

ANATOMY OF A PRISONER CIVIL RIGHTS CASE
An effective, efficient and economical approach

Sources: “Federal Court Prison Litigation Handbook”; www.ilnd.courts.gov
Lectures of J. Chapman: www.illinoislegaladvocate.org
J. Chapman (312)593-6998; jamespchapman@aol.com

12:30 Proposed Local Rule 87

Kristine Seufert, Staff Attorney and Pro Bono Coordinator, S.D. of Indiana

12:45 Initial Action & First Steps - You’ve been appointed to represent a prisoner in a pro se action. What next?

- Read the Order of Appointment carefully
 - o Note name of prisoner and case number
 - o Scope of representation
 - Obtain:
 - o The pro se Complaint
 - o The docket sheet
 - o Any critical orders and adversary pleadings, if any;
 - o The Court’s 28 U.S.C. § 1915A (screening) order, if any.
 - 28 USC § 1915A - The Court’s mechanism for review of pro se complaints.
 - o The court shall review, before docketing, if feasible or, in any event, as soon as practicable after docketing, a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity.
- (b) GROUNDS FOR DISMISSAL.**—On review, the court shall identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint—
- (1) is frivolous, malicious, or fails to state a claim upon which relief may be granted; or
 - (2) seeks monetary relief from a defendant who is immune from such relief.
- o The 1915A Order: (See samples, Appendix 1, attached)
 - May contain:
 - That a cause of action has been properly alleged;
 - What causes of action or parties have been dismissed;
 - Whether the complaint has been dismissed, but not the action; and that appointed counsel has a set period of time to do FRCP 11 due diligence and file an amended complaint if appropriate;
 - Arrangement of narrative pro se allegations into counts;

Establishing a Sound Relationship with the Client

- Determine where your client is located
 - o If in prison operated by Indiana Department of Corrections, check the IN DOC's website – www.in.gov/idoc
 - o If in federal custody, check BOP website – www.bop.gov
 - o County Jails typically searchable by County website or Sheriff's Office website
- Write to client immediately
 - o Inform him you are reviewing his complaint, doing other/additional investigation, and plan to see him on ___ date, 2016.
 - o Double check the applicable website to determine client's registration number.
 - o Envelope should include:
 - Client's correct name and IDOC/BOP identification number;
 - The prison's address for inmate mail;
 - "Confidential attorney-client communication"
 - Your name as it is stated on the Roll of Attorneys website. The prison will check your registration
 - o Consider a client retention letter (Appendix 2)
 - The form attached raises, among other matters, the following points:
 - The scope of your services;
 - How long your services will continue
 - Other associates in the firm may assist, but you remain in charge
 - Your responsibilities as the appointed lawyer
 - You will obtain the client's approval for important decisions
 - You will keep client informed of case progress;
 - Policy on telephone calls;
 - Client's responsibilities;
 - Fee agreement if appropriate. Keep track of time; court approval required. (No attorney fees may be sought if the appointment is for the limited purpose of assisting with settlement).
- Other Considerations:
 - o Keep in mind the client is imprisoned; lack of resources, lack of access, and difficult to communicate with you
 - o Get client's materials and thoughts on the matter
 - o Be affirmative in analyses and recommendations, keeping in mind the client has the last word (within ethical bounds)
 - o Pay attention – The S.D. of Indiana is not aware of any pro bono attorney recruited by the court to represent a prisoner in a civil case that has faced a disciplinary or malpractice action. That said, prisoners know how to complain to disciplinary commission.
- Visit the client as soon as possible
 - o Determine where the client is (again) – prisoners are transferred frequently
 - o Contact the prison or jail's legal liaison or coordinator
 - When can you visit

- What must you submit, if anything, in order to visit
 - What can you bring with you
 - Do not bring laptop, cell phone
- Write your client and inform him/her you're coming
 - Advise client what documents to bring to visit, esp. grievances (see section on Exhaustion of Administrative Remedies below), and all other documents
- Determine if client is in segregation; alters nature of visit
- Bring state ID and bar card
- If client in prison 150 miles or more from home or office, consider travel time
 - Inquire as to how early you may visit
 - Inquire about possible video conference with client as alternative to in person visit
- Telephone call to client
 - Discuss procedure with legal liaison
 - Make sure call is secure

2:00 Break

2:15 Exhaustion of Administrative Remedies – Deal with First!!!!

- The Prison Litigation Reform Act (PLRA) 42 U.S.C. § 1997e:
 - (a) Applicability of administrative remedies. No action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.
- Administrative regulations regarding grievance procedure:
 - BOP – 28 C.F.R. § 542.10; et seq.
 - IN DOC – Ind. Code § 11-11-1 (Commissioner shall implement a departmental procedure).
- PLRA means what it says: ***See Pavey v. Conley, 544 F.3d 739 (7th Cir. 2008)***
 - Applies even if administrative process cannot give relief prisoner seeks (\$)
 - Affirmative defense that can be waived
 - Exhaustion must occur **before** suit is filed, cannot occur after
 - If no exhaustion or excuse for no exhaustion, then court must dismiss without prejudice (unless no way exhaustion could ever occur)
 - There is “wobble room” despite prisoner’s lack of strict compliance
 - Note: for excellent analysis and unlimited citations, see “The Prison Litigation Reform Act” by John Boston
 - www.illinoislegaladvocate.org/uploads/8032theplra0312.pdf
 - Do NOT print – very long
 - Court must resolve exhaustion issue, if raised, before any other aspect of case proceeds;
 - Hearing before the trial judge, not a jury
- In the S.D. of Indiana
 - The defendant must raise this affirmative defense in Answer.

- When this happens, the court sets a schedule to resolve this defense through summary judgment.
- If there is a material fact in dispute the judge will hold a hearing.
- Counsel is often sought for the limited purpose of resolving this affirmative defense.
- In defending against such a claim:
 - Although failure to exhaust is an affirmative defense, start preparing immediately
 - See if pro se complaint contains grievance materials as exhibits or if client has made allegations about his attempts to grieve
 - Obtain from client all materials on grievances/exhaustion
 - If defendant's answer raises failure to exhaust, ask opposing counsel if definitely pursuing; if not, ask that defense be withdrawn, esp. when documents indicate exhaustion has occurred
 - If defendant does pursue this defense, the court will likely sua sponte stay all other proceedings until the exhaustion issue is resolved.

The Amended Complaint

- Once 1915A order is issued and exhaustion issue examined, determine whether an Amended Complaint should be filed.
- Considerations:
 - The pro se complaint is verbose, disorganized, difficult to follow;
 - The trial judge has directed you to file an amended complaint
 - (after performing FRCP 11 due diligence and concluding claim is viable);
 - The trial judge in the 29 U.S.C. § 1915A order has dismissed certain pro se claims and you agree with the dismissal;
 - Your investigation has unearthed causes of action not present in the pro se complaint;
 - The pro se complaint names improper parties or parties you have determined are not responsible under applicable civil rights provisions
- What claims should I include in the Amended Complaint? Keep it simple!
 - Causes of action are based on the U.S. Constitution, its amendments, and applicable federal statutes (like the ADA), not U.S.C. § 1983
 - 42 U.S.C. § 1983 is the basis of federal court jurisdiction, not a cause of action:
 - “Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes 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 law, suit in equity...”
 - See also 42 U.S.C. § 1331: “The district courts shall have original jurisdiction of all civil actions arising under the Constitution . . . of the United States.”

- Supplemental jurisdiction allows claims that could not have entered federal court on their own to be heard by a federal court if they are part of a case over which the court has subject matter jurisdiction. For example, if a correctional officer assaults a prisoner, this conduct could violate the Eighth Amendment and in state law (battery) which the federal court would normally have no jurisdiction to hear.
- Consider statutes like the ADA and the Rehabilitation Act
- Eighth Amendment:
 - Excessive bail shall not be required, nor excessive fines imposed, ...nor cruel and unusual punishments inflicted; i.e. assaults, medical claims
 - Available *after* client has been sentenced
- Fourteenth Amendment:
 - No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the US; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.
 - A jail (county or city), that is, *pre-trial* detainees (assaults, medical, access to law claims), same substantive rules as 8th amendment claims
 - Penitentiary and jail: access to law, improper hearings, etc.
- First Amendment:
 - Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.
 - Penitentiary – religion, retaliation, speech, etc.
- Remember:
 - Requirement of physical injury to recover money damages for emotional pain or suffering is necessary under the PLRA.
 - Broken bones, bleeding not always necessary. See recent cases. (Seek expert testimony)
 - The Statute of Limitations – Move quickly!!!
 - Two years, no relation back;
 - See discovery rule (state law) in medical cases;
 - Case might be considered mailed (filed) when given to prison officer. *Jones v. Bertrand*, 171 F.3d 499, 501 (7th Cir.)(the mail box rule applies to time of filings grievances, etc.)
 - When applying Illinois law, the statute of limitations is tolled while an administrative appeal is pending. *Johnson v. Rivera*, 272 F3d 519 (7th Cir. 2001). There is no similar provision under Indiana law.
- **Proper Parties in Amended Complaint**
 - Improper Parties (most of the time)
 - The State of Indiana

- The Indiana DOC
 - Correctional centers
 - County jails
 - Hospitals in jails
 - Director of the IN DOC
 - Superintendent (warden) of jail
 - Warden of prison
 - A county
 - Whether a defendant can be sued is a question of *State*, not federal law
 - The State of Indiana is immune from suit
 - Judicial immunity – possibly exists for members of Prisoner Review Board, grievance, discipline hearing officials
 - *See Trotter v. Klinicar*, 778 F.2d 1177, 1180 (7th Cir. 1984)
 - Should I name prison staff in their official v. individual capacities, or both?
 - Claim against an *official* is a claim against the entity that employs him. *Kentucky v. Graham*, 473 U.S. 159, 165 (1985)
 - Money damages: individual capacity
 - Injunctive relief: official capacity
 - If sue private individuals, consider whether public employee or private service provider; consider including a county or city as nominal party defendant for collection purposes
- Can I and do I want to sue a county, a municipal corporation, or a city or town that operated the jail where plaintiff was harmed in addition to their own employees?
 - Remember: these entities normally not liable for acts of employees.
 - The *Monell* doctrine – *Monell v. New York City*, 436 U.S. 658, 694 (1978); See *Los Angeles County v. Humphries*, 131 U.S. 447 (2010) for detailed explanation and Seventh Circuit civil instructions
 - Required proof is much broader: the existence of a policy or practice that was the proximate cause of plaintiff’s injuries
- What about private providers under contract to the IDOC in addition to their employees? Ex. Medical providers and food
 - Same proof requirement as cities and counties. *But see Shields v. Illinois Department of Correction*, 746 F.3d 782, 790 (7th Cir. 2014) (finding “substantial grounds to question the extension of the *Monell* holding for municipalities to private corporations”).
 - Be sure to track Court’s 1915A order if upholds pro se complaint as stating a cause of action. These instructions also are a guide to the proof you will require to sustain your cause of action.
 - Requirements for Liability of Individual Defendants:
 - Must have personal involvement – *a constant principle*
 - May be sin of either commission (i.e. an assault) or omission (i.e. a **knowing** failure to intervene when wrongful conduct by officer or other prisoner observed or **knowing** failure to provide medical care where prisoner’s serious medical condition observed)
 - No *respondeat superior* liability
- How to determine who is a proper party

- Keep in mind, prisoners have difficulty identifying correct names of correctional personnel and other prisoners
 - Example: the *Dorn* case; 15-359? WD Mich
 - Rule 15: adding a party after statute has run is very difficult
 - Prisoners often have nicknames; real names unknown
- Sources to determine who should be defendants
 - Disciplinary Report – See Appendix 3
 - Offenders Grievance – See Appendix 4
 - Incident reports
 - Internal Affairs Investigation
 - Sign-in logs
 - Medical Records
 - The Indiana Department of Corrections
 - Marion County Jail
 - Private hospitals where prison or jail sends prisoner for treatment (Regional in Terre Haute)
 - Private health providers – i.e., Corizon
 - Other providers – Aramark (provides Kosher meals)
 - Daily logs or print-outs of prison or jail – show where prisoners are celled and personnel assigned
 - Pictures of personnel
 - Deposition of key personnel – esp. pursuant to FRCP30(b)(6)
- Procedural methods to learn identity of proper parties
 - Opposing counsel (occasionally)
 - If substantial difficulty, especially where plaintiff has named only very high ranking officers, move the Court for leave to do discovery prior to filing the amended complaint, naming the warden, for example, as a nominal party plaintiff for purposes of discovery
 - Formal discovery
 - Distinction between IDOC and individual officers; in most instances IDOC and County (jail) are not a party. Attorney General appears for individuals, not prison or jail.
 - Same is true for hospitals; insurance attorneys appear for individual medical staff, not hospital itself
 - FOIA requests and written consents very slow and often unsatisfactory
 - FRCP 34: requests for production of documents (to parties only)
 - FRCP 45: subpoena for persons and documents and access to premises (same scope as R. 34, run to non-parties)
 - Rule 30(b)(6): notice of deposition; requires party to produce individual(s) and documents that relate to stated subject matter. See App. 9. Rule states:
 - *Notice or Subpoena Directed to an Organization.* In its notice or subpoena, a party may name as the deponent a public or corp, a partnership, an assoc., a government agency, or other

entity and must describe with reasonable particularity the matters for examination. The named organization must then designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on its behalf; and it may set out the matters on which each person designated will testify. A subpoena must advise a nonparty organization of its duty to make this designation. The persons designated must testify about information known or reasonably available to the organization. This paragraph does not preclude a deposition by any other procedure allowed by these rules.

- FRCP 45 subpoena requires a *non-party* to do the same.
 - Great time and expense saver – puts burden of identification on prison, jail, hospital, etc. The rule can be used to identify additional defendants, names on medical records where unreadable; who in organization has knowledge of facts – i.e. policies and practices.
 - Qualified professional – especially to help read medical records, identify individual providers mentioned in records
- Form and Content of Amended Complaint
 - Torts 101: duty, breach of duty, proximate cause, damages. The source of duty is normally found in Amendments (Bill of Rights) to the U.S. Constitution and Federal statutes.
 - Factual specificity – enhanced U.S. Supreme Court requirements
 - Must allege enough facts to show likelihood of ability to prove cause of action. Read *Bell Atlantic Corp. v. Twombly*, 550 U.S. 554 (2007)
 - Use the seventh circuit pattern instructions, if available, to determine the necessary allegations for your amended complaint, but be careful. For example:
 - Seventh Circuit Pattern Instruction #7.11 failure to protect:
 - (1) Describe who the attackers were and what they did e.g., hit, kicked, or struck the plaintiff; (2) defendant was deliberately indifferent to the substantial risk of that such an attack; (3) defendant's conduct caused harm to plaintiff; (4) defendant acted under color of law.
 - Suggestion – while para. 1, if completed, is factually sufficient as an allegation, para. 2 is not; allege facts which demonstrate how defendant knew there was a substantial risk of an attack on plaintiff

3:30 Break

3:45 Serving the Defendants

- Determine status of service when you are appointed.
- The S.D. of Indiana takes seriously its obligation under Rule 4(c)(3) of the Federal Rules of Civil Procedure to assist plaintiffs authorized to proceed in forma pauperis with effecting service on the defendants. The Court regularly relies on the Federal Rule 4(d) waiver of service provisions.

- It would be unusual in the S.D. of Indiana for counsel to be appointed prior to at least one defendant appearing in the case and filing an answer to the complaint.
- If after you are appointed you determine that an individual has not been served (that should have been served – i.e., they were not dismissed at screening) you should notify the court.

Starting discovery

- Sequence
- Talking to inmate witnesses
- Fed. Rule 26: oral depositions – how format might differ from our private cases
 - o All officers or other witnesses noted in records or on defendant’s witness lists?
 - o Use your judgment – witness may already be committed in report, etc.
 - o Video conferencing to save travel
 - o Telephone depositions
 - o Do I need a transcript of every deposition?
- Documents
- Interrogatories
- Visiting the scene: Fed. Rules 34, 45
- Requests to admit

Additional Causes of Action:

- Excessive Force
 - o Post conviction: plaintiff must prove the following by a preponderance:
 - (1)Defendant used force on plaintiff;
 - (2)Defendant intentionally used extreme or excessive cruelty toward plaintiff for the purpose of harming him, and not in a good faith effort to maintain or restore security or discipline;
 - (3)Defendant’s conduct caused harm to plaintiff;
 - (4)Defendant acted under color of law
 - In deciding whether plaintiff has proved that defendant intentionally used extreme or excessive cruelty toward plaintiff, you may consider such factors as:
 - o The need to use force
 - o The relationship between the need to use force and the amount of force used;
 - o The extent of plaintiff’s injury;
 - o Whether defendant reasonably believed there was a threat to the safety of staff or prisoners;
 - o Any efforts made by defendant to limit the amount of force used.
 - o Arrestee or pretrial detainee
 - *Kingsley v. Hendrickson*, 135 U.S. 1039 (2015)
 - The appropriate standard is objective, not subjective, for plaintiff pretrial detainee to prove that an officer used excessive force. The appropriate analysis focuses on “the

perspective of a reasonable officer on the scene, including what the officer knew at the time, not with the 20/20 vision of hindsight.” The objective inquiry must also take full consideration of the jail’s need for “internal order and discipline.”

- Range of non-exhaustive considerations relevant to the objective inquiry, including: “the relationship between the need for the use of force and the amount of force used; the extent of the plaintiff’s injury; any effort made by the officer to temper or limit the amount of force; the severity of the security problem at issue; the threat reasonably perceived by the officer; and whether the plaintiff was actively resisting.”
- “The Due Process Clause protects a pretrial detainee from the use of excessive force that amounts to punishment” but “in the absence of an expressed intent to punish, a pretrial detainee can nevertheless prevail by showing that the actions are not ‘rationally related to a legitimate non-punitive governmental purpose’ or that the actions ‘appear excessive in relation to that purpose.’” Thus, “a pretrial detainee can prevail by providing only objective evidence that the challenged governmental action is not rationally related to a legitimate governmental objective or that it is excessive in relation to that purpose.”
- 7th Circuit Model Instruction 7.08 Fourth Amendment/Fourteenth Amendment – excessive force against arrestee or pretrial detainee –
 - Plaintiff must prove by a preponderance of the evidence:
 - Defendant used unreasonable force against Plaintiff;
 - Because of Defendant’s unreasonable force, plaintiff was harmed;
 - Defendant acted under color of law.
- Access to Courts
 - 7th Cir. Model Instruction 8.02 Denial of Prisoner’s Access to Court
 - To succeed in a claim of denial of access to court, plaintiff must prove each of the following things by a preponderance of the evidence.
 - Defendant intentionally did at least one of the following things: [describe conduct];
 - Defendant acted “under color of law” (a person performs, or claims to perform, official duties under any state, county, or municipal law, ordinance, or regulation);
 - Defendant’s conduct hindered plaintiff’s efforts to pursue a legal claim;
 - The case which plaintiff wanted to bring to court was not frivolous. (A claim is frivolous if it is so trivial that there is no chance it would succeed in court or be settled out of court after it was filed);
 - Plaintiff was harmed by defendant’s conduct.
 - Committee Comment: Judges should include the parenthetical material concerning whether Plaintiff’s claim was frivolous

only if this presents a factual issue in the case. *See Lewis v. Casey*, 518 U.S. 343, 353 (1996); *Thompson v. Washington*, 362 F.3d 969, 970 (7th Cir. 2004) (“If your legal papers are confiscated in a doomed proceeding, there is no harm and no basis for a constitutional suit . . . even though there is always a chance that the court would have ruled erroneously in your favor.”) *Cf. Walters v. Edgar*, 163 F.3d 430, 433 (7th Cir. 1988) (“probabilistic” harm, which is nontrivial, will support standing for prospective injunctive relief).

- First Amendment

- *See Turner v. Safely*, 472 U.S. 78 (1987). A “reasonableness test” will determine if a prison/jail denied a prisoner First Amendment Rights to published and similar materials. But the 7th Circuit has been increasingly deferential to the decisions of prison officials. In *Unson v. Gaetz*, 673 F.3d 630 (7th Cir. 2012), the court ruled IL prison officials did not violate 1st Am. when they denied an inmate two medical books about drugs. Broad range of deference is given to prison officials in making these types of reading-material decisions.
- Prisoners have 1st Am. rights, but only those rights which are consistent with the legitimate objectives of prison officials. *Pell v. Procunier*, 417 U.S. 817, 822 (1974) (“A prison inmate retains those First Amendment rights that are not inconsistent with his status as a prisoner or with the legitimate penological objectives of the corrective system.”). Prisoners have a first amendment right to alert others about a prison official’s misconduct, but they must do so in an appropriate way to the appropriate audience. For example, a prisoner has no 1st am right to speak to a prison employee in a “confrontational, disorderly manner.” *Watkins v. Kasper*, 599 F.3d 791, 797-98 (7th Cir. 2010); *Holleman v. Penfold*, 501 Fed.Appx. 577, 2013 WL 647313 (7th Cir. 2013)(prisoner’s confrontational refusal to obey lock up order as a protest to short meal time was not a First Amendment protected activity). A prisoner has no First Amendment right to use insulting, threatening, or false language, even if couched in a prison grievance or letter. See e.g., *Hale v. Scott*, 371 F.3d 917 (7th Cir. 2004)(inmate had no protected 1st Am. right to state libelous rumor in grievance that officer was engaging in sexual misconduct); *Felton v. Huibregtse*, 2013 WL 2249536 (7th Cir. 2013)(inmate’s letter to warden outside of grievance process stating “any idiot could see” was not protected speech). A prisoner has no 1st Am right to challenge prison conditions in a manner which creates security risks, such as circulating a petition. See *May v. Libby*, 256 Fed.Appx. 825, 829 (7th Cir. 2007)(banning petitions to maintain control over group activity by prisoners is a reasonable response to a legitimate penological concern).

- Failure to Provide Medical Care (See separate seminar outline on Medical Claims)

- 7th Circuit Pattern Instruction 7.12 Failure to Provide Medical Attention
 - Plaintiff must prove each of the following things by a preponderance:
 - Plaintiff had a serious medical need;

- Defendant was deliberately indifferent to Plaintiff's serious medical need;
 - Defendant's conduct caused harm to Plaintiff;
 - Defendant acted under color of law
- Pattern Instruction 7.13 Definition of Serious Medical Need
 - When I use the term serious medical need, I mean a condition that a doctor says requires treatment, or something so obvious that even someone who is not a doctor would recognize as requiring treatment. In deciding whether a medical need is serious, you should consider the following factors:
 - The severity of the condition;
 - The harm [including pain and suffering] that could result from a lack of medical care;
 - Whether providing treatment was feasible; and
 - The actual harm caused by the lack of medical care
- Pattern instruction 7.14 Definition of Deliberately Indifferent
 - Defendant actually knew of a substantial risk of [serious harm] or [describe specific harm to plaintiff's health or safety], and defendant consciously disregarded this risk by failing to take reasonable measures. If defendant took reasonable measures to respond to a risk, then he was not deliberately indifferent, even if plaintiff was ultimately harmed.
- Bad medical care: some care does not necessarily defeat claims *Snipes v. DeTella*, 95 F.3d 586, 592 (7th Cir. 1996)
- More than negligence: *Estate of Cole v. Fromm*, 94 F.3d 254, 261 (7th Cir. 1996)
 - Negligence – failure to provide care that a reasonably careful physician would provide
 - Then build to reckless disregard (8th or 14th Amendment)
 - Circumstantial evidence –can be used to establish subjective awareness and deliberate indifference. *Thomas v. Cook County*, 588 F.3d 445, 452-3 (7th Cir. 2009)
 - Obtain medical records of client
 - Rules 34, 45;
 - IDOC releases – contact prison legal coordinator for current form; separate form for mental health records;
 - Note: there may be private hospitals as well.
- Learn about the medical issues yourself
 - The client – get his records and discuss his situation with him;
 - Hospital/medical records
 - County jail
 - Private hospital
 - Internet
 - Treatises
 - Consultant
- Necessity of retained expert – do you really need one?

- How can you develop necessary proof without a retained expert?
- In many instances defendant medical caregiver or other type of defendant will not deny standard of care or knowledge of the standard. There will be confession and avoidance. For example:
 - I did not see the patient;
 - The patient refused care;
 - The wrong decision was made by another caregiver
- You can develop the standard of care or conduct in several different ways without a retained expert:
 - Examine the federal rules of evidence for short cuts that are inexpensive
 - Adverse examination of defendant (Rule 611c);
 - Ask leading questions. For example, would patient's condition be an adequate cause of pain? If untreated, would condition become permanent?
 - Use of learned treatises; Rule 803(18)
 - Public reports and records; Rule 803(8)
 - Judicial notice; Rule 201
 - Hospital records, especially outside of prison or jail often will contain orders, directions that prison/jail does not follow;
 - Policies and protocols of IDOC and hospital
- If you need one, how do you get one?
 - Look to sources around you:
 - Your own doctors, at least for recommendations;
 - Other members of your firm;
 - You firm's clients
 - Local hospitals
 - Online

Summary Judgment by Defendants

- Keep in mind constantly and from the beginning:
 - Federal Court's local rules,
 - Duty of non-movant: must produce admissible evidence. Cannot rely on unverified complaint. *Celotex v. Catrett*, 477 U.S. 317, 322 (1986)
 - Affidavits – start planning ahead

Settlement

- Timing
- Nature of defendant (IDOC employee v. private medical or other provider w/insurance v. city or county)
- Amount
- Nature of release – contact Jim Chapman for a form with commentary

Reimbursement of expenses- prepayment

Proposed Local Rule 87 allows counsel to seek reimbursement and prepayment of expenses. This process may be further developed in a General Order.

Current Local Rule 4-6 allows for reimbursement of costs under certain circumstances.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

RAYMOND STROMINGER,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 1:16-cv-00253-TWP-MJD
)	
WILSON Ms., Sergeant,)	
COBB Mr., Sergeant,)	
HARRIS Mr., Custody Officer,)	
JOHN DOE #1 officer,)	
JOHN DOE #2 officer,)	
RUSSELL Major,)	
INDIANA DEPARTMENT OF)	
CORRECTION,)	
)	
Defendants.)	

Entry Discussing Amended Complaint and Directing Further Proceedings

Before the Court is Plaintiff Raymond Strominger’s (“Strominger”) Amended Complaint which is subject to screening pursuant to 28 U.S.C. § 1915A(b). Strominger uses a wheelchair and is currently incarcerated at the Pendleton Correctional Facility. He has sued the Indiana Department of Corrections (“DOC”) and seven employees claiming violations of the Rehabilitation Act (“RA”), 29 U.S.C. §§ 794–94e, the Americans with Disabilities Act (“ADA”), 42 U.S.C. §§ 12111–213, and the Eighth Amendment. For the reasons explained below, certain claims are dismissed while other claims shall proceed.

I. Standard of Review

Pursuant to 28 U.S.C. § 1915A(b), “[a] complaint is subject to dismissal for failure to state a claim if the allegations, taken as true, show that plaintiff is not entitled to relief.” *Jones v. Bock*, 549 U.S. 199, 215 (2007). To satisfy the notice-pleading standard of Rule 8 of the Federal Rules

of Civil Procedure, a complaint must provide a “short and plain statement of the claim showing that the pleader is entitled to relief,” which is sufficient to provide the defendant with “fair notice” of the claim and its basis. *Erickson v. Pardus*, 551 U.S. 89, 93 (2007) (per curiam) (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) and quoting Fed. R. Civ. P. 8(a)(2)). To survive a motion to dismiss, the complaint “must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face. . . . A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1949 (2009) (quotations omitted). *Pro se* complaints such as that filed by Strominger, are construed liberally and held to a less stringent standard than formal pleadings drafted by lawyers. *Erickson*, 551 U.S. at 94; *Obriecht v. Raemisch*, 517 F.3d 489, 491 n.2 (7th Cir. 2008).

II. Amended Complaint

The Amended Complaint alleges that on May 26, 2015, Strominger was transported in a non-wheelchair accessible van. He told the defendants that the use of a non-wheelchair accessible van was inappropriate. Strominger’s need to be transported in a wheelchair accessible van was well documented. When he was unable to get himself into the van, Sgt. Wilson ordered Sgt. Cobb, Officer Harris, and two John Doe officers to put Strominger into the van. When he complained and asked to speak with a supervisor, Sgt. Wilson stated that she was following Major Russell’s instructions.

While getting Strominger into the van, Sgt. Cobb, Officer Harris, and the two unnamed officers allegedly used excessive force causing extreme pain in Strominger’s wrists, shoulders, and chest. Strominger alleges that not providing him transportation in a wheelchair accessible van violated his right to reasonable accommodations under the ADA and RA. He also alleges that the

individual officers subjected him to excessive use of physical force in violation of his Eighth Amendment rights.

III. Discussion of Claims

Applying the standard set forth above to the allegations in the Amended Complaint certain claims must be dismissed while other claims shall proceed as submitted.

A. Official Capacity Claims

The claims against the individual defendants in their official capacities are **dismissed**. A claim against the individual defendants in their official capacities is really a claim against the DOC. *See Jaros*, 684 F.3d at fn.2. And the DOC is already a defendant in this action.

B. Statutory Claims

The **statutory claims against the individual defendants are dismissed**. To the extent the individual defendants are named in the ADA and Rehabilitation Act claims those claims are dismissed. Employees of the DOC are not amenable to suit under the Rehabilitation Act or the ADA. *See Jaros v. Illinois Dept. of Corrections*, 684 F.3d 667, 670 (7th Cir. 2012) (citing 29 U.S.C. § 794(b); 42 U.S.C. § 12131; *Foley v. City of Lafayette*, 359 F.3d 925, 928 (7th Cir. 2004); *Garcia v. S.U.N.Y. Health Scis. Ctr. of Brooklyn*, 280 F.3d 98, 107 (2d Cir. 2001) (collecting authority)). Accordingly, the ADA and Rehabilitation Act claims against the individual defendants in their individual capacities are dismissed.

The **ADA claims are dismissed**. The relief provided by the ADA and Rehabilitation Act is coextensive and a plaintiff suing under both statutes may have only one recovery. *Jaros*, 684 F.3d at 671 (citing *Duran v. Town of Cicero, Ill.*, 653 F.3d 632, 639 (7th Cir. 2011) (plaintiffs may have but one recovery); *Calero-Cerezo v. United States Dep't of Justice*, 355 F.3d 6, 11 n. 1 (1st Cir. 2004) (dismissal of ADA claim had no effect on scope of remedy because Rehabilitation Act

claim remained)). In addition, “the analysis governing each statute is the same except that the Rehabilitation Act includes as an additional element the receipt of federal funds, which all states accept for their prisons.” *Id.* For these reasons the ADA claims (and their associated question of sovereign immunity) are summarily dismissed. *Id.*

C. Constitutional Claims

Strominger raises two constitutional claims against the individual defendants pursuant to 42 U.S.C. § 1983. The first inquiry in every § 1983 case is whether there has been the deprivation of a right secured by the Constitution or laws of the United States, for without a predicate constitutional violation one cannot make out a *prima facie* case under § 1983. *Juriss v. McGowan*, 957 F.2d 345, 349 n.1 (7th Cir. 1992).

Strominger alleges that the individual defendants used excessive force when loading Strominger into a van that was not wheelchair accessible. These allegations implicate the Eighth Amendment. To the extent Strominger makes a due process and equal protection claim asserted pursuant to the Fourteenth Amendment these claims are **dismissed**. Strominger’s claims are sufficiently based on the protections afforded by the Eighth Amendment to the Constitution. There is no occasion to invoke the important but limited protections of due process and equal protection. *Albright v. Oliver*, 510 U.S. 266, 273 (1994) (“Where a particular Amendment provides an explicit textual source of constitutional protection against a particular sort of government behavior, that Amendment, not the more generalized notion of substantive due process, must be the guide for analyzing such a claim.”) (plurality opinion of Rehnquist, C.J.) (internal quotations omitted).

Any constitutional tort claim against the DOC cannot proceed because the department, which is an arm of the State of Indiana, is not a person subject to suit pursuant to 42 U.S.C. § 1983. *See Will v. Mich. Dep’t of State Police*, 491 U.S. 58, 71 (1989) (holding that “neither a State nor

its officials acting in their official capacities are “persons” under § 1983”). *See also Greenawalt v. Ind. Dep’t of Corr.*, 397 F.3d 587, (7th Cir. 2005) (affirming the district court’s dismissal against DOC because it was not a person subject to suit under § 1983). Thus as a matter of law, Strominger is limited to bringing his Eighth Amendment claims for money damages against the named officers in their individual capacities.

The constitutional torts alleged against Lt. C. Nicholson are **dismissed**. The only allegation against this defendant is that he knew a wheelchair accessible van was needed to transport Strominger and that the accessible van was not provided. But there is no allegation which suggests that Lt. Nicholson was present at the time or even knew that a wheelchair accessible was not being provided. Instead the allegations reflect that defendant Sgt. Wilson was acting under Major Russell’s direction. In other words, there is no plausible basis for concluding that these supervisory defendants caused or participated in the alleged constitutional deprivation. *See Wolf-Lillie v. Sonquist*, 699 F.2d 864, 869 (7th Cir. 1983); *Johnson v. Snyder*, 444 F.3d 579, 583-84 (7th Cir. 2006). The **clerk is directed** to terminate Lt. Nicholson as a defendant on the docket.

The claims alleged against Officer John Doe # 1 and Officer John Doe # 2 are **dismissed** for failure to state a claim upon which relief can be granted because “it is pointless to include [an] anonymous defendant [] in federal court; this type of placeholder does not open the door to relation back under Fed.R.Civ.P. 15, nor can it otherwise help the plaintiff.” *Wudtke v. Davel*, 128 F.3d 1057, 1060 (7th Cir. 1997) (internal citations omitted). Bringing suit against unnamed, or “John Doe,” defendants in federal court is generally disfavored by the Seventh Circuit. If through discovery, Strominger is able to learn the name of the unknown defendants, he may seek leave to add a claim against them. The **clerk is directed** to terminate the John Does as defendants on the docket.

III. Remaining Claims

The claim against the DOC brought under the Rehabilitation Act shall proceed. This claim is based on the theory that the DOC discriminated against him by denying access to a wheelchair accessible van for transportation.

The Eighth Amendment excessive force claim for money damages against the remaining individual defendants (Sgt. Wilson, Sgt. Cobb, Officer Harris and Major Russel) shall proceed.

IV. Service of Process

The **clerk is designated**, pursuant to *Fed. R. Civ. P.* 4(c)(3), to issue and serve process on the defendants in the manner specified by *Fed. R. Civ. P.* 4(d)(1). Process shall consist of the amended complaint [dkt. 7], applicable forms and this Entry.

IT IS SO ORDERED.

Date: 6/7/2016



TANYA WALTON PRATT, JUDGE
United States District Court
Southern District of Indiana

Distribution:

RAYMOND STROMINGER
160814
PENDLETON CORRECTIONAL FACILITY
Inmate Mail/Parcels
4490 West Reformatory Road
PENDLETON, IN 46064

Sgt. Wilson, Sgt. Cobb, Officer Harris, and Major D. Russell
c/o Lee Hoefling, Executive Assistant
Wabash Valley Correctional Facility
6908 S. Old U.S. Highway 41
P.O. Box 500
Carlisle , IN 47838

Indiana Department of Correction
302 W. Washington St. Room E334
Indianapolis, IN 46204

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION**

JUSTIN EDWARD REEDY,)	
)	
Plaintiff,)	
)	
vs.)	No. 2:16-cv-00195-WTL-DKL
)	
DAVID BREWER OFC.; (#245),)	
SEVIGNY SGT.; (#159),)	
TONEY OFC.; (#246),)	
COUNTY OF VIGO,)	
TERRE HAUTE POLICE DEPARTMENT,)	
)	
Defendants.)	

**Entry Granting *In Forma Pauperis* Status,
Dismissing Insufficient Claims, and Directing Service of Process**

I. In Forma Pauperis

The plaintiff’s motion to proceed *in forma pauperis* [dkt. 2] is **granted**. The assessment of an initial partial filing fee is not feasible at this time. Notwithstanding the foregoing ruling, the plaintiff still owes the \$350.00 filing fee. “All [28 U.S.C.] § 1915 has ever done is excuse *pre*-payment of the docket fees; a litigant remains liable for them, and for other costs, although poverty may make collection impossible.” *Abdul-Wadood v. Nathan*, 91 F.3d 1023, 1025 (7th Cir. 1996).

II. Screening

A. Background

The complaint is now subject to screening pursuant to 28 U.S.C. § 1915A(b). This statute directs that the Court dismiss a complaint or any claim within a complaint that “(1) is frivolous, malicious, or fails to state a claim upon which relief may be granted; or (2) seeks monetary relief

from a defendant who is immune from such relief.” *Id.* “A complaint is subject to dismissal for failure to state a claim if the allegations, taken as true, show the plaintiff is not entitled to relief.” *Jones v. Bock*, 549 U.S. 199, 215 (2007).

Plaintiff Justin Edward Reedy (“Mr. Reedy”) is a pretrial detainee currently incarcerated at the Vigo County Jail. He brings claims against 1) Officer David Brewer; 2) Officer Toney; 3) Sgt. Sevigny; 4) County of Vigo; and 5) Terre Haute Police Department. He alleges violations of his Eighth and Fourteenth Amendment rights pursuant to 42 U.S.C. § 1983. He seeks injunctive relief and compensatory and punitive damages.

After leading Terre Haute police officers on a high speed chase at speeds exceeding 100 miles per hour, with his girlfriend in the car, Mr. Reedy lost control of his car and ran into a ditch, striking a tree and getting stuck in the mud. Mr. Reedy and his girlfriend both said they needed medical attention. Mr. Reedy’s girlfriend was taken by “Transcare” to Regional Hospital, where she was diagnosed with a fractured sternum and fractured discs in her back. Officer David Brewer and Officer Toney said that Mr. Reedy should be taken to a hospital, but not the same hospital as his girlfriend because he wasn’t really hurt and he just wanted to see his girlfriend. Mr. Reedy was arrested and taken to Vigo County Jail to be seen by medical staff there.

Mr. Reedy alleges that Officers Brewer and Toney violated his constitutional rights when they failed to provide him medical attention at the scene of the crime.

B. Insufficient Claims

The only allegation against Sgt. Sevigny is that he was one of the officers who conducted the felony stop when Mr. Reedy’s car finally stopped after it crashed. Without personal liability, there can be no recovery under 42 U.S.C. § 1983. *Burks v. Raemisch*, 555 F.3d 592, 593-94 (7th Cir. 2009) (“Section 1983 does not establish a system of vicarious responsibility. Liability

depends on each defendant's knowledge and actions, not on the knowledge or actions of persons they supervise.") (internal citation omitted). There are no allegations of wrongdoing alleged against Sgt. Sevigny. Therefore, any claim against Sgt. Sevigny is **dismissed for failure to state a claim upon which relief can be granted.**

Mr. Reedy names the County of Vigo as a defendant. A county can be held liable for constitutional violations only when there is "an official policy or other governmental custom that not only causes but is the moving force behind the deprivation of constitutional rights." *Wilson v. Cook County*, 742 F.3d 775, 779 (7th Cir. 2014) (internal quotation omitted). "[A] government agency may be liable when its official policy or custom inflicts the plaintiff's injury." *Id.* (citing *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 694 (1978)). "But a municipality may not be held liable under § 1983 solely because it employs a tortfeasor." *Id.* (internal quotation omitted). There are no allegations that a county custom or policy caused harm to Mr. Reedy. Therefore, the claim against Vigo County is **dismissed for failure to state a claim upon which relief can be granted.**

The Terre Haute Police Department is not a suable entity. *Sow v. Fortville Police Dept.*, 636 F.3d 293, 300 (7th Cir. 2011). Therefore, any claim against the police department must be **dismissed for failure to state a claim upon which relief can be granted.**

Negligence or even gross negligence is not enough to state a claim under § 1983. *Harper v. Albert*, 400 F.3d 1052, 1065 (7th Cir. 2005). At the time of his claim, Mr. Reedy was an arrestee, which is governed by the Fourth Amendment. *Lopez v. City of Chicago*, 464 F.3d 711, 719 (7th Cir. 2006). The Fourth Amendment's "objectively reasonable" standard applies to medical claims brought by arrestees. *Currie v. Chhabra*, 728 F.3d 626, 629-30 (7th Cir. 2013); *Ortiz v. City of Chicago*, 656 F.3d 523, 530 (7th Cir. 2011). Mr. Reedy's Fourteenth Amendment

equal protection and Eighth Amendment claims add nothing of substance. Constitutional claims are to be addressed under the most applicable provision. *See Conyers v. Abitz*, 416 F.3d 580, 586 (7th Cir. 2005). The Fourteenth and Eighth Amendment claims are **dismissed for failure to state a claim upon which relief can be granted.**

No partial final judgment shall issue at this time as to the claims that are dismissed in this Entry.

C. Claims That Shall Proceed

The Fourth Amendment claims that Officers David Brewer and Toney failed to act reasonably with regard to Mr. Reedy's need for medical attention shall proceed.

III. Directing Service of Process

The clerk is designated pursuant to *Fed. R. Civ. P.* 4(c) to issue process to Officer David Brewer and Officer Toney in the manner specified by Rule 4(d). Process shall consist of the complaint filed on June 2, 2016 (docket 1), applicable forms (Notice of Lawsuit and Request for Waiver of Service of Summons and Waiver of Service of Summons), and this Entry.

The clerk shall **update the docket** to reflect the dismissal of all defendants other than Officer Brewer and Officer Toney.

IT IS SO ORDERED.

Date: 6/8/16



Hon. William T. Lawrence, Judge
United States District Court
Southern District of Indiana

NOTE TO CLERK: PROCESSING THIS DOCUMENT REQUIRES ACTIONS IN ADDITION TO DOCKETING AND DISTRIBUTION.

Distribution:

JUSTIN EDWARD REEDY
VIGO COUNTY JAIL
201 Cherry Street
Terre Haute, IN 47807

Officer David Brewer, #245
Terre Haute Police Department
1211 Wabash Ave.
Terre Haute, IN 47807

Officer Toney, #246
Terre Haute Police Department
1211 Wabash Ave.
Terre Haute, IN 47807

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION**

RICKY CROWDER,)	
)	
Plaintiff,)	
)	
v.)	Case No. 2:14-cv-202-JMS-MJD
)	
LARIVA, et al.,)	
)	
Defendants.)	

Entry Discussing Amended Complaint and Directing Further Proceedings

Plaintiff Ricky Crowder, an inmate at the Federal Correctional Institution in Terre Haute, Indiana, brings this action alleging the violation of his civil rights based on the denial of his requested kosher meals. He has filed an amended complaint, which is treated as a motion to amend. As so treated, the motion is **granted**. The amended complaint supersedes the original complaint and is subject to the screening requirement of 28 U.S.C. § 1915A(b).

I. Screening of the Amended Complaint

Pursuant to 28 U.S.C. § 1915A, “[a] complaint is subject to dismissal for failure to state a claim if the allegations, taken as true, show that plaintiff is not entitled to relief.” *Jones v. Bock*, 127 S. Ct. 910, 921 (2007). Based on this screening, certain claims will proceed while others will be dismissed.

First, Crowder’s claim brought pursuant to the Religious Freedom Restoration Act, 42 U.S.C. § 2000bb-1 (“RFRA”),¹ that his religious rights have been denied through the denial of kosher meals **shall proceed** against defendants Warden Lariva, Assistant Warden Oliver, Chaplain Holston, and Chaplain Jones. His First Amendment claim brought pursuant to the theory

¹ In the Amended Complaint, Crowder asserts this claim under the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. § 2000cc, but because he is a federal inmate, the RFRA is applicable to his claims.

recognized in *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 38 (1971), that this denial has curtailed his right to freely exercise his religion **shall also proceed** against defendants Warden Lariva, Assistant Warden Oliver, Chalpain Holston, and Chaplain Jones.

Any claim against defendants Warden Caraway, Chaplain Woods, Regional Director Paul M. Laird, and Central Office Director is **dismissed** because the plaintiff has not alleged sufficient facts that these defendants personally participated in any of the alleged deprivations to raise the right to relief above a speculative level. *See Ashcroft v. Iqbal*, 556 U.S. 662, 676 (2009) (“Because vicarious liability is inapplicable to *Bivens* . . . suits, a plaintiff must plead that each Government-official defendant, through the official's own individual actions, has violated the Constitution.”). This is the case even if these defendants rejected administrative complaints regarding the plaintiff's allegations. *George v. Smith*, 507 F.3d 605, 609 (7th Cir. Cir. 2007) (“Only persons who cause or participate in the violations are responsible”; an official “who rejects an administrative complaint about a completed act of misconduct does not [cause or contribute to the violation]”).

Any claim based on alleged unconstitutional policy and practices involving the FCI Terre Haute administrative review process is **dismissed** because a prison may use any process or no process at all in dealing with inmate complaints. *See Antonelli v. Sheahan*, 81 F.3d 1422, 1430 (7th Cir. 1996) (“a state's inmate grievance procedures do not give rise to a liberty interest protected by the Due Process Clause”).

Any claim brought pursuant to 42 U.S.C. §§ 1985 or 1986 is **dismissed** because those statutes are intended to “permit recovery from a private actor who has conspired with state actors.” When, as here, the defendants are all federal actors, “a § 1985(3) claim does not add anything except needless complexity.” *See Fairley v. Andrews*, 578 F.3d 518, 526 (7th Cir. 2009).

Any Equal Protection and Eighth Amendment claims related to the plaintiff's allegation that he has been denied kosher meals is **dismissed** because his First Amendment free-exercise claim arises under the First Amendment and gains nothing by additional constitutional labels. *See Conyers v. Abitz*, 416 F.3d 580, 586 (7th Cir. 2005) (citing *Graham v. Connor*, 490 U.S. 386, 395 (1989)).

Any claim against the United States is **dismissed** because the plaintiff has not alleged any basis for the waiver of the United States' sovereign immunity for his claims. *See FDIC v. Meyer*, 510 U.S. 471, 475 (1994) ("Absent a waiver, sovereign immunity shields the Federal Government and its agencies from suit.").

II. Further Proceedings

In summary, the following claims shall proceed:

- Crowder's claim brought pursuant to RFRA that his religious rights have been denied through the denial of kosher meals **shall proceed** against defendants Warden Lariva, Assistant Warden Oliver, Chaplain Holston, and Chaplain Jones;
- Crowder's First Amendment claim brought pursuant to the theory recognized in *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 38 (1971), that this denial has curtailed his right to freely exercise his religion **shall also proceed** against defendants Warden Lariva, Assistant Warden Oliver, Chaplain Holston, and Chaplain Jones.

Defendants Jones and Holston have already appeared in this action. They shall have **through June 15, 2015** in which to answer the Amended Complaint.

The **clerk is designated**, pursuant to *Fed. R. Civ. P.* 4(c)(2), to issue process to defendants Lariva and Oliver. Process shall consist of a summons. Because the plaintiff is proceeding under the theory recognized in *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*,

403 U.S. 388 (1971), **personal service is required**. *Robinson v. Turner*, 15 F.3d 82 (7th Cir. 1994).

The Marshal for this District or his Deputy shall serve the summons, together with a copy of the amended complaint, and a copy of this Entry, on the defendants and on the officials designated pursuant to *Fed. R. Civ. P. 4(i)(2)*, at the expense of the United States.

IT IS SO ORDERED.


Date: 05/12/2015

Distribution:

Ricky Crowder
15807-039
Terre Haute FCI
P.O. Box 33
Terre Haute, IN 47808

All electronically registered counsel

United States Marshal


Hon. Jane Magnus-Stinson, Judge
United States District Court
Southern District of Indiana

SUGGESTED FORM OF PRISONER-CLIENT ENGAGEMENT LETTER

**Note: this form is a *suggestion*. Each attorney should determine what is appropriate.
[letterhead with attorney's name, address, etc]**

[date]

**CONFIDENTIAL ATTORNEY-
CLIENT COMMUNICATION**

[name Reg. #_____]

[address of prison]

Re: [name of attorney] Engagement letter

Dear [name of client],

Per our conversation, I am sending you this letter to provide you with my address and telephone number. This letter also identifies my role and responsibilities with regard to my representation of you in this matter.

1. Scope of services. The United States District Court for the Southern District of Indiana has appointed me to provide legal services to you in the following matter:

_____, plaintiff, v. _____, defendant(s), Case #_____ in the United States District Court for the Southern District of Indiana.

I will act as your counsel in this case for the claims that are stated in your *pro se* complaint or which arise out of the facts set forth in your *pro se* complaint.

My services will continue while the case is pending in the United States District Court. Once the case ends in that court, my representation of you will end. I will not undertake an appeal to a higher court, like the United States Court of Appeals for the Seventh Circuit, if an appeal becomes necessary.

In addition, I will not undertake to represent you on matters or claims unrelated to the matters set forth in your *pro se* complaint or any other matter or request unrelated to representation of you in the legal case for which the Court appointed me.

Other attorneys in my Firm **[if this is the case]** may assist me in this case; but each such attorney will be acting under my supervision with my knowledge and approval.

2. My responsibility as your appointed lawyer. All legal services that I furnish to you will be performed in compliance with the governing code of professional conduct. I will keep you reasonably informed of the progress and developments with the respect to the legal

services I am performing for you and will promptly comply with reasonable requests from you for information relating to the case I am handling for you.

As your case progresses, we may reach certain points where important decisions have to be made. If we come to one of those points, I will inform you of your options and provide you with my advice and opinion so that we can work together to agree upon the best decision for you to make.

As the Court issues orders on significant legal issues that have been raised by either party (plaintiff or defendant), I will inform you of those orders and what effects they might have on your case.

From time to time, you may request a legal opinion from me, or I may render an opinion on my own without your request, regarding the progress or status of the case or the performance of my legal services on your behalf. Each such opinion is necessarily limited by my knowledge of the facts at the time and is based on the state of the law at the time of such opinion or statement. Please keep in mind that any attorney's opinion, including my own, is not a guarantee of a particular outcome or the results of the legal proceeding.

Please note that I will not accept collect telephone calls from you, unless we have made prior arrangements with the prison legal liaison for a secure attorney-client call.

3. Duties of the client. Your cooperation is required in order for me to provide the legal services called for in this agreement. You have agreed to fully cooperate with me with respect to the legal services to be provided by me or my associates **[if any]**.

4. Professional Fees and Expenses.

[This is a matter of negotiation between client and attorney. For example, a contingency fee with the contingency to be calculated on balance after reimbursement of costs or before? If case is lost, no charge for services rendered and no reimbursement of costs]

If the case goes to trial and is successful, then attorney's fees and costs will be governed by the applicable provisions of the Prisoner Litigation Reform Act.

5. Review this agreement, sign the copy and return to me. Should you have any questions about any of the terms of this agreement, please contact me. If you agree with the terms proposed in this document, please sign and deliver back to me the copy. I have enclosed a self-addressed envelope for your convenience. Please keep the original.

Sincerely yours,

[Appointed attorney]

**THE ABOVE AGREEMENT
IS ACCEPTED AND AGREED TO.**

[client's name]

Date



REPORT OF CONDUCT
 State Form 39590 (R4 / 11-13)
 INDIANA DEPARTMENT OF CORRECTION

Case number
Date assigned (month, day, year)

INSTRUCTIONS: Type or Print clearly

NOTE TO REPORTING EMPLOYEE: This report is to be filled out in triplicate. All copies shall be forwarded to the screening officer, in accordance with the Disciplinary Code for Adult Offenders.

Name of offender Doram, Myron		DOC number of offender 247705		Facility CIF	Housing unit 10L-AS1
Date of incident (month, day, year) 11-30-2014	Time of incident approx 7:40	<input type="checkbox"/> AM <input checked="" type="checkbox"/> PM	Place of incident 10-4C	Date report written (month, day, year) 1-5-2015	
Offense Assault					Code number 102

DESCRIPTION OF INCIDENT (If more space is needed, attach additional sheets in triplicate.)

On November 30, 2014 at approx 7:40PM, Offender Davidson, Daniel 141017 was found in his cell with several wounds to his head, face, and body. These injuries were consistent to injuries inflicted by being struck with a padlock. An investigation was immediately initiated following the discovery of the assault. Information gathered throughout the investigation indicates that Offender Doram, Myron 247705 was responsible for assaulting offender Davidson on November 30, 2014.

Disposition of physical evidence, if any
 See CONFIDENTIAL case file 14-CIC-0035

Witness(es), if any

Signature of reporting employee <i>A. Mills</i>	Name and title (please print) Investigator A Mills	Screening officer <i>[Signature]</i> #120	
Signature of immediate supervisor <i>M. Grady</i>	Name and title (please print) Investigator M Grady	Date (month, day, year) 1-5-15	Time 11:29 <input checked="" type="checkbox"/> AM <input type="checkbox"/> PM

FOR SCREENING OFFICERS ONLY

Copy of report delivered to offender by: <i>[Signature]</i> #120	Date report delivered (month, day, year) 1-7-15
Signature of offender receiving copy <i>[Signature]</i>	Note here if offender refuses to sign

DISTRIBUTION: Original - Offender, Copy - Central Office; Copy - Facility Packet



Indiana Department of Correction
Putnamville Correctional Facility

History of Grievances for Offender
943202 KENNETH MCDAVID

Facility	Log ID	Topic	Torte Claim Filed	Appeal/Level	Level Receive Date
ISF	81265	Medical-Exc. Forced Treatment - Improper or Inadequate Medical Care Staff being Grievied (if any):		I - Formal Grievance	11-MAR-14
	81492	Medical-Exc. Forced Treatment - Improper or Inadequate Medical Care Staff being Grievied (if any):		I - Formal Grievance	31-MAR-14
	81493	Medical-Exc. Forced Treatment - Prescriptions, Medication Staff being Grievied (if any):		I - Formal Grievance	31-MAR-14
	88948	Medical-Exc. Forced Treatment - Improper or Inadequate Medical Care Staff being Grievied (if any):		I - Formal Grievance	22-SEP-15
	88953	Medical-Exc. Forced Treatment - Improper or Inadequate Medical Care Staff being Grievied (if any):		I - Formal Grievance	22-SEP-15
IYC	28008	Medical-Exc. Forced Treatment - Access to or Delay in Receiving Medical Care Staff being Grievied (if any):		I - Formal Grievance	22-FEB-07
WCC	30450	Medical-Exc. Forced Treatment - Prescriptions, Medication Staff being Grievied (if any):		I - Formal Grievance	10-APR-07
	32576	Medical-Exc. Forced Treatment - Prescriptions, Medication Staff being Grievied (if any):		I - Formal Grievance	31-MAY-07
	44090	Medical-Exc. Forced Treatment - Improper or Inadequate Medical Care Staff being Grievied (if any):		I - Formal Grievance	01-JUL-08
	45430	Staff/Others - Complaints - Basic Complaint of Staff		I - Formal Grievance	02-SEP-08





Indiana Department of Correction
Putnamville Correctional Facility

History of Grievances for Offender
943202 KENNETH MCDAVID

Facility	Log ID	Topic	Torte Claim Filed	Appeal/Level	Level Receive Date
WCC	45430	Staff/Others - Complaints - Basic Complaint of Staff Staff being Grievd (if any): Correctional Officer Carr			
	45431	Staff/Others - Complaints - Basic Complaint of Staff Staff being Grievd (if any):		I - Formal Grievance	02-SEP-08
	45432	Medical-Exc. Forced Treatment - Improper or Inadequate Medical Care Staff being Grievd (if any):		I - Formal Grievance	02-SEP-08
	45433	Medical-Exc. Forced Treatment - Improper or Inadequate Medical Care Staff being Grievd (if any):		I - Formal Grievance	02-SEP-08
	45434	Medical-Exc. Forced Treatment - Improper or Inadequate Medical Care Staff being Grievd (if any):		I - Formal Grievance	02-SEP-08
	45437	Programs, Institution - Other Institution Programs Staff being Grievd (if any):		I - Formal Grievance	03-SEP-08
	45439	Staff/Others - Complaints - Other Complaint Against Staff Staff being Grievd (if any):		I - Formal Grievance	03-SEP-08
	45440	Staff/Others - Complaints - Unprofessional, Inappropriate C Staff being Grievd (if any): Correctional Officer Ludwig		I - Formal Grievance	03-SEP-08

TH APR 16 2014 Down state I have a copy of this because they've not been coming back and my family will call Thanks



OFFENDER GRIEVANCE
 State Form 45471 (R2/1-10)
 INDIANA DEPARTMENT OF CORRECTION

For Official Use Only
81265
 Grievance Number

To: **EXECUTIVE ASSISTANT** Facility: **ISF** Date (month, day, year): **2-28-14**

From (name of offender and DOC number): **Kenneth McDavid 943202** Signature of Offender: **Kenneth McDavid**

Housing Assignment: **11-N-36-L-A** Date of Incident (month, day, year): **July 5th 2013 all way to Feb 27 of 2014**

Provide a brief, clear statement of your complaint or concern. Include any information that may assist staff in responding to your grievance. (NOTE: A Single ONE-sided 8 1/2" X 11" sheet of paper may be attached if necessary to explain your grievance.)
 I'm writing this complaint against Corison, and Nurse Practitioner Connie, Dr Joseph, Mr Graham, and all medical staff Director Melisa Tucker, Medical superintendent, The Superintendent Standy Night, Assistant Superintendent Flyby, Rain's. I've Been without proper medical since I've been here. I've had no Oxygen, sleep Apnea mask, no proper meds I've had 3 colin surgo before here they've done nothing, and I have pins + plates they've gave me no proper pain meds I've had seizures for years they not gave me proper amount of the meds to kill them. I've had them and broke my Eye socket cost sight totally plus Hearing Ear was Bleeding they gave me an Eye drop for Ear + Eye nose it still Bleeds and Has crack, I've have several Surgeries on kidney before here, and been peeing Blood Dad for 3 months they know I can't pass stones but won't give me nothing for the pain plus I had a scan done just on my adomonal arie and not counting my colin seizures, pins + plates, they found spleen ripped with a disease and a place in Bowls and 405 Lumbar Busted in Back now in in wheel chair over it and the seizures I have life threatening problems they won't do nothing about plus the staff took a non narcotic pain med from me and pr said I'm not even out there doing this on purpose something needs to be done I haven't been able to shower but once a week because of help and I hurt to bad to do anything else but lay plus there's alot more wrong with me I have Hep C Diabetes and colin idis and don't get right Diet for any of it. I have Throat problems from where I've had tumors taken off Head Axes from plate they've not sent me to back specialist dr checked my colin, face, spleen, I've had no pain till now I have walker, cane, special shoes, because of pins and diabetic and they've done nothing there's lots more this is just a little of the suffering there doing it on purpose we all know that they won't be laughing in here

State the relief that you are seeking. I want to Be out of pain my eye fixed, to walk again my kidneys + colin fixed, my spleen + Bowl checked I can tell I'm poisoned the way I'm hurting and break out with scabs and I can't eat or lay I think another bad seizure will kill me if the rest of this don't I think it's what there hoping for. I need

~~Compensatory/Punative Damages~~ **INFORMAL RESOLUTION -**

Staff Person(s) Contacted: **medical** Date Response Received (month, day, year): **never**

State the response that was given to you by the staff person contacted. If you received no response, state the date you contacted the staff person and that you have received no response.
They never have responded to my Informal Grievance or any of the other one's I've seen but like one.

Signature of Executive Assistant

MAR 11 2014
 Date (month, day, year):

Putnamville Correctional Facility
Staff Response Sheet - Offender Grievance Process

Date: March 25, 2014

To: Melissa Tucker, Director of Nursing

From: Chris Williams, Administrative Assistant, Offender Grievance Office

Re: Offender Kenneth DOC # 943202
McDavid

Formal Grievance Case # 81265 or Informal Complaint

Please provide a statement and explain in detail your side of the incident of what occurred during the incident described in the attached grievance. Please provide enough information regarding estimated date of completion, work to be done, and date of completion if applicable. Attach appropriate documents if needed.

If you have any questions concerning this matter, contact me.

You have five (5) working days from the date you receive this, to provide a response to the Grievance Office.

Please type your response in the box below

In response to your grievance, you were admitted to the observation unit on 12/17/14 for back pain and blood in your urine. This is a timeline of your care:

12/17/13 Urine sample obtained, **admitted to self contaminating urine with his own blood** at which time a cath urine was obtained without blood noted, urine was clear.

12/20/13 You were admitted to our observation unit at this time and it was documented that you were "resting comfortably, always asking for more pain meds", no new medication orders given at this time.

12/22/13 Still in observation unit, denies blood in urine during nurse assessment

12/23/13 Released from observation unit, urinalysis and urine culture were negative, you were issued a bottom dorm, and bottom bunk pass expiring 1/5/14 as well as a wheelchair at that time.

12/30/13 You were sent for an offsite visit and had a CT done

1/3/14 You were scheduled for a chronic care visit to follow up on your CT results at which time you **refused to come** for your visit

1/9/14 Health Care Request Form number 368171, **did not show** for appointment

1/10/14 Dr. Greenman's office reports that they have no records for you

1/28/14 Received records from Dr. Greenman's office, reviewed by nurse practitioner and no changes made in plan of care at this time.

2/4/14 1800 ADA diet renewed

2/5/14 Off site visit for urology. Consult states that you have several small kidney stones that are non-obstructive and need no further intervention at this time. Follow up with urology on PRN basis only

2/12/14 Decision to wean ultram for pain made by Regional Medical Director as it is not recommended for long term use, Klonopin was renewed and a recommendation for weight loss was made.

2/14/14 HCRF#359957 for broken wheelchair and requesting a replacement diet card. At this time Lt. Kirklan was at your side and stated that **you willingly gave up your diet card stating that "I don't need it anymore"**

2/20/14 You were started on Pamelor for your chronic pain management. **As of 3/26/14 you have refused every dose in March**

2/24/14 Weaning of ultram began (long term use of ultram can cause problems with your liver and kidneys, and is known to increase seizure activity).

3/14/14 Approval for physical therapy (four visits).

3/26/14 First physical therapy appointment

At this time the medical treatment for your conditions have been appropriate. Compliance with the plan of care is critical, as we cannot progress to more aggressive therapies if you are not willing to cooperate and participate in your own care.



REQUEST FOR HEALTH CARE

State Form 45913 (R3 / 9-12)

Approved by State Board of Accounts, 2012

MAR 15 2014

11-N-36-L-A

INDIANA DEPARTMENT OF CORRECTION

#ISF 362934

TO BE COMPLETED BY OFFENDER

I request Health Care Services as follows:

- Sick Call
- Dentist
- Prescription Refill
- Mental Health
- Other (specify) Dr Joseph

Nature of complaint

why are you not giving me something for pain I cant hardly move I hurt really bad. There going to have to do something I cant take the pain you keep giving me pain med knowing I am allergic to it. I refuse it every time cause I get sick other people get pain med's that's not nearly as bad as I am. I have to have some kind of pain med's to even try to move or walk.

my lungs are hurting from not having my oxygen or my sleep mask what can I do. you need to send me for some test and die test to see what blocked off why my leggs went work and why I hurt so bad

By my signature, I hereby indicate that I understand that, in accordance with IC 11-10-3-5, I may be charged \$5.00 for Health Care services obtained at my request and \$5.00 for initial (new) prescriptions. I understand that any charge for these services and / or prescriptions shall be withdrawn automatically from my Trust Fund Account. I will not receive a receipt for this withdrawal; however, I may review the balance of my Trust Account as provided by facility procedures.

Signature of Offender <u>Kenneth McDavid</u>	Printed name <u>Kenneth McDavid</u>	DOC number <u>943202</u>	Date signed (month, day, year) <u>3-14-14</u>
---	--	-----------------------------	--

TO BE COMPLETED BY HEALTH CARE STAFF

Response of Health Care staff

IF AN APPOINTMENT HAS BEEN SCHEDULED, BE ALERT FOR YOUR CALL OUT.

Signature of Health Care staff	Date signed (month, day, year)
--------------------------------	--------------------------------

TO BE COMPLETED BY HEALTH CARE STAFF / FOR BUSINESS OFFICE USE

Was a new prescription provided? <input type="checkbox"/> Yes <input type="checkbox"/> No	TOTAL AMOUNT OF CO-PAYMENT \$ _____
Amount of Co-Payment <input type="checkbox"/> \$5.00 Health Care Contact <input type="checkbox"/> \$5.00 New Prescription	Signature of Health Care staff Date signed (month, day, year)

PATIENT IDENTIFICATION

Full name of patient
DOC number
Date of birth (month, day, year)

#ISF 362934

DISTRIBUTION: White - Health Care Chart;
 Canary - Offender / Business Office



THOMAS
 I'm going to start Notorizing all These slips Before I send them
 11-N-36-LA

REQUEST FOR HEALTH CARE
 State Form 45913 (R3 / 9-12)
 Approved by State Board of Accounts, 2012

INDIANA DEPARTMENT OF CORRECTION

Why havent I been getting These back #ISF 364317

TO BE COMPLETED BY OFFENDER

I request Health Care Services as follows:

- Sick Call Dentist Prescription Refill Mental Health Other (specify) Dr Joseph + melisa

Nature of complaint

DR Joseph I'm hurtting so bad I cant sleep, sit lay or hardly do any thing There's people getting the meds I'm suppose to get and There not near as bad as myself your going to have to do some thing you said we'd try Dolphines or something I cant take this pain I had another seizer. I want Tell anyone But people around Because you nurse's some make fun of me its from pain causing some of them

By my signature, I hereby indicate that I understand that, in accordance with IC 11-10-3-5, I may be charged \$5.00 for Health Care services obtained at my request and \$5.00 for initial (new) prescriptions. I understand that any charge for these services and / or prescriptions shall be withdrawn automatically from my Trust Fund Account. I will not receive a receipt for this withdrawal; however, I may review the balance of my Trust Account as provided by facility procedures. I've Told Inmates not to Tell guard and some G's know. But I guess Im going to start calling 3000 when I have the

Signature of Offender <i>Kenneth McDavid</i>	Printed name Kenneth McDavid	DOC number 943202	Date signed (month, day, year) 3-18-14
---	---------------------------------	----------------------	---

I have to have pain meds and I cant Take paratalar and you know

TO BE COMPLETED BY HEALTH CARE STAFF

Response of Health Care staff

.....

.....

.....

.....

.....

.....

.....

IF AN APPOINTMENT HAS BEEN SCHEDULED, BE ALERT FOR YOUR CALL OUT.

Signature of Health Care staff	Date signed (month, day, year)
--------------------------------	--------------------------------

TO BE COMPLETED BY HEALTH CARE STAFF / FOR BUSINESS OFFICE USE

Was a new prescription provided? <input type="checkbox"/> Yes <input type="checkbox"/> No	TOTAL AMOUNT OF CO-PAYMENT \$ _____
Amount of Co-Payment <input type="checkbox"/> \$5.00 Health Care Contact <input type="checkbox"/> \$5.00 New Prescription	Signature of Health Care staff Date signed (month, day, year)

PATIENT IDENTIFICATION

Full name of patient
DOC number
Date of blrth (month, day, year)

#ISF 364317

DISTRIBUTION: White - Health Care Chart;
 Canary - Offender / Business Office



REQUEST FOR HEALTH CARE

State Form 45913 (R3 / 9-12)

Approved by State Board of Accounts, 2012

11-IV-36-L-A

INDIANA DEPARTMENT OF CORRECTION

#ISF 362937

TO BE COMPLETED BY OFFENDER

I request Health Care Services as follows:

- Sick Call
 Dentist
 Prescription Refill
 Mental Health
 Other (specify) _____

Nature of complaint

I need to Talk To someone In mental Health to Help get medical to stop what Theyre doing and get proper Help They keep Taking my pain meds and keep trying to give me pamelar and Im not mental and cant Take pamelar I still have seizures once and awhile But if im Taking proper pain meds and my Righ amount of Klondopin I dont have them, why do They TRY and Hurt me more you need To send me to another facility.

By my signature, I hereby indicate that I understand that, in accordance with IC 11-10-3-5, I may be charged \$5.00 for Health Care services obtained at my request and \$5.00 for initial (new) prescriptions. I understand that any charge for these services and / or prescriptions shall be withdrawn automatically from my Trust Fund Account. I will not receive a receipt for this withdrawal; however, I may review the balance of my Trust Account as provided by facility procedures.

when you see my paper work youll know Im in pain They have slowed my seizures alot. Thanks

Signature of Offender <i>Kenneth McDavid</i>	Printed name Kenneth McDavid	DOC number 943202	Date signed (month, day, year) 3-9-14
---	---------------------------------	----------------------	--

TO BE COMPLETED BY HEALTH CARE STAFF

Response of Health Care staff

IF AN APPOINTMENT HAS BEEN SCHEDULED, BE ALERT FOR YOUR CALL OUT.

Signature of Health Care staff	Date signed (month, day, year)
--------------------------------	--------------------------------

TO BE COMPLETED BY HEALTH CARE STAFF / FOR BUSINESS OFFICE USE

Was a new prescription provided? <input type="checkbox"/> Yes <input type="checkbox"/> No	TOTAL AMOUNT OF CO-PAYMENT \$ _____
Amount of Co-Payment <input type="checkbox"/> \$5.00 Health Care Contact <input type="checkbox"/> \$5.00 New Prescription	Signature of Health Care staff Date signed (month, day, year)

PATIENT IDENTIFICATION

Full name of patient
DOC number
Date of birth (month, day, year)

#ISF 362937

DISTRIBUTION: White - Health Care Chart;
Canary - Offender / Business Office



REQUEST FOR HEALTH CARE

State Form 45913 (R3 / 9-12)

Approved by State Board of Accounts, 2012

11-N-36-L-A

INDIANA DEPARTMENT OF CORRECTION

MAR 23 2014

#ISF 366559

TO BE COMPLETED BY OFFENDER

I request Health Care Services as follows:

- Sick Call
 Dentist
 Prescription Refill
 Mental Health
 Other (specify) Dr Joseph

Nature of complaint

I cant take this pain I need somthing it's realy bad. why do you make people go through this. I've TRyed passing Stone's without nothing near and if you look at records you know They have to take them my Track is to small Plus The Back and other problem's I have.

By my signature, I hereby indicate that I understand that, in accordance with IC 11-10-3-5, I may be charged \$5.00 for Health Care services obtained at my request and \$5.00 for initial (new) prescriptions. I understand that any charge for these services and / or prescriptions shall be withdrawn automatically from my Trust Fund Account. I will not receive a receipt for this withdrawal; however, I may review the balance of my Trust Account as provided by facility procedures.

Signature of Offender <u>Kenneth McDavid</u>	Printed name <u>Kenneth McDavid</u>	DOC number <u>943202</u>	Date signed (month, day, year) <u>3-23-14</u>
---	--	-----------------------------	--

TO BE COMPLETED BY HEALTH CARE STAFF

Response of Health Care staff

IF AN APPOINTMENT HAS BEEN SCHEDULED, BE ALERT FOR YOUR CALL OUT.

Signature of Health Care staff	Date signed (month, day, year)
--------------------------------	--------------------------------

TO BE COMPLETED BY HEALTH CARE STAFF / FOR BUSINESS OFFICE USE

Was a new prescription provided? <input type="checkbox"/> Yes <input type="checkbox"/> No	TOTAL AMOUNT OF CO-PAYMENT \$ _____	
Amount of Co-Payment <input type="checkbox"/> \$5.00 Health Care Contact <input type="checkbox"/> \$5.00 New Prescription	Signature of Health Care staff	Date signed (month, day, year)

PATIENT IDENTIFICATION

Full name of patient
DOC number
Date of birth (month, day, year)

#ISF 366559

DISTRIBUTION: White - Health Care Chart;
Canary - Offender / Business Office

DEPARTMENT OF CORRECTION

SITE: ISF

COMPLETED BY: Lolit Joseph, MD 03/06/2014 4:45 PM

PATIENT: KENNETH MCDAVID
IDOC# 943202
DATE OF BIRTH: 03/03/1960
DATE: 03/06/2014 4:45 PM
VISIT TYPE: Provider Update

History of Present Illness

This 54 year old male presents with:

Chronic Problems

Hepatitis C
Diabetes mellitus
Combinations of opioid type drug with any other dr
Hypertension Essential
Personal history of noncompliance with medical tre

Past Medical History

Reviewed, no changes.

Medications Active Prior to Today's Visit

Elsewhere	Start Date	Refilled	Medication Name
N	02/24/2014	08/08/2013	Ultram 50 mg Tab

one tablet daily for one week
on tablet 3 times a week then dc

N	02/11/2014	06/01/2007	Klonopin 1 mg Tab
---	------------	------------	-------------------

CRUSH

N	02/10/2014	04/04/2007	ALBUTEROL 90MCGAEROSOL
---	------------	------------	------------------------

N	02/10/2014	09/27/2013	lisinopril 5 mg tablet
---	------------	------------	------------------------

N	02/10/2014	09/27/2013	metformin 500 mg tablet
---	------------	------------	-------------------------

N	02/10/2014	09/27/2013	aspirin 81 mg tablet, delayed release
---	------------	------------	---------------------------------------

N	02/10/2014	02/10/2014	Pamelor 10 mg capsule
---	------------	------------	-----------------------

THIS VISIT WAS
SCHEDULED IN
RESPONSE TO
MR. MCDAVID'S
GRIEVANCE.
NO NARRATIVE.
NO P.E.

Take one tablet twice a day for one week

Take three tablets by mouth twice per day

Use two puffs by mouth four times per day

1 tab po daily

1 tab po bid

1 tab po daily

1 tab po bid

Allergies

Allergen/Ingredient

Brand

Reaction:

Codeine

Phenytoin Sodium Extended

Dilantin

Morphine		
Phenytoin	Dilantin	
Valproate Sodium	Depakene	
Valproic Acid	Depakene	
Codeine		
Phenytoin	Dilantin	
Phenytoin Sodium Extended	Dilantin	
Phenytoin Sodium	Dilantin	
Phenobarbital	Phenobarbital	
Sulfanilamide		Unknown
Phenytoin Sodium Extended	Dilantin	Anaphylaxis
Phenytoin	Dilantin	Anaphylaxis
Codeine		Hives/skin Rash
Phenobarbital		
Benzotropine		
Morphine		Anaphylaxis

Medications (added, continued or stopped this visit)

<u>Medication Name</u>	<u>Sig Desc</u>	<u>Comment</u>
ALBUTEROL 90MCGAEROSOL	Use two puffs by mouth four times per day	
aspirin 81 mg tablet, delayed release	1 tab po daily	
Klonopin 1 mg Tab	Take three tablets by mouth twice per day CRUSH	
lisinopril 5 mg tablet	1 tab po daily	
Lopid 600 mg tablet	Take one tablet by mouth two times per day	
metformin 500 mg tablet	1 tab po bid	
Pamelor 10 mg capsule	1 tab po bid	
Ultram 50 mg Tab	Take one tablet twice a day for one week	
one tablet daily for one week		
on tablet 3 times a week then dc		

Provider: Lolit Joseph MD 03/06/2014 4:46 PM

Document generated by: Lolit Joseph, MD 03/06/2014 4:46 PM

NAME: MCDAVID, KENNETH
NUMBER: 943202
D.O.B.: 03/03/1960

DEPARTMENT OF CORRECTION

SITE: ISF

COMPLETED BY: Stacie N. Anderson, RN 03/14/2014 9:20 AM

PATIENT: KENNETH MCDAVID
 IDOC# 943202
 DATE OF BIRTH: 03/03/1960
 DATE: 03/14/2014 9:20 AM
 VISIT TYPE: Chart Update

History of Present Illness

This 54 year old male presents with:

1. OPR Approval - Physical Therapy x4 sessions

Chronic Problems

Diabetes mellitus
 Hepatitis C
 Hypertension Essential
 Combinations of opioid type drug with any other dr
 Personal history of noncompliance with medical tre

Past Medical History

Reviewed, no changes.

Medications Active Prior to Today's Visit

<u>Elsewhere</u>	<u>Start Date</u>	<u>Refilled</u>	<u>Medication Name</u>	<u>Sig Desc</u>
N	03/09/2014		minocycline 100 mg capsule	One capsule BID x 10 Days
N	03/06/2014		Lopid 600 mg tablet	Take one tablet by mouth two times per day
N	02/24/2014	08/08/2013	Ultram 50 mg Tab	Take one tablet twice a day for one week
			one tablet daily for one week	
			on tablet 3 times a week then dc	
N	02/11/2014	06/01/2007	Klonopin 1 mg Tab	Take three tablets by mouth twice per day
			CRUSH	
N	02/10/2014	09/27/2013	metformin 500 mg tablet	1 tab po bid
N	02/10/2014	09/27/2013	aspirin 81 mg tablet, delayed release	1 tab po daily
N	02/10/2014	04/04/2007	ALBUTEROL 90MCGAEROSOL	Use two puffs by mouth four times per day
N	02/10/2014	09/27/2013	lisinopril 5 mg tablet	1 tab po daily
N	02/10/2014	02/10/2014	Pamelor 10 mg capsule	1 tab po bid

Allergies

<u>Allergen/Ingredient</u>	<u>Brand</u>	<u>Reaction:</u>
Codeine		
Phenytoin Sodium Extended	Dilantin	
Morphine		
Phenytoin	Dilantin	
Valproate Sodium	Depakene	
Valproic Acid	Depakene	
Codeine		
Phenytoin	Dilantin	

Phenytoin Sodium Extended	Dilantin	
Phenytoin Sodium	Dilantin	
Phenobarbital	Phenobarbital	
Sulfanilamide		Unknown
Phenytoin Sodium Extended	Dilantin	Anaphylaxis
Phenytoin	Dilantin	Anaphylaxis
Codeine		Hives/skin Rash
Phenobarbital		
Benzotropine		
Morphine		Anaphylaxis

Medications (added, continued or stopped this visit)

<u>Medication Name</u>	<u>Sig Desc</u>	<u>Comment</u>
ALBUTEROL 90MCGAEROSOL	Use two puffs by mouth four times per day	
aspirin 81 mg tablet,delayed release	1 tab po daily	
Klonopin 1 mg Tab	Take three tablets by mouth twice per day	CRUSH
lisinopril 5 mg tablet	1 tab po daily	
Lopid 600 mg tablet	Take one tablet by mouth two times per day	
metformin 500 mg tablet	1 tab po bid	
minocycline 100 mg capsule	One capsule BID x 10 Days	
Pamelor 10 mg capsule	1 tab po bid	
Ultram 50 mg Tab	Take one tablet twice a day for one week	
one tablet daily for one week		
on tablet 3 times a week then dc		

Provider: Lolit Joseph MD 03/14/2014 9:38 AM

Document generated by: Stacie N. Anderson, RN 03/14/2014 9:38 AM

NAME: MCDAVID, KENNETH
NUMBER: 943202
D.O.B.: 03/03/1960

DEPARTMENT OF CORRECTION

SITE: ISF

COMPLETED BY: Stacie N. Anderson, RN 02/24/2014 1:09 PM

PATIENT: KENNETH MCDAVID
 IDOC# 943202
 DATE OF BIRTH: 03/03/1960
 DATE: 02/24/2014 1:09 PM
 VISIT TYPE: Chronic Care Visit

History of Present Illness

This 53 year old male presents with:

1. NF Request - Wean for Ultram

Chronic Problems

Hepatitis C
 Diabetes mellitus
 Combinations of opioid type drug with any other dr
 Hypertension Essential
 Personal history of noncompliance with medical tre

*Currently
 Prescribed
 Pamelor.*

Past Medical History

Reviewed, no changes.

*Ultram Wean
 is complete.*

Medications Active Prior to Today's Visit

Elsewhere	Start Date	Refilled	Medication Name	
N	02/18/2014	08/08/2013	Ultram 50 mg Tab	week
			one tablet daily for one week	
			on tablet 3 times a week then dc	
N	02/11/2014	06/01/2007	Klonopin 1 mg Tab	Take three tablets by mouth twice per day
			CRUSH	
N	02/10/2014	02/10/2014	Pamelor 10 mg capsule	1 tab po bid
N	02/10/2014	04/04/2007	ALBUTEROL 90MCGAEROSOL	Use two puffs by mouth four times per day
N	02/10/2014	09/27/2013	aspirin 81 mg tablet, delayed release	1 tab po daily
N	02/10/2014	09/27/2013	metformin 500 mg tablet	1 tab po bid
N	02/10/2014	09/27/2013	lisinopril 5 mg tablet	1 tab po daily

Allergies

Allergen/Ingredient	Brand	Reaction:
Codeine		
Phenytoin Sodium Extended	Dilantin	
Morphine		
Phenytoin	Dilantin	
Valproate Sodium	Depakene	
Valproic Acid	Depakene	
Codeine		
Phenytoin	Dilantin	
Phenytoin Sodium Extended	Dilantin	
Phenytoin Sodium	Dilantin	
Phenobarbital	Phenobarbital	
Sulfanilamide		Unknown
Phenytoin Sodium Extended	Dilantin	Anaphylaxis
Phenytoin	Dilantin	Anaphylaxis



Putnamville Correctional Facility

RECEIPT - ADMINISTRATIVE REMEDY

Date: 18-MAR-14

From: Chris Williams
ISF

To: Kenneth Mcdavid
ISF

DOC#: 943202

Housing: 11-NA-36A

Current Facility: ISF

THIS ACKNOWLEDGES THE RECEIPT OF THE ADMINISTRATIVE REMEDY REQUEST IDENTIFIED BELOW:

Case ID: 81265

Level: I - Formal Grievance

Date Received: 11-MAR-14

Response Due: 02-APR-14

Subject: Medical-Exc. Forced Treatment-Improper Or Inadequate Medical Care



Putnamville Correctional Facility
Offender Grievance Response Report
Case Log #: 81265

DOC No: 943202

Offender Name: Kenneth McDavid

Bldg/Range/Bed: 11-NA-36A

Current Facility: ISF

OPIC: Medical-Exc. Forced Treatment - Improper or Inadequate Medical Care

Incident Date: 28-FEB-14

Response

LEVEL	Form Issue Date	Level Receive Date	Response Date
- Formal Grievance	03-MAR-14	11-MAR-14	02-APR-14

Level Response

In response to your grievance, you were admitted to the observation unit on December 17, 2013 for back pain and blood in your urine. This is a timeline of your care:

- 12/17/13 Urine sample obtained, admitted to self contaminating urine with his own blood at which time a cath urine was obtained without blood noted, urine was clear.
 - 12/20/13 You were admitted to our observation unit at this time and it was documented that you were "resting comfortably, always asking for more pain meds", no new medication orders given at this time.
 - 12/22/13 Still in observation unit, denies blood in urine during nurse assessment
 - 12/23/13 Released from observation unit, urinalysis and urine culture were negative, you were issued a bottom dorm, and bottom bunk pass expiring 1/6/14 as well as a wheelchair at that time.
 - 12/30/13 You were sent for an offsite visit and had a CT done
 - 1/3/14 You were scheduled for a chronic care visit to follow up on your CT results at which time you refused to come for your visit
 - 1/9/14 Health Care Request Form number 368171, did not show for appointment
 - 1/10/14 Dr. Greenman's office reports that they have no records for you
 - 1/28/14 Received records from Dr. Greenman's office, reviewed by nurse practitioner and no changes made in plan of care at this time.
 - 2/4/14 1800 ADA diet renewed
 - 2/5/14 Off site visit for urology. Consult states that you have several small kidney stones that are non-obstructive and need no further intervention at this time. Follow up with urology on PRN basis only
 - 2/12/14 Decision to wean ultram for pain made by Regional Medical Director as it is not recommended for long term use, Klonopin was renewed and a recommendation for weight loss was made.
 - 2/14/14 HCRF#359957 for broken wheelchair and requesting a replacement diet card. At this time Lt. Kirklan was at your side and stated that you willingly gave up your diet card stating that "I don't need it anymore"
 - 2/20/14 You were started on Pamelor for your chronic pain management. As of 3/26/14 you have refused every dose in March
 - 2/24/14 Weaning of ultram began (long term use of ultram can cause problems with your liver and kidneys, and is known to increase seizure activity).
 - 3/14/14 Approval for physical therapy (four visits).
 - 3/26/14 First physical therapy appointment
- At this time the medical treatment for your conditions have been appropriate. Compliance with the plan of care is critical, as we cannot progress to more aggressive therapies if you are not willing to cooperate and participate in your own care.

M. Tucker, RN. Director of Nursing
 Corizon Healthcare

Your grievance has been reviewed and was referred to the Health Care Professionals at this Facility.

By: C. Williams, Offender Grievance Specialist, Putnamville Correctional Facility

APR 02 2014

JUN 09 2014



OFFENDER GRIEVANCE
State Form 45471 (R2 / 1-10)
INDIANA DEPARTMENT OF CORRECTION

For Official Use Only
81492
Grievance Number

To: **EXECUTIVE ASSISTANT** Facility: ISTF Date (month, day, year): 3-28-14

From (name of offender and DOC number): Kenneth McDavid 943202 Signature of Offender: Kenneth McDavid

Housing Assignment: 11 North 36 LA Date of Incident (month, day, year): 2-18-14

Provide a brief, clear statement of your complaint or concern. Include any information that may assist staff in responding to your grievance. (NOTE: A Single ONE-sided 8 1/2" X 11" sheet of paper may be attached if necessary to explain your grievance.)

I HAVE CONTACTED HEALTH CARE NUMEROUS TIMES ALREADY. Check my medical records. Medical staff is violating my 8th Amendment rights by denying me adequate medical care. They are committing medical malpractice. I AM suffering extreme pain and suffering. I AM going to die if I'm not adequately helped.

State the relief that you are seeking. compensation for pain and suffering, taken to hospital for treatment and transfer, to a medical facility

- INFORMAL RESOLUTION -

Staff Person(s) Contacted: Christ Williams Date Response Received (month, day, year): 3-28-14

State the response that was given to you by the staff person contacted. If you received no response, state the date you contacted the staff person and that you have received no response.

(see attached informal complaint)

Signature of Executive Assistant

MAR 31 2014

Date (month, day, year):

Williams, Chris A

From: Thomas, Kataushia [Kataushia.Thomas@corizonhealth.com]
Sent: Thursday, May 22, 2014 11:08 AM
To: Williams, Chris A
Subject: RE: past due - FW: FORMAL GRIEVANCE # 81492 RESPONSE DUE BY 4-8-2014

Mr. McDavid is currently taking Neurontin for pain. Mr. McDavid is being treated appropriately. Mr. McDavid was recently found to be pocketing his medications. Treatment works best when the medications prescribed are taken appropriately.

Kataushia Thomas, MSM

Health Services Administrator

Corizon Health

Office: 765-653-8441 ext 316

Cell: 765-246-2704

1946 W. US HWY 40

Greencastle, IN 46135

www.corizonhealth.com

From: Williams, Chris A [CAWilliams@idoc.IN.gov]
Sent: Thursday, May 22, 2014 7:59 AM
To: Thomas, Kataushia
Subject: past due - FW: FORMAL GRIEVANCE # 81492 RESPONSE DUE BY 4-8-2014

Need a response as soon as possible

-----Original Message-----

From: Williams, Chris A
Sent: Tuesday, April 01, 2014 7:45 AM
To: Thomas, Kataushia (Corizon)
Subject: FORMAL GRIEVANCE # 81492 RESPONSE DUE BY 4-8-2014

KENNETH MCDAVID 943202

-----Original Message-----

From: portersroom@doc.state.in.us [<mailto:portersroom@doc.state.in.us>]
Sent: Monday, March 31, 2014 11:21 AM
To: Williams, Chris A
Subject: Message from "RNP371267"

This E-mail was sent from "RNP371267" (Aficio MP 6001).

Scan Date: 03.31.2014 11:21:29 (-0400)
Queries to: portersroom@doc.state.in.us



Putnamville Correctional Facility

RECEIPT - ADMINISTRATIVE REMEDY

Date: 31-MAR-14

From: Chris Williams
ISF

To: Kenneth McDavid
ISF

DOC#: 943202

Housing: 11-NA-36A

Current Facility: ISF

THIS ACKNOWLEDGES THE RECEIPT OF THE ADMINISTRATIVE REMEDY REQUEST IDENTIFIED BELOW:

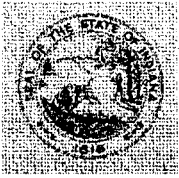
Case ID: 81492

Level: I - Formal Grievance

Date Received: 31-MAR-14

Response Due: 23-APR-14

Subject: Medical-Exc. Forced Treatment-Improper Or Inadequate Medical Care



Indiana Department of Correction
Putnamville Correctional Facility
Offender Grievance Response Report
Case Log #: 81492

DOC No: 943202

Offender Name: Kenneth McDavid

Bldg/Range/Bed: 11-NA-36A

Current Facility: ISF

TOPIC: Medical-Exc. Forced Treatment - Improper or Inadequate Medical Care

Incident Date: 18-FEB-14

Response

LEVEL	Form Issue Date	Level Receive Date	Response Date
I - Formal Grievance	26-MAR-14	31-MAR-14	23-MAY-14

Level Response

Mr. McDavid is currently taking Neurontin for pain. Mr. McDavid is being treated appropriately. Mr. McDavid was recently found to be pocketing his medications. Treatment works best when the medications prescribed are taken appropriately.

K. Thomas, Health Services Administrator
Corizon Healthcare

Your grievance has been reviewed and was referred to the Health Care Professionals at this Facility.

By: C. Williams, Offender Grievance Specialist, Putnamville Correctional Facility

Executive Assistant

MAY 23 2014

Date

Student/Offender

Date

_____ Agree _____ Disagree

PUTNAMVILLE CORRECTIONAL FACILITY
OFFENDER COMPLAINT
INFORMAL PROCESS LEVEL (Step-1)

11118

Offender, fill out Section 1 ONLY of this form and return it to the Offender Grievance Office, for processing.

Section 1 (* information is required) (Your complaint MUST be legible)

Offender Name:* Kenneth McDavid DOC #* 943202

Dorm* 11-11-366A Job* Disable

List the Department OR the name of the Staff Person(s) in which you are complaining about, if any: *

Medical, Staff, Director, Carison, Practisauer's Connie + Gram, plus 1
Brief explanation of your complaint:* (Multi-page statements are NOT acceptable) (Attached evidence IS acceptable) Dis.

I've been laying hear about to pass out from pain do to several medical issues, such as No Oxygen or sleep Apnea mask. I use stretcher plus the lumbers in my back, I cant use my leggs now. I have a junk wheel chair I've been hurt do to it Befor. They dont care plus I have pin & plates from a neck, a diseased and tore spleen, and Bowel, 6 stones, Kidney They know I cant pass them I've always had to have them taken out I was to see back specialit BUT they've refused. I'd like for you to look at my medical History I've had colin worked on 3 Times it's bad

Offender Signature:* Kenneth McDavid Date:* 2-18-14

They took my pain med's when I'm pain make me have more
Grievance Specialist Signature [Signature] Date Received in FEB 19 2014
upon acceptance: Grievance Office:

Section 2 Reviewing Staff (Department Head or Custody Supervisor) (Response due within 10 working days)

I, [Signature], have reviewed the above informal complaint and recommend:
Print name

Per the Health Care policy, the first step for an offender to file a complaint about their care / treatment is to submit a Health Care Request Form (HCRF). Once medical has had an opportunity to remedy the offender's issue in an appropriate amount of time, the offender may file a formal grievance, if needed. The offender is required to submit a readable copy of the HCRF along with the formal grievance to show that he has given medical a chance to resolve their issue. Failure to provide a copy of the HCRF could result in the formal grievance being returned to the offender with no action taken. Attached is a Formal Grievance Form. Per Policy 00-02-301, Offender Grievance Process, you have twenty (20) working days from the date of the incident to file your formal grievance with the grievance office.

Staff Signature: [Signature] Date: MAR 24 2014

Section 3 By signing in this section, you, the offender, acknowledge this issue has been resolved.

Offender Signature: _____ Date: _____
Grievance Specialist Signature: _____ Date: _____

Section 4 By signing in this section, you, the offender, DO NOT agree with the findings / actions of the response provided in Section 2 above. Return this form to obtain the next step in the grievance (formal grievance form step 2). The issue must be a grievable issue as out lined in policy.



I disagree with the resolution:

Offender Signature: Kenneth R. McDavid Date: 3-26-14

JUN 06 2014



OFFENDER GRIEVANCE
State Form 45471 (R2 / 1-10)
INDIANA DEPARTMENT OF CORRECTION

For Official Use Only
81493
Grievance Number

To: **EXECUTIVE ASSISTANT** Facility: ISF Date (month, day, year): 3-28-14

From (name of offender and DOC number): Kenneth McDavid 943202 Signature of Offender: Kenneth McDavid

Housing Assignment: 11 North 36L A Date of Incident (month, day, year): 2-18-14

Provide a brief, clear statement of your complaint or concern. Include any information that may assist staff in responding to your grievance. (NOTE: A Single ONE-sided 8 1/2" X 11" sheet of paper may be attached if necessary to explain your grievance.)
Deliberate indifference is being committed by medical staff. They have no legitimate reason to cut off my meds. They don't like me so they are purposely doing this to harm me. I am in pain and suffering. I'm in a wheelchair (This is cruel and unusual punishment.)
I've already communicated to medical staff (see my medical requests in medical packet)

State the relief that you are seeking. That my meds be given back and that I be given adequate health care.

- INFORMAL RESOLUTION -

Staff Person(s) Contacted: Chris Williams Date Response Received (month, day, year): 3-28-14

State the response that was given to you by the staff person contacted. If you received no response, state the date you contacted the staff person and that you have received no response.
(see attached informal complaint)

[Signature]
Signature of Executive Assistant

MAR 31 2014
Date (month, day, year):

Williams, Chris A

From: Thomas, Kataushia [Kataushia.Thomas@corizonhealth.com]
Sent: Tuesday, May 20, 2014 10:05 AM
To: Williams, Chris A
Subject: RE: PAST DUE - FW: FORMAL GRIEVANCE # 81493 RESPONSE DUE BY 4-8-2014

Mr. McDavid is currently taking Neurontin for pain. Mr. McDavid is being treated appropriately.

Kataushia Thomas, MSM

Health Services Administrator

Corizon Health

Office: 765-653-8441 ext 316

Cell: 765-246-2704

1946 W. US HWY 40

Greencastle, IN 46135

www.corizonhealth.com

From: Williams, Chris A [CAWilliams@idoc.IN.gov]
Sent: Monday, May 19, 2014 7:57 AM
To: Thomas, Kataushia
Subject: PAST DUE - FW: FORMAL GRIEVANCE # 81493 RESPONSE DUE BY 4-8-2014

NEED A RESPONSE AS SOON AS POSSIBLE

-----Original Message-----

From: Williams, Chris A
Sent: Tuesday, April 01, 2014 7:44 AM
To: Thomas, Kataushia (Corizon)
Subject: FORMAL GRIEVANCE # 81493 RESPONSE DUE BY 4-8-2014

KENNETH MCDAVID 943202

-----Original Message-----

From: portersroom@doc.state.in.us [mailto:portersroom@doc.state.in.us]
Sent: Monday, March 31, 2014 11:22 AM
To: Williams, Chris A
Subject: Message from "RNP371267"

This E-mail was sent from "RNP371267" (Aficio MP 6001).

Scan Date: 03.31.2014 11:21:58 (-0400)
Queries to: portersroom@doc.state.in.us



Putnamville Correctional Facility

RECEIPT - ADMINISTRATIVE REMEDY

Date: 31-MAR-14

From: Chris Williams
ISF

To: Kenneth McDavid
ISF

DOC#: 943202

Housing: 11-NA-36A

Current Facility: ISF

THIS ACKNOWLEDGES THE RECEIPT OF THE ADMINISTRATIVE REMEDY REQUEST IDENTIFIED BELOW:

Case ID: 81493

Level: I - Formal Grievance

Date Received: 31-MAR-14

Response Due: 23-APR-14

Subject: Medical-Exc. Forced Treatment-Prescriptions, Medication



Indiana Department of Correction
Putnamville Correctional Facility
Offender Grievance Response Report
Case Log #: 81493

DOC No: 943202

Offender Name: Kenneth McDavid

Bldg/Range/Bed: 11-NA-36A

Current Facility: ISF

TOPIC: Medical-Exc. Forced Treatment - Prescriptions, Medication

Incident Date: 18-FEB-14

Response

LEVEL	Form Issue Date	Level Receive Date	Response Date
I - Formal Grievance	26-MAR-14	31-MAR-14	22-MAY-14

Level Response

Mr. McDavid is currently taking Neurontin for pain. Mr. McDavid is being treated appropriately.

K. Thomas, Health Services Administrator
Corizon Healthcare

Your grievance has been reviewed and was referred to the Health Care Professionals at this Facility.

By: C. Williams, Offender Grievance Specialist, Putnamville Correctional Facility

Executive Assistant

Date

Student/Offender

Date

_____ Agree _____ Disagree

PUTNAMVILLE CORRECTIONAL FACILITY
OFFENDER COMPLAINT
INFORMAL PROCESS LEVEL (Step 1)

11NA

Offender, fill out Section 1 ONLY of this form and return it to the Offender Grievance Office, for processing.

Section 1 (* information is required) (Your complaint MUST be legible)

Offender Name:* Kenneth McDavid DOC #* 943202

Dorm* 11-A-36-L-A Job* Disable in wheel chair now

List the Department OR the name of the Staff Person(s) in which you are complaining about, if any: *

Medical Director, Melany Tucker, Joseph

Brief explanation of your complaint:* (Multi-page statements are NOT acceptable) (Attached evidence IS acceptable)

I was told by nurses that they cut off my meds because of a personal vendetta between Gram, Melany, Director, Dr Joseph, and especially the Nurse Practitioner Condie, because they were wrong about some things and I called them out on it. My med aren't even expired they just took them on purpose. I've filed suit against them. They caused me to be in a wheel chair because their wrong doing. Now their doing even more to make me suffer I'm still having seizures and a great pain they don't care I need blood for 3 months you should see what all.

Offender Signature:* Kenneth McDavid Date:* 2-18-14 WRD

Grievance Specialist Signature upon acceptance: Cullman Date Received in Grievance Office: FEB 19 2014

Section 2 Reviewing Staff (Department Head or Custody Supervisor) (Response due within 10 working days)

I, Cullman, have reviewed the above informal complaint and recommend:
Print name

Per the Health Care policy, the first step for an offender to file a complaint about their care / treatment is to submit a Health Care Request Form (HCRF). Once medical has had an opportunity to remedy the offender's issue in an appropriate amount of time, the offender may file a formal grievance, if needed. The offender is required to submit a readable copy of the HCRF along with the formal grievance to show that he has given medical a chance to resolve their issue. Failure to provide a copy of the HCRF could result in the formal grievance being returned to the offender with no action taken. Attached is a Formal Grievance Form. Per Policy 00-02-301, Offender Grievance Process, you have twenty (20) working days from the date of the incident to file your formal grievance with the grievance office.

Staff Signature: Cullman Date: MAR 24 2014

Section 3 By signing in this section, you, the offender, acknowledge this issue has been resolved.

Offender Signature: _____ Date: _____
Grievance Specialist Signature: _____ Date: _____

Section 4 By signing in this section, you, the offender, DO NOT agree with the findings / actions of the response provided in Section 2 above. Return this form to obtain the next step in the grievance (formal grievance form step 2). The issue must be a grievable issue as out lined in policy.

I disagree with the resolution:
Offender Signature: Kenneth R. McDavid Date: 3-26-14

NOV 05 2015



OFFENDER GRIEVANCE
State Form 45471 (R3 / 11-14)
DEPARTMENT OF CORRECTION

FOR OFFICIAL USE ONLY
Grievance number **88948**

To: **EXECUTIVE ASSISTANT** Facility: **JSE** Date (month, day, year): **9-11-15**

From (name of offender and DOC number): **Kenneth McDavid 943202** Signature of offender: **X Kenneth McDavid**

Housing assignment: **11N 35VA** Date of incident (month, day, year): **8-6-15 initial complaint**

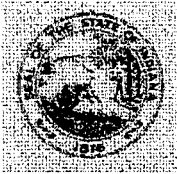
Provide a brief, clear statement of your complaint or concern. Include any information that may assist staff in responding to your grievance. (NOTE: A Single ONE-sided 8 1/2" X 11" sheet of paper may be attached if necessary to explain your grievance.)

According to DOC policy, (Corizon is responsible as a contracted agent to adhere to DOC policy), I must be restored to my former status when found not guilty of an offense. Therefore my medications that were suspended for 180 days should have been re-instated-administered w/in 30 days of the finding of not guilty. To date, I am without my meds

State the relief that you are seeking.

I need my pain medications given to me at the same dosage, same intervals starting immediately.

Signature of executive assistant: **C. Williams** Date (month, day, year): **SEP 22 2015**



**Indiana Department of Correction
Putnamville Correctional Facility
Offender Grievance Response Report
Case Log #: 88948**

DOC No: 943202

Offender Name: Kenneth McDavid

Bldg/Range/Bed: 11-NA-35A

Current Facility: ISF

TOPIC: Medical-Exc. Forced Treatment - Improper or Inadequate Medical Care

Incident Date: 06-AUG-15

Response

LEVEL	Form Issue Date	Level Receive Date	Response Date
I - Formal Grievance	11-SEP-15	22-SEP-15	20-OCT-15

Level Response

The medications that were discontinued were to treat symptoms only and clearly drugs of abuse in the IDOC. The Chief Medical Director of Corrections has agreed with this decision. If and when the provider on site feels there is a need for pain control, there will be other alternatives. Those medications are not life sustaining medications and will not be re-ordered at this time.

Farah Bunch RN, BSN
Health Service Administrator
Corizon Health
Putnamville Correctional Facility

Your grievance has been reviewed and was referred to the Health Care Professionals at this Facility.

By: C. Williams, Offender Grievance Specialist, Putnamville Correctional Facility

Executive Assistant

10-20-15

Date

Student/Offender

Date

_____ Agree _____ Disagree

Williams, Chris A

From: Bunch, Farrah [Farrah.Bunch@corizonhealth.com]
Sent: Wednesday, September 23, 2015 10:57 AM
To: Williams, Chris A
Cc: Bunch, Farrah
Subject: RE: Formal Grievance #88948 - Response due by 9-30-2015

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

The medications that were discontinued were to treat symptoms only and clearly drugs of abuse in the IDOC. The Chief Medical Director of Corrections has agreed with this decision. If and when the provider on site feels there is a need for pain control, there will be other alternatives. Those medications are not life sustaining medications and will not be re-ordered at this time.

Farrah Bunch RN, BSN
Health Service Administrator
Corizon Health
Office: 765-653-8441 EXT 316
Cell: 574-276-2445
Putnamville Correctional Facility
Email: Farrah.Bunch@corizonhealth.com

From: Williams, Chris A [CAWilliams@idoc.IN.gov]
Sent: Wednesday, September 23, 2015 7:19 AM
To: Bunch, Farrah
Subject: Formal Grievance #88948 - Response due by 9-30-2015

Staff are required to respond to offender formal grievances within five (5) business days.

Please returned your response VIA E-Mail to the facility Grievance Specialist by the date listed in the subject line.

Please ensure you respond to ALL allegations made by the offender on the formal grievance.

If you have any questions, please contact me.
Thanks

-----Original Message-----

From: portersroom@doc.state.in.us [<mailto:portersroom@doc.state.in.us>]
Sent: Tuesday, September 22, 2015 11:29 AM
To: Williams, Chris A
Subject: Message from "RNP371267"

This E-mail was sent from "RNP371267" (Aficio MP 6001).

Scan Date: 09.22.2015 11:28:53 (-0400)
Queries to: portersroom@doc.state.in.us



Indiana Department of Correction
Putnamville Correctional Facility

RECEIPT - ADMINISTRATIVE REMEDY

Date: 22-SEP-15

From: Chris Williams
ISF

To: Kenneth McDavid
ISF

DOC#: 943202

Housing: 11-NA-35A

Current Facility: ISF

THIS ACKNOWLEDGES THE RECEIPT OF THE ADMINISTRATIVE REMEDY REQUEST IDENTIFIED BELOW:

Case ID: 88948

Level: I - Formal Grievance

Date Received: 22-SEP-15

Response Due: 15-OCT-15

Subject: Medical-Exc. Forced Treatment-Improper Or Inadequate Medical Care



OFFENDER COMPLAINT - INFORMAL PROCESS LEVEL

State Form 52897 (6-14)
DEPARTMENT OF CORRECTION

11A

INSTRUCTIONS: Offender completes Section 1 ONLY and returns the form to the Offender Grievance Office for processing.

SECTION 1 - OFFENDER COMPLAINT (To be completed by offender.)	
* Information is required.	
Name of offender * K. McDAVID	DOC number * 943202
Dormitory * 11N	Job * idle
List the department OR the name of the staff person(s) about which you are complaining, if any. HCU - medical Services	
Provide a brief explanation of your complaint. * (Your complaint MUST be legible. Multi-page statements are NOT acceptable.) My medicine was discontinued for 180 days due to a write-up for misuse of medication. I was found not guilty of the write up. Charges were dropped, yet medical has not re-started my much needed medication. I need these meds.	
Signature of offender * Kenneth McDavid	Date (month, day, year) * 8-6-15
Signature of Grievance Specialist upon acceptance C. Williams	Date received in Grievance Office (month, day, year) AUG 13 2015

SECTION 2 - REVIEWING STAFF (To be completed by department head or custody supervisor. Response is due within ten (10) working days.)	
I, <u>C. Williams</u> , have reviewed the above informal complaint and recommend:	
Printed name	
<input type="checkbox"/> Resolution (Explain below.) <input checked="" type="checkbox"/> Unable to resolve this informal complaint because: (Explain below.)	
Explanation and how resolved. If unable to resolve, explain why not. (Please write legibly.) Staff involved in your complaint have failed to provide a response to the grievance office within the time frame indicated. Therefore, no proper response / resolution can be given at this time for your level 1 complaint. If this issue has not already resolved itself and you wish to move the next step of the process (level 2 grievance), sign and date in the appropriate area below and return this page to the grievance office.	
Signature of ^{staff} <u>C. Williams, Grievance Specialist</u>	Date (month, day, year) SEP 04 2015

SECTION 3 - ACKNOWLEDGEMENT	
This informal complaint has been resolved as acknowledged by the signatures below.	
Signature of offender	Date (month, day, year)
Signature of Grievance Specialist	Date (month, day, year)

SECTION 4 - DISAGREEMENT	
I, the offender, by signing in this section, DO NOT agree with the findings / actions of the informal response listed in Section 2 above.	
<input type="checkbox"/> I disagree with the resolution	
Signature of offender Kenneth McDavid	Date (month, day, year) 9-4-15

NOV 0 5 2015



OFFENDER GRIEVANCE
State Form 46471 (R3 / 11-14)
DEPARTMENT OF CORRECTION

FOR OFFICIAL USE ONLY	
Grievance number	88953

To: EXECUTIVE ASSISTANT	Facility ISF	Date (month, day, year) 9-8-15
From (name of offender and DOC number): Kenneth McDavid 943202	Signature of offender Kenneth McDavid	
Housing assignment 11N 356A	Date of incident (month, day, year) 9-8-15	

Provide a brief, clear statement of your complaint or concern. Include any information that may assist staff in responding to your grievance.
(NOTE: A Single ONE-sided 8 1/2" X 11" sheet of paper may be attached if necessary to explain your grievance.)

I AM still being denied my pain medication. I was found not guilty of the write up which caused medical to d/c my meds. I should, therefore, have been restored. This is policy and is also how everyone else in these circumstances is treated. Therefore I AM being treated differently. This is unfair and illegal.

State the relief that you are seeking.

I want my much needed medications restored. I have no objection to them being crushed, in water or whatever but I do need them right away.

Signature of executive assistant C. Williams	Date (month, day, year) SEP 22 2015
--	---



**Indiana Department of Correction
Putnamville Correctional Facility
Offender Grievance Response Report
Case Log #: 88953**

DOC No: 943202

Offender Name: Kenneth McDavid

Bldg/Range/Bed: 11-NA-35A

Current Facility: ISF

TOPIC: Medical-Exc. Forced Treatment - Improper or Inadequate Medical Care

Incident Date: 08-SEP-15

Response

LEVEL	Form Issue Date	Level Receive Date	Response Date
I - Formal Grievance	08-SEP-15	22-SEP-15	20-OCT-15

Level Response

Do not file repeat grievance. The issue you are attempting to grieve is the same issue in grievance case number 88948, which you grieved in the past. Your issues have been addressed on that prior case.

The provider will not renew those medications at this time. If you would like to speak to the provider about other alternative medications please fill out a health care request slip to be evaluated. The medications were not life sustaining medications.

Farah Bunch RN, BSN
Health Service Administrator
Corizon Health
Putnamville Correctional Facility

Your grievance has been reviewed and was referred to the Health Care Professionals at this Facility.

By: C. Williams, Offender Grievance Specialist, Putnamville Correctional Facility

Executive Assistant

10-20-15

Date

Student/Offender

Date

_____ Agree _____ Disagree

Williams, Chris A

From: Bunch, Farrah [Farrah.Bunch@corizonhealth.com]
Sent: Wednesday, September 23, 2015 11:00 AM
To: Williams, Chris A
Subject: RE: Formal Grievance #88953 - Response due by 9-30-2015

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

The provider will not renew those medications at this time. If you would like to speak to the provider about other alternative medications please fill out a health care request slip to be evaluated. The medications were not life sustaining medications.

Farrah Bunch RN, BSN
Health Service Administrator
Corizon Health
Office: 765-653-8441 EXT 316
Cell: 574-276-2445
Putnamville Correctional Facility
Email: Farrah.Bunch@corizonhealth.com

From: Williams, Chris A [CWilliams@idoc.IN.gov]
Sent: Wednesday, September 23, 2015 7:19 AM
To: Bunch, Farrah
Subject: Formal Grievance #88953 - Response due by 9-30-2015

Staff are required to respond to offender formal grievances within five (5) business days.

Please returned your response VIA E-Mail to the facility Grievance Specialist by the date listed in the subject line.

Please ensure you respond to ALL allegations made by the offender on the formal grievance.

If you have any questions, please contact me.
Thanks

-----Original Message-----

From: portersroom@doc.state.in.us [<mailto:portersroom@doc.state.in.us>]
Sent: Tuesday, September 22, 2015 11:29 AM
To: Williams, Chris A
Subject: Message from "RNP371267"

This E-mail was sent from "RNP371267" (Aficio MP 6001).

Scan Date: 09.22.2015 11:29:14 (-0400)
Queries to: portersroom@doc.state.in.us



Indiana Department of Correction
Putnamville Correctional Facility

RECEIPT - ADMINISTRATIVE REMEDY

Date: 22-SEP-15

From: Chris Williams
ISF

To: Kenneth McDavid
ISF

DOC#: 943202

Housing: 11-NA-35A

Current Facility: ISF

THIS ACKNOWLEDGES THE RECEIPT OF THE ADMINISTRATIVE REMEDY REQUEST IDENTIFIED BELOW:

Case ID: 88953

Level: I - Formal Grievance

Date Received: 22-SEP-15

Response Due: 15-OCT-15

Subject: Medical-Exc. Forced Treatment-Improper Or Inadequate Medical Care

SEP 08 2015



OFFENDER COMPLAINT – INFORMAL PROCESS LEVEL
State Form 52897 (6-14)
DEPARTMENT OF CORRECTION

11A

INSTRUCTIONS: Offender completes Section 1 ONLY and returns the form to the Offender Grievance Office for processing.

SECTION 1 – OFFENDER COMPLAINT (To be completed by offender.)	
<i>* Information is required.</i>	
Name of offender * K. McDAVID	DOC number * 943202
Dormitory * 11N	Job * idle
List the department OR the name of the staff person(s) about which you are complaining, if any. * HCU - medical Services	
Provide a brief explanation of your complaint. * (Your complaint MUST be legible. Multi-page statements are NOT acceptable.) My medicine was discontinued for 180 days due to a write-up for misuse of medication. I was found not guilty of the write up. Charges were dropped. yet medical has not re-started my much needed medication. I need these meds.	
Signature of offender * Kenneth McDavid	Date (month, day, year) * 8-6-15
Signature of Grievance Specialist upon acceptance C. Williams	Date received in Grievance Office (month, day, year) AUG 13 2015

SECTION 2 – REVIEWING STAFF (To be completed by department head or custody supervisor. Response is due within ten (10) working days.)	
I, _____, have reviewed the above informal complaint and recommend: <i>Printed name</i>	
<input type="checkbox"/> Resolution (Explain below.) <input type="checkbox"/> Unable to resolve this informal complaint because: (Explain below.)	
Explanation and how resolved. If unable to resolve, explain why not. (Please write legibly.) The head of Department of Corrections also feels your care is appropriate. The drugs you were on are only to treat symptoms and they agree with the providers decision to discontinue your medications. There are other methods for pain control you may discuss with the provider if you are in pain.	
Signature of staff J. Bunch RN HST	Date (month, day, year) 8/14/15

SECTION 3 – ACKNOWLEDGEMENT	
This informal complaint has been resolved as acknowledged by the signatures below.	
Signature of offender	Date (month, day, year)
Signature of Grievance Specialist	Date (month, day, year)

SECTION 4 – DISAGREEMENT	
I, the offender, by signing in this section, DO NOT agree with the findings / actions of the informal response listed in Section 2 above.	
<input checked="" type="checkbox"/> I disagree with the resolution	
Signature of offender Kenneth McDavid	Date (month, day, year) 8-21-15