO HAVE TO BE AMPUTATED, THEY WERE GANGRENOUS. HE HAD MRSA. (APP. A, MR. 20).

"GANGRENE = LOCAL DEATH OF SOFT TISSUES DUE TO LOSS OF BLOOD SUPPLY." MERRIAM - WEBSTER'S, 12TH PRIME MEDICAL DICTIONARY, THOMAS PRESS INDIA, LTD, 294 (2022).

IT SHOULD BE NOTED THAT APPROXIMATELY ONE-WEEK PASSED INBETWEEN THE SICK CALL VISIT AND THE SUMMONING OF THE CAPTAIN. DURING THAT TIME THE PETITIONER WAS UNABLE TO WALK TO THE ISSUANCE OF MEDICATIONS (PILL LINE). DURING THAT INTERIM THE PETITIONER DID NOT RECEIVE INSULIN OR ANY OTHER MEDICATIONS. SEE (APP. A - MR. 20)

SUBSEQUENTLY, THE PETITIONER WAS TRANSFERRED TO THE MEDICAL CENTER AT SPRINGFIELD, Mo. HE WAS THERE FOR ABOUT 7 MONTHS. DURING THAT TIME, A PROSTHESIS WAS MADE TO REPLACE HIS AMPUTATED RIGHT FOOT AND LEG. THEN THE PETITIONER WAS TRANSFERRED TO McCREARY USP, IN KENTUCKY.

AFTER A SHORT TIME AT MCCREARY, THE PETIONER DEVELOPED AN OPEN SORE ON THE TOP OF ONE OF THE TOES ON HIS LEFT FOOT. HE REPORTED THE OPEN SORE. HE REQUESTED A BANDAID AND THE NURSE REFUSED TO PROVIDE ONE. SHE DID NOT BELIEVE IT WAS NEEDED.

HE WENT TO THE SICKCALL AND HE WAS TOLD TO "COME BACK IF IT CONTINUED TO BE A PROBLEM." THE SORE GREW LARGER BUT THE MEDICAL PEOPLE DID NOT COVER IT. EVENTUALLY A NURSE DID COVER IT; HOWEVER, IT WAS COVERED WITH BARE TAPE. WHEN IT WAS REMOVED IT TOOK FLESH WITH IT MAKING THE WOUND LARGER. THE PAIN WAS TERRIBLE. THE SORE CONTINUED TO GROW BIGGER.

THERE WAS NO DOCTOR AT McCREARY. HE HAD BEEN FIRED EARLIER.

A P.A.*, MS. WEST TOLD THE PETITIONER SHE WAS GOING TO TRANSFER HIM. HE WAS SENT TO THE HOSPITAL WHERE THE WOUND WAS CLEANED AND BANDAGED. HE WAS RETURNED TO MCCREARY. P.A. MS WEST SAID SHE WAS GOING TO TRANSFER THE PETITIONER TO THE SPRINGFIELD MEDICAL CENTER BECAUSE HIS WOUND WAS "MAKING THE FLESH (SEE TO NOTE ** P.8)

SMELL." THE PETITIONER WAS TAKEN FROM McCREARY, TO LEXINGTON, KY. UPON ARRIVAL AT LEXINGTON HE WAS CONFINED TO THE SPECIAL HOUSING UNIT (SHU). HE REMAINED IN THE SHU (SOLITARY CONFINEMENT) FOR THE NEXT 3 MONTHS. THEN, HE WAS TRANSFERRED NORTH TO THE DEVENS MEDICAL CENTER, WHICH IS LOCATED IN MASSACHUSETTS FARTHER FROM HIS ULTIMATE DESTINATION WHICH WAS IN SPRINGFIELD, MISSOURI IN THE SOUTHWESTERN SECTOR OF THE STATE. HE WAS NOT RECEIVING ANY CARE FOR THE LEG AT THE TIME OTHER THAN FRESH BANDAGES.

THE PETITIONER WAS HOUSED IN THE SHU IN DEVENS. THE PROSTHESIS THAT HE WORE ON THE STUMP OF HIS RIGHT LEG WAS TAKEN FROM HIM; IT WAS PROHIBITED IN THE SHU. THE INFECTION IN PETITIONER'S LEFT LEG WORSENED AND HE BEGAN TO RECEIVE MEDICATION FOR THE INFECTION IN HIS LEFT LEG BY INTRAVENOUS INJECTION (IV).

A LIEUTENANT VISITED THE SHU AND SAID, "YOU CAN'T HAVE AN IV IN THE SHU." HE RETURNED WITH A NURSE AND AS A RESULT, THE PETITIONER WAS TEMPORARILY REMOVED FROM THE SHU FOR THE

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NOTE: A SPECIALLY TRAINED PERSON WHO IS CERTIFIED TO PROVIDE BASIC MEDICAL SERVICES (AS THE DIAGNOSIS AND COMMON TREATMENT OF COMMON AILMENTS) USU [ALLY] UNDER THE SUPERVISION OF A LICENSED PHYSICIAN - ALSO CALLED PA". MERRIAM WEBSTER'S MEDICAL DICTIONARY, THOMSON PRESS INDIA, LTD, 600 (2002).

THE REMOVAL OF THE IV. HE WAS RETURNED TO THE SHU. AFTER ONE WEEK OR A WEEK AND A HALF, THE PETITIONER WAS TRANSFERRED FROM DEVENS TO THE MEDICAL CENTER AT SPRINGFIELD, MO WHERE HE REMAINS.

ON FEBRUARY 03, 2022, THE PETITIONER'S LEG WAS AMPUTATED AT MERCY HOSPITAL IN SPRINGFIELD, MO. (APP. MR. 2). THE IV THAT WAS REMOVED WAS PROVIDING MEDICATION FOR THE ONE REMAINING LEG.

IT IS IMPORTANT TO TIE-UP SOME LOOSE ENDS AT THIS POINT. THE AMPUTATIONS OF THE PETITIONER'S RIGHT AND LEFT LEGS MIGHT HAVE BEEN AVOIDED BUT FOR DELIBERATE INDIFFERENCE.

IN EACH INSTANCE THE SMALL SORES THAT EVENTUALLY LED TO LEG AMPUTATIONS WERE LIKELY FROM WEARING IMPROPER SHOES. TWICE THE PETITIONER WAS ISSUED ANKLE-HIGH SAFETY-TOE SHOES.* EACH TIME, THE PETITIONER ADVISED THE STAFF THAT HE IS DIABETIC AND, THEREFORE, NEEDS "SOFT SHOES" TO AVOID SKIN ABRASIONS.

BOTH REQUESTS FOR "SOFT SHOES" WERE DENIED. THE RESULTS HAVE BEEN TRAGIC. HIS LEG PROBLEMS BEGAN WITH A SMALL, BUTTON SIZE SORE NEEDING BASIC CARE. A NURSE REFUSED TO PROVIDE A BANDAID TO PROTECT THE EXPOSED RAW FLESH. AS THE SORE GREW LARGER A NURSE COVERED IT, NOT WITH A BANDAGE BUT, RATHER, WITH PLAIN ADHESIVE TAPE. THAT PLAIN BARE TAPE

*NOTE: THESE ARE HEAVY DUTY SHOES USED BY FACTORY WORKERS.

EXACERBATED THE PROBLEM. WHEN THE TAPE WAS REMOVED IT ANY SCAB THAT HAD DEVELOPED ADHERED TO THE TAPE AND WAS PULLED AWAY WITH OTHER PERIPHERAL FLESH.

THE FIRST SORE, ON THE PETITIONER'S RIGHT FOOT MIGHT HAVE NOT DEVELOPED HAD HE BEEN ISSUED APPROPRIATE "SOFT SHOES" THAT ARE INTENDED FOR USE BY DIABETICS.

AT ALLENWOOD, USP, THE PETITIONER HAD A SIMILAR EXPERIENCE. HE DEVELOPED AN OPEN SORE ON THE TOP SURFACE OF HIS 3RD TOE OF HIS LEFT FOOT.* EVENTUALLY THE INFECTION SPREAD, THAT REQUIRED THE SURGICAL REMOVAL OF DEAD FLESH. SEE (APP. A, DOC. 10, 11, 20). SKIN GRAFTS WERE NEEDED AFTER THOSE DEBRIDEMENTS. THE PAIN AND SUFFERING THE PETITIONER ENDURED FOR MONTHS MIGHT HAVE BEEN AVOIDED BY SIMPLY ISSUING SOFT SHOES TO THE PETITIONER, A KNOWN DIABETIC.

DURING THE AGGREGATE 6 MONTHS (3 MOS + 3 MOS) THE PETITIONER WAS IN 2 DIFFERENT LOCKUPS, HE SUFFERED TORTUOUS MENTAL AND PHYSICAL PAIN. HE WAS IN SOLITARY CONFINEMENT. HE DID NOT GET DAILY RECREATION. HE SPENT LONG LONELY DAYS IN SOLITARY AND WOKE UP FROM SLEEPING, CRYING, SWEATING, AFTER HE DREAMED OF THE AMPUTATION. THE MENTAL PAIN, WHICH PERSISTS, MAKE EACH NEW DAY A NIGHT MARE OF BEING PERMANENTLY HANDICAPPED.

* NOTE: HE WAS IN THE SHU AND GOT NO INSULIN OR MEDICINE FOR A WEEK

TO COMPOUND HIS SUFFERING OF MENTAL AND PHYSICAL PAIN, HE WAS ISOLATED FOR NO FAULT OF HIS OWN, WITHOUT ANY IDEA OF HOW LONG HE WOULD BE SEPARATED AND KEPT IN A PUNISHMENT COMPOUND. THE PETITIONER HAD NOT VIOLATED A PRISON REGULATION. HE WAS ENDURING THE UNNECESSARY PUNISHMENT ONLY AS A RESULT OF PRISON PERSONNEL TO HIS MEDICAL NEEDS. IT WAS DELIBERATE INDIFFERENCE TO THE SMALL LESION THAT WENT UNTREATED AND WHICH ULTIMATELY LED TO THE LOSS OF HIS LEGS.

IT IS NOT UNREASONABLE TO EXPECT A DOCTOR, PA, OR A NURSE TO BE AWARE OF THE SERIOUS CONSEQUENCES OF SUCH DELIBERATE INDIFFERENCE AND PARTICULARLY WITH A DIABETIC PRISONER.

THE MENTAL ANGUISH INCREASED AND HE BEGAN TO HAVE (AND DOES) HAVE EPISODES OF CRYING. HE BEGAN TO BE FEARFUL THAT HE MIGHT BE REJECTED BY HIS FAMILY WITH WHOM HE HAS CLOSE LOVE TIES. HE BEGAN TO DWELL MORE AND MORE ON THE HOPELESS POINT HE BEGAN TO BELIEVE HE HAD REACHED IN LIFE. HE WAS SUFFERING THE PAIN OF HIS AMPUTATED LIMBS. HE WAS EXPERIENCING THE VERY REAL, PAINFUL SENSATIONS THAT ARE OFTEN FELT IN MISSING LIMBS. SEE MERRIAM-WEBSTER'S MEDICAL DICTIONARY, 12TH PRINTING, THOMSON PRESS INDIA LTD, 590 (2022)

THE PETITIONER HAS NOT RECOVERED FROM THE SHOCK OF HAVING BOTH LEGS AMPUTATED. THE VERY IDEA THAT HE NO LONGER HAS TWO LEGS IS PAINFUL FOR HIM TO ADMIT TO HIMSELF. THUS HE MUST BEAR IT.

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THE CONGRESS HAS RECOGNIZED AND CODIFIED PRISONER'S MENTAL AND PHYSICAL HEALTH NEEDS AND HAS REQUIRED THAT BOP PERSONNEL WHO REGULARLY INTERACT WITH PRISONERS HAVE TRAINING TO RECOGNIZE SUCH PROBLEMS WITH PRISONERS AND TO REFER THEM TO PROFESSIONALS FOR DIAGNOSIS AND TREATMENT. SEE 18 USC 4051 (f)(1)(2). (EX. 10).

TITLE 18 USC 4005 - MEDICAL RELIEF: EXPENSES, PROVIDES THE ATTORNEY GENERAL WITH THE AUTHORITY TO PROVIDE "MEDICAL, PSYCHIATRIC, AND OTHER TECHNICAL AND SCIENTIFIC SERVICES TO THE FEDERAL PENAL AND CORRECTIONAL INSTITUTIONS." 18 USC 4005 (a). SEE 18 USC 4001 - 18 USC 4042.

"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. IN THE WORST CASES SUCH A FAILURE MAY ACTUALLY PRODUCE PHYSICAL "TORTURE OR A LINGERING DEATH," IN RE KEMMLER, SUPRA, THE EVILS OF MOST IMMEDIATE CONCERN TO THE DRAFTERS OF THE AMENDMENT. IN LESS SERIOUS CASES DENIAL OF MEDICAL CARE MAY RESULT IN PAIN AND SUFFERING WHICH NO ONE SUGGESTS WOULD SERVE ANY PENALOGICAL PURPOSE." ESTELLE V. GAMBLE, 429 US 97, 103, 97 S.Ct. 285, 50 L.Ed 251 (1976).

THE BOP HAS BEEN AWARE OF THE PSYCHOLOGICAL PROBLEMS THE PETITIONER IS SUFFERING. IN (APP. A, MR 21, 02-17-21) DOCTOR MOOSE NOTED "UNSPECIFIED MENTAL DISORDER DUE TO KNOWN PHYSIOLOGICAL CONDITION." DESPITE BEING PROFESSIONALLY AWARE OF THE MENTAL TRAUMA THE PETITIONER WAS SUFFERING THROUGH THE LOSS OF PETITIONER'S RIGHT LEG IN 2018, THE BOP TURNED A BLIND EYE. THE PETITIONER SUFFERED(S) SEVERE MENTAL PAIN AND FEELINGS OF HOPELESS FRUSTRATION. THAT SUFFERING HAS BEEN ENDURED WITH NO ONE TO SHARE HIS TRAUMA WITH, HE HAS NO ONE TO ASSUAGE HIS FEELINGS OF USELESSNESS AND FRUSTRATION.

HE IS AWARE THAT OTHER AMPUTEES BEYOND THE PRISON WALLS ARE TAUGHT TO WALK, TO DANCE, TO SWIM, TO PLAY BASKEBALL, ETC. HE, HOWEVER, HAS BEEN UNABLE TO GET PROPERLY FITTING PROTHESIS FOR EITHER LEG. TWO PROTHESES HAVE BEEN BEING MADE FOR MORE THAN A YEAR. IN THE MEANTIME, THE TWO ARTIFICIAL LEGS HE HAS BEEN PROVIDED DO NOT FIT CORRECTLY AND THE RIGHT ONE CAUSES HIM SO MUCH PAIN HE CANNOT WEAR IT EXCEPT FOR SHORT TIMES.

THE PETITIONER SUFFERS VERY ACUTE PHANTOM PAIN: "AN OFTEN PAINFUL SENSATION OF THE PRESENCE OF A LIMB THAT HAS BEEN AMPUTATED — CALLED ALSO "PHANTOM PAIN, PHANTOM SENSATIONS." MERIAM-WEBSTER MEDICAL DICTIONARY, 12TH ED., THOMSON PRESS, INDIA LTD. 590 (2022).

NO ONE OFFERED OR PROVIDED ANY MANOR OF TRAUMA SUPPORT PRIOR TO NOR AFTER THE PETITIONER'S AMPUTATION OF EITHER HIS RIGHT LEG OR THE LEFT. THE PETITIONER WAS EXPECTED TO BEAR THE AGONIES OF POST TRAUMA DISTRESS ALONE WITHIN THE CONFINES OF HIS HEART AND MIND.

EVEN MILD TRAUMA CAN CREATE LIFE CHANGING DISTRESS. THE BOP HAS CONSIDERED POST-TRAUMATIC STRESS DISORDER ASSISTANCE SO THREATENING THAT IT OFFERS COUNSELING, PSYCHOLOGICAL AND SPIRITUAL CARE TO EVEN THOSE WHO HAVE NOT SUFFERED THE TRAUMATIC EVENT BUT MERELY VIEWED IT. SEE BOP POLICY STATEMENT 5300.21 (APP. B). IT IS TITLED "FAMILY AND EMPLOYEE ASSISTANCE TEAM (FEAT).

PARAGRAPH 3 OF THAT POLICY STATEMENT SAYS:

"RESEARCH HAS SHOWN THAT BEING THE VICTIM OF A TRAUMATIC EVENT CAN LEAD TO THE DEVELOPMENT OF DISTURBING PSYCHOLOGICAL AND PHYSIOLOGICAL SYMPTOMS. WHEN VICTIMS RECEIVE EARLY SUPPORT AND THERAPEUTIC INTERVENTION, THESE SYMPTOMS CAN OFTEN BE MODERATED. WHEN NO SERVICES ARE RECEIVED, VICTIMS MAY DEVELOP SYMPTOMS OF POST-TRAUMATIC STRESS DISORDER." (EMP. IN ORIG.).

SEE ALSO (APP C, P. 5-7)(POL. 5341.01, APRIL 4, 2023).

THE CONGRESS HAS MANDATED CERTAIN BOP TRAUMA SCREENING

"THE DIRECTOR SHALL PROVIDE TRAINING, INCLUDING CULTURE COMPETENCY TRAINING TO EACH CORRECTIONAL OFFICER AND EACH EMPLOYEE OF THE BUREAU OF PRISONS WHO REGULARLY INTERACTS WITH PRISONERS, INCLUDING EACH INSTRUCTOR AND HEALTH CARE PROFESSIONAL, TO ENABLE THOSE CORRECTIONS AND EMPLOYEES TO—

(1) IDENTIFY A PRISONER WHO MAY HAVE MENTAL OR PHYSICAL HEALTH NEED RELATING TO TRAUMA THE PRISONER HAS EXPERIENCED; AND

(2) REFER A PRISONER DESCRIBED IN PARAGRAPH (1) TO THE PROPER HEALTH CARE PROFESSIONAL FOR DIAGNOSIS AND TREATMENT. 18 USC 4051(F)(1)(2). (EX:10).

IF INFACT, THE CORRECTIONAL OFFICERS AND EVEN MEDICAL STAFF AT BOTH LEXINGTON AND DEVENS INSTITUTIONS WERE SO TRAINED, THE GOVERNMENT WASTED MONEY TO TRAIN THEM. AT EACH OF THOSE PLACES THE PETITIONER WAS CONFINED IN THE SHU (SOLITARY) FOR 3 MONTHS AWAITING TRANSFER. THE OFFICERS AT DEVENS SHOWED NO EMPATHY FOR MY TRAUMA, MY PHYSICAL OR PSYCHOLOGICAL PAIN, THEY TOOK MY PROSTHESIS FOR MY RIGHT LEG FROM ME. THEY TOLD ME I COULD NOT HAVE IT IN THE SHU. IF THE COURT PLEASE, I HAD NOT VIOLATED A REGULATION. I DID NOT DESERVE SUCH HARSH TREATMENT. I WAS SIMPLY IN TRANSIT.

THERE IS NO ARGUMENT TO BE MADE AS TO THE SOCIETAL STATUS DISTINCTIONS BETWEEN OFFICERS AND EMPLOYEES OF THE BOP AND THE PRISONERS THEY CONFINE, HOWEVER —

"FEDERAL COURTS SIT NOT TO SUPERVISE PRISONS BUT TO ENFORCE THE CONSTITUTIONAL RIGHTS OF ALL "PERSONS," INCLUDING PRISONERS." CRUZ V. BETO, 405 US 319, 321, 92 S.CT. 1079, 31 L.Ed 2d 263, (1972).

HOPING NOT TO TRY THE COURT'S PATIENCE, PETITIOR MAKES THE QUOTATION FROM ESTELLE, SUPRA, TO UNDERSCORE THE POINT.

"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 AUTHORITIES FAIL TO DO SO, THOSE NEEDS WILL NOT BE MET. IN THE WORST CASES SUCH A FAILURE MAY ACTUALLY PRODUCE PHYSICAL "TORTURE OR A LINGERING DEATH." IN RE KEMMLER, SUPRA, THE EVILS OF MOST IMMEDIATE CONCERN TO THE DRAFTERS OF THE AMENDMENT. IN LESS SERIOUS CASES DENIAL OF MEDICAL CARE MAY RESULT IN PAIN AND SUFFERING WHICH NO ONE SUGGESTS WOULD SERVE ANY PENOLOGICAL PURPOSE. ESTELL, SUPRA, 429 US AT 103.

THE DECLARATION OF INDEPENDENCE IS NOT LAW, HOWEVER THE

WORDS ARE STRIKINGLY RELEVANT:

"WE HOLD THESE TRUTHS TO BE SELF-EVIDENT, THAT ALL MEN ARE CREATED EQUAL, . . ." PAR. 2. JULY 4, 1776.

"[W]HILE THE FIFTH AMENDMENT CONTAINS NO EQUAL PROTECTION CLAUSE, IT DOES FORBID DISCRIMINATION THAT IS SO UNJUSTIFIABLE AS TO BE VIOLATIVE OF DUE PROCESS." SCHNEIDER V. RUSK, 377 US 163, 168, 12 L.Ed 2d 218, 84 S.Ct. 1187 (1964). "WEINBERGER V. WIESENFELD, 420 US 636, 638, N.2, 95 S.Ct. 1225, 43 L.Ed 2d 514 (1975).

THUS, WHILE MEN MAY BE OF DIFFERENT SOCIAL STRATA, WE ALL ENJOY THE SAME UMBRELLA OF PROTECTION, THE U.S. CONSTITUTION.

THE BOP, ACCORDING TO WHAT THEY ARE ON RECORD AS SAYING IN POLICY STATEMENT 5300.21, (APP. B), IS VERY ALERT TO HARM THAT ITS STAFF OR THEIR FAMILIES MAY SUFFER, SHOWS NO CONCERN FOR THE POST-TRAUMATIC DIFFICULTIES PRISONERS FACE. THE CONSTITUTION PROTECTS THE INNOCENT AND THE GUILTY ALIKE, KIMMELMAN V. MORRISON, 477 US. 365, 380, 106 S.Ct, 2574, 91 L.Ed 2d 305 (1986).

"THE VERY ESSENCE OF LAW CERTAINLY CONSISTS IN THE RIGHT OF EVERY INDIVIDUAL TO CLAIM THE PROTECTION OF THE LAWS WHENEVER HE RECEIVES AN INJURY." MARBURY V. MADISON, 1 CRANCH 137, 163, 2 LEd 60 (1803).

PERHAPS THE AMPUTATIONS OF THE PETITIONER'S TWO LEGS COULD HAVE BEEN AVOIDED. THE DOCTOR AND THE NURSES UPON WHOM THE PETITIONER RELIED FOR CARE, DISMISSED THE INITIAL SORES AS "NOTHING." THEY WERE AWARE THAT THE PETITIONER IS DIABETIC. THEY ARE MEDICAL PROFESSIONALS WHO OUGHT TO HAVE KNOWN BETTER.

IN THE COURSE OF THAT LONG TRIP TO THE MEDICAL CENTER IN SPRINGFIELD, MISSOURI, THE PETITIONER SPENT LONG, LONELY DAYS IN SOLITARY CONFINEMENT IN THE SHU. HE NOTHING TO OCCUPY HIM OTHER THAN HIS AMPUTATION AND HIS LIFE, PERMANENTLY HANDICAPPED.

RESPECTFULLY, THE COURT IS REMINDED THAT THE PETITIONER WAS NOT PROVIDED WITH ANY SUPPORT SUCH AS THE BOP OFFERS TO ITS EMPLOYEES WHO GUARD THE PRISONERS. THOSE HOURS ALONE IN A CELL WERE PSYCHOLOGICALLY PAINFUL.

"'PAIN' IN ITS ORDINARY MEANING SURELY INCLUDES A NOTION OF PSYCHOLOGICAL HARM. I AM UNAWARE OF ANY PRECEDENT OF THIS COURT TO THE EFFECT THAT PSYCHOLOGICAL PAIN IS NOT COGNIZABLE FOR CONSTITUTIONAL PURPOSES. IF ANYTHING, OUR PRECEDENT IS TO THE CONTRARY." HUDSON V. MCMILLIN, 503 US 1, 16, 17, 112 S. CT. 995, 117 L.Ed.2d 156 (1992) MR. JUSTICE STEVENS, CONCURRING OPINION.

THE RESPONDENT WAS BEEN AWARE OF THE SUFFERING A TRAUMATIC EVENT MAY INFLICT UPON AN INDIVIDUAL. SUCH A TRAUMA MAY BE BOTH PHYSICAL AND PSYCHOLOGICAL. RESPONDENT HAS KNOWN OF POST-TRAUMATIC STRESS DISORDER FROM AT LEAST 02/18/2002, WHEN IT PUBLISHED APPENDIX B, THAT POLICY STATEMENT, 5300.21, SECTION 8.2,

"RESEARCH HAS SHOWN THAT BEING THE VICTIM OF A TRAUMATIC EVENT CAN LEAD TO THE DEVELOPMENT OF DISTURBING PSYCHOLOGICAL AND PHYSIOLOGICAL SYMPTOMS." (APP. B, PAR 3).

FOR 21 YEARS THE RESPONDENT HAS BEEN PREPARED TO AID ITS EMPLOYEES WHO MAY HAVE BEEN EXPOSED TO OR WHO MAY HAVE SUFFERED TRAUMA. IRONICALLY, THE SUPREME COURT, ADDRESSED THE DUTY OF THE RESPONDENT TO PROVIDE SUCH CARE FOR PRISONERS.

"THESE ELEMENTARY PRINCIPLES ESTABLISH THE GOVERNMENT'S OBLIGATION TO PROVIDE MEDICAL CARE FOR THOSE WHOM IT IS PUNISHING BY INCARCERATION." ESTELLE, SUPRA, 429 U.S. AT 103.

ESTELLE V. GAMBLE, WAS DECIDED 26 YEARS BEFORE POLICY 5300.21 (APP. B) WAS PUBLISHED, IN 1976. THE RESPONDENT HAS HAD 47 YEARS IN WHICH TO DEVELOP AN ORGANIZED TEAM TO DEAL WITH THE TRAUMATIC NEEDS OF PRISONERS SUCH AS THE PETITIONER. CONGRESS HAS MANDATED IT.

SOME MAY ACCUSE THE PETITIONER OF MIXING APPLES N' ORANGES.

"WHILE THE FIFTH AMENDMENT CONTAINS NO EQUAL PROTECTION CLAUSE, IT DOES FORBID DISCRIMINATION THAT IS SO UNJUSTIFIABLE AS TO BE VIOLATIVE OF DUE PROCESS." SCHNEIDER V. RUSK, 377 US 163, 168, 12 L.Ed.2d 218, 84 S.Ct. 1187 (1964)." WEINBERGER V. WIESENFELD, 420 US 636, 638, N.2, 95 S.Ct. 1225, 43 L.Ed.2d 514 (1975).

AND 220 YEARS AGO THE COURT SAID:

"THE VERY ESSENCE OF LAW CERTAINLY CONSISTS IN THE RIGHT OF EVERY INDIVIDUAL TO CLAIM THE PROTECTION OF THE LAWS, WHENEVER HE RECEIVES AN INJURY." MARBURY V. MADISON, 1 CRANCH 137, 163, 2 L.Ed. 60 (1803).

AND IN MORE RECENT TIMES, THE COURT SAID:

"THE CONSTITUTION PROTECTS THE RIGHTS OF ALL DEFENDANTS, THE INNOCENT AND GUILTY ALIKE." KIMMELMAN V. MORRISON, 477 US 365, 380, 106 S.Ct. 2574, 91 L.Ed.2d 305 (1986).

THE RESPONDENT WAS AWARE OF THE NEED FOR PSYCHOLOGICAL CARE AFTER HE LOST HIS RIGHT FOOT AND LEG, HOWEVER, NO SUCH POST-TRAUMATIC CARE WAS OFFERED, NONE WAS PROVIDED. ONCE AGAIN, THE RESPONDENT TOOK NO STEPS TO EXTEND

TO EXTEND POST-TRAUMAC COUNSELING. THAT IS CONFIRMED BY THE MEDICAL RECORD. (APP. A, AT MR. 21; EDTRY 02-23-2016; 01-26-2019; 02-17-2021 AND 01-26-2019 (ENCEPHALOPATY). THE ENCEPHALOPATHY IS DISTINCT:

"A DISEASE OF THE BRAIN; ESP: ONE INVOLVING ALTERATIONS OF BRAIN STRUCTURE." MERIAM-WEBSTER'S MEDICAL DICTIONARY, 12TH PRINTING, THOMSON PRESS INDIA LTD., 238 (2022).

THE PETITIONER DID FIND 2 POLICY STATEMENTS THAT DEAL WITH PRISONERS WHO DO HAVE MENTAL PROBLEMS: 5310.16; AND 5310.17; HOWEVER THEY DO NOT DEAL WITH PTSD, PAST TRAMATIC STRESS DISORDER. SEE (APP. B).

WHEN THE PETITIONER WAS ARRESTED HE WAS DIABETIC, BUT OTHERWISE HEALTHY. IN THE CUSTODY OF THE RESPONDENT THE PETITIONER HAS ACQUIRED NECROSIS; DEATH OF LIVING TISSUE, MERRIAM-WEBSTER, SUPRA, AT 512, AND MRSA.* MRSA IS RESISTANT TO "METHICILLIN, PENICILLIN, AND OTHER RELATED BIOTICS." MERRIAM-WEBSTER, SUPRA, AT 496. THE PETITIONER, AS RELATED ANTE, HAS SUFFERED THE LOST OF BOTH LEGS. (EX. 7); (APP. A, MR. 20, 12-31-18).

*NOTE: PETITIONER WAS NOT TOLD THAT HE ACQUIRED MRSA. HE RECENTLY LEARNED THAT FROM THE MEDICAL RECORDS.

DOCUMENT (APP.A) IS A 29 PAGE SYNOPSIS OF PETITIONER'S MEDICAL HISTORY WHILE IN CONFINEMENT. IT CONTAINS FAR MORE ENTRIES THAN CAN BE EXPLORED FULLY IN THIS PETITION.

THE PETITIONER HAS NOTED THE PSYCHOLOGICAL PAIN HE ENDURES DAY AND NIGHT. IT HAS STRIPPED HIM OF HIS NATURAL MANLY CONFIDENCE. HE DEVELOPED SLEEP APNEA AND REQUIRES SUPPLEMENTAL OXYGEN TO OVERCOME PERIODS WHEN HIS BREATHING STOPS DURING NIGHTTIME SLEEP.

"BRIEF PERIODS OF RECURRENT CESSATION OF BREATHING DURING SLEEP THAT IS CAUSED BY ESP. OBSTRUCTION OF THE AIRWAY OR A DISTURBANCE IN THE BRAIN'S RESPIRATORY CENTER AND IS ASSOCIATED ESP. WITH EXCESSIVE DAYTIME SLEEPINESS." MERRIAM-WEBSTER'S, SUPRA, AT 722.

THE PETITIONER HAS "CHRONIC KIDNEY DISEASE, STAGE 4 (SEVERE)." (APP.A, MR. 6, 01-12-2023). FURTHER KIDNEY DYSFUNCTION MAY REQUIRE HIM TO HAVE REGULAR DIALYSIS TREATMENTS. (APP.A, ME. 24, 1-26-19).

HE HAS BEEN DIAGNOSED WITH "PERIPHERAL VASCULAR DISEASE, UNSPECIFIED." (APP.A, MR. 15, 02-28-2016). SEE MERRIAM-WEBSTER'S SUPRA, AT 585.

ON 8-03-2011, HE WAS DIAGNOSED WITH PULPAL NECROSIS, DEATH OF LIVING TISSUE. SEE MERRIAM-WEBSTER'S, SUPRA, AT 572.

EXHIBIT 7, IS A FRONTAL PHOTO OF PETITIONER. IT CLEARLY SHOWS THE PLASTIC SACK INTO WHICH HE URINATES THROUGH A CATHETER THAT LEADS TO HIS BLADDER THROUGH HIS PENIS. (APP. A, MR 24) IS DEVOTED TO THE BLADDER DYSFUNCTION. THERE IS ONE STRAY ENTRY AT (APP. A, MR. 25, -12-31-2018). THE PETITIONER HAS HAD THAT BLADDER DIFFICULTY FOR ABOUT 4 1/2 YEARS. THE SYMPTOMS ARE TREATED BUT AFTER 4 1/2 YEARS THERE ARE NO INDICATIONS THAT A CURE IS BEING SOUGHT.

EXHIBIT 8, IS A SIDE VIEW OF PETITIONER. IT SHOWS HIS SHOULDER AND THE ELECTRODES TAPED TO 5 POINTS ON HIS SHOULDER. (APP. A, MR. 22-06-09-21-06-23-2022). THE PETITIONER HAS A SMALL ELECTRICAL DEVICE, TO WHICH THOSE ELECTRODES ARE ATTACHED. HE MUST CARRY THAT DEVICE ABOUT WITH HIM. IT SUPPLIES ELECTRICAL STIMULATION TO HIS SHOULDER. RECENTLY, HE WAS TOLD HIS LEFT SHOULDER IS GOING TO HAVE TO BE REPLACED. THERE HAS BEEN NO EXPLANATION FOR THAT PROBLEM OR FOR ANY OF THE DIFFICULTIES THE PETITIONER HAS PAINFULLY EXPERIENCED, ONE AFTER ANOTHER.

THE PETITIONER HAS ENDURED YEARS OF SUFFERING FOR WHICH THE RESPONDENT, BY THE ACTIONS OF ITS EMPLOYEES, MUST BEAR THE RESPONSIBILITY. THE DELIBERATE INDIFFERENCE TO A MINOR SORE WAS THE VERY LIKELY THE INCIDENTS THAT EVENTUALLY LED TO THE AMPUTATION OF HIS LEFT AND RIGHT LEGS.

HIS 6 MONTHS, AGGREGATED IN THE SHU SOLITARY CONFINEMENT,

IN CONTRAST THE PETITIONER HAS NO SUCH OPTION. HE DAILY SUFFERS THE UNIMAGINABLE TRAUMA OF HAVING, FIRST, HIS RIGHT LEG AMPUTATED, AND THEN HAVING HIS LEFT LEG AMPUTATED. HE WAS ALONE AND UNCONNECTED. HE RECEIVED NO PERSONAL COUNSELING.

"THROUGH THIS PROGRAM, CRISIS COUNSELING, PSYCHOLOGICAL AND SPIRITUAL CARE, AND SUPPORT SERVICES ARE OFFERED TO BUREAU EMPLOYEES WHO HAVE BEEN INVOLVED IN A TRAUMATIC EVENT..." (APP. B, PAR 2).

"THE SUPREME COURT HAS HELD THAT 'DELIBERATE INDIFFERENCE TO SERIOUS MEDICAL NEEDS OF PRISONERS CONSTITUTES THE "UNNECESSARY AND WANTON INFLICTION OF PAIN' PROSCRIBED BY THE EIGHTH AMENDMENT." ESTELLE V. GAMBLE, 429 US 97, 104, 97 S.CT. 285, 291, 50 LED 2d 251 (1976) (CITATION OMITTED)." HARRIS V. PRISON HEALTH SERVS., 706 APP'X. 945, 950 (5TH AND 11TH CIR. 2017).

APPENDIX B, MAKES IT QUITE CLEAR THAT THE PLAINTIFF/RESPONDENT WAS AWARE OF THE SERIOUS PSYCHOLOGICAL HARM ONE MAY EXPECT IF THE VICTIM OF TRAUMA DOES NOT PROMPTLY RECEIVE THE PROFESSIONAL CARE THAT IS NECESSARY.

A READING OF APPENDIX A, WILL REVEAL OTHER MEDICAL PROBLEMS WHICH HAVE NOT BEEN RAISED WITH THE ISSUES DISCUSSED. THIS DOES NOT DISREGARD THE CUMULATIVE IMPACT THEY MAY

HEALTHY FEET, TWO HEALTHY LEGS. HE DID NOT HAVE MRSA; NOR DID HE HAVE STAGE 4 KIDNEY DISEASE, CARDIO VASCULAR DISEASE, OR HIGH BLOOD PRESSURE. HE DID NOT HAVE TO HAVE A SHOULDER REPLACEMENT; NOR WAS HE PARALYSED ON HIS RIGHT SIDE. THE PETITIONER DID NOT REQUIRE DAILY MORPHINE NOR MULTIPLE DOSES OF CODEINE DAILY.

YET, THE PETITIONER RECEIVES NO CURATIVE CARE. HE DOES RECEIVE MULTIPLE MEDICATIONS DAILY TO CONTROL VARIOUS SYMPTOMS, AND PAIN.

IN THE FREE SOCIETY THERE ARE ORGANIZATIONS TO ASSIST SIMILARLY HANDICAPPED INDIVIDUALS. THE AMERICANS WITH DISABILITIES ACT (ADA) PROVIDES LEGAL ASSURANCES FOR THE FAIR TREATMENT OF SUCH PERSONS; HOWEVER, AT THE MOMENT, IT DOES NOT APPLY TO THE FEDERAL PRISONS, ONLY STATE PRISONS.

WHEN THE PETITIONER'S LEGS WERE INDIVIDUALLY AMPUTATED; HE RECEIVED NO EMOTIONAL SUPPORT. THE BANDAGE WAS CHANGED DAILY BY A NURSE, BUT, OTHERWISE HE WAS LEFT TO FLOUNDER ALONE; AND FLOUNDER HE DID. HE HAS CRIED FOR MANY, MANY HOURS. HE HAS DREAMED COUNTLESS NIGHTMARES. HE SUFFERS FITS OF DEPRESSION AND LONELINESS. ANY HOPE THERE MAYBE TO RECOVER FROM THE PSYCHOLOGICAL HARM HE IS SUFFERING RESTS WITH OUTSIDE AUTHORITIES NOT WITHIN THIS ARENA OF CARE. THE FAILURE TO TREAT PETITIONERS POST-TRAUMATIC PSYCHOLOGICAL

DIFFICULTIES IS OF ITSELF CRUEL AND UNUSUAL, SEE (APP. B) AND ESTELLE, SUPRA.

WHEREFORE, THE COURT IS ASKED TO GRANT THE PETITION FOR A REDUCTION IN SENTENCE THAT WILL MAKE IT POSSIBLE FOR THE PETITIONER TO RETURN TO HIS FAMILY AND TO FIND THE POST-TRAUMATIC STRESS DISORDER TREATMENT THAT HE IS AND HAS BEEN DEPRIVED OF.

FURTHER THE PETITIONER PRAYS NOT.

DATE: 5/28/23

MIKE GARCIA
PETITIONER

MIKE GARCIA
11689-280, UNIT 3-1
MEDICAL CENTER FOR FEDERAL PRISONERS
P.O. BOX 4000
SPRINGFIELD, MO 65801-4000

CERTIFICATE OF SERVICE

THIS IS TO DECLARE UNDER PAIN OF PERJURY, PURSUANT TO 28 USC 1746, THAT I HAVE SENT A COPY OF MY PETITION FOR A REDUCTION IN SENTENCE TO THE OFFICE OF THE U.S. ATTORNEY, AT 601 NW LOOP 410, SUITE 600, SAN ANTONIO, TX 78216, WITH PROPER POSTAGE PREPAID AND AFFIXED THERE TO, NO SPECIFIC AUSA HAS BEEN ADDRESSED SINCE THE FORMER ASST. U.S. ATTORNEYS ARE NO LONGER WITH THE U.S. ATTORNEYS OFFICE. I FURTHER DECLARE THAT I HAVE DEPOSITED THIS PETITION IN THE HANDS OF AN OFFICER ASSIGNED TO THE MAILROOM AT THIS FACILITY ON THIS 11th DAY OF MAY 2023.

DATE: 5/11/23

MIKE GARCIA
DECLARANT

MIKE GARCIA
11689-280, UNIT 3-1
MEDICAL CENTER FOR FEDERAL PRISONERS
P.O. BOX 4000
SPRINGFIELD, MO 65801-4000

Description	Axis	Code Type	Code	Diag. Date	Status	Status Date
✓ 10/11/2019 11:16 EST Moose, S. MD 06-17 L Leg wound-care non-compl.		ICD-10	Z9119	2017	Remission	02/20/2019
✓ 02/20/2019 13:22 EST Moose, S. MD 06-17 L Leg wound-care non-compl.		ICD-10	Z9119	06/06/2017	Remission	02/20/2019
✓ 06/06/2017 16:04 EST Mouser, Katherine MPAS/PA--C 6/6/17l/m counseled to wound care, prescribed shoe and prognosis, risking loss of left leg due to non-complliance.		ICD-10	Z9119	06/06/2017	Current	

Current

~~Hepatitis C, chronic w/o mention of hepatic coma~~

~~05/23/2013 16:08 EST Bennett-Baker, K. DNP/APRN/ACNP-BC/FNP-BC~~ --Labs do not confirm Chronic Hep C.	~~III~~	~~ICD-9~~	~~070.54~~	~~10/05/2012~~	~~Current~~	~~10/11/2012~~
10/11/2012 10:58 EST Patterson, Erin RN, QM/IDC	III	ICD-9	070.54	10/05/2012	Current	10/11/2012

~~Dental caries, unspecified~~

~~10/09/2012 09:45 EST Douglas, David PA-C~~ ~~duplicate~~--duplicate	~~III~~	~~ICD-9~~	~~521.00~~	~~06/08/2011~~	~~Current~~	~~06/08/2011~~
06/08/2011 12:48 EST Meyer, Karl DDS, CDO	III	ICD-9	521.00	06/08/2011	Current	06/08/2011

~~Acute periodontitis~~

~~10/09/2012 09:45 EST Douglas, David PA-C~~ ~~duplicate~~--duplicate	~~III~~	~~ICD-9~~	~~523.33~~	~~06/08/2011~~	~~Current~~	~~06/08/2011~~
06/08/2011 12:48 EST Meyer, Karl DDS, CDO	III	ICD-9	523.33	06/08/2011	Current	06/08/2011

~~Urinary tract infection, site not specified~~

~~10/09/2012 09:45 EST Douglas, David PA-C~~ --error	~~III~~	~~ICD-9~~	~~599.0~~	~~10/07/2012~~	~~Current~~	~~10/07/2012~~
10/07/2012 12:07 EST Satterly, Thomas D.O.	III	ICD-9	599.0	10/07/2012	Current	10/07/2012

~~Osteoarthrosis, unspec, ankle/foot~~

~~03/26/2014 10:41 EST Onuoha, Jude M.D./CD~~ --d/c	~~III~~	~~ICD-9~~	~~715.97~~	~~03/06/2014~~	~~Current~~	~~03/06/2014~~
03/06/2014 16:28 EST West, Jennifer APRN	III	ICD-9	715.97	03/06/2014	Current	03/06/2014

~~Other specified symptoms and signs involving the digestive system and abdomen~~

~~07/11/2017 15:19 EST Logan, Bryan FNP-C~~ --duplicate		~~ICD-10~~	~~R198~~	~~07/11/2017~~	~~Current~~	
07/11/2017 15:18 EST Logan, Bryan FNP-C		ICD-10	R198	07/11/2017	Current	

Total: 134