

Please Read Instructions on Reverse Side of Yellow copy

ARKANSAS STATE CLAIMS COMMISSION

Please print in ink or type

APR 25 2013

BEFORE THE STATE CLAIMS COMMISSION Of the State of Arkansas

RECEIVED

Mr. David Williams, #078730 Claimant

Do Not Write in These Spaces
Claim No. 13-0747-CC
Date Filed April 25, 2013
Amount of Claim \$ 125,000.00
Fund DOC

State of Arkansas, Respondent
Arkansas Department of Correction (ADC-State Agency).

COMPLAINT

Personal Injury, Pain & Suffering
Mental Anguish, Failure to
Follow Procedure, Negligence

David Williams #078730, the above named Claimant, of POB 600, Grady, AR 71644

AR 71644 870-479-3030 County of Lincoln represented by Pro Se

of P.O. Box 600 Grady AR 71644 870-479-3030 says:

State agency involved: Arkansas Department of Correction (ADC) Amount sought: \$125,000.

Month, day, year and place of incident or service: January 2012 thru Current (Ongoing Denial/Delay), Varner Unit of ADC.
Explanation: Claimant has Hepatitis C (HCV), known to the ADC and the ADC's Medical Providers since 2004. January of 2012 thru current Verified Medical Records and Doctor(s) who have "Physically Examined Claimant" prove that the ADC have not acted reasonable in the Denial/Delay in providing Claimant with TIMELY HCV treatment that has been recommended by Varner Unit's DR. IKO and HCV Specialist DR. Syed Samad (REPEATEDLY); the ADC has turned a "BLIND-EYE" to my PAIN, Needless Suffering, Drastic loss of Quality of Life allowing Worsening of an ONGOING health situation, that Dr. Samad explained, "Is Potentially LIFE THREATENING and NOW HCV Treatment has a 95% Cure Rate with Victrolis, Interferon & Ribavirin (Triple Therapy Drug Treatment)". Dr. Samad explained "No reason to allow HCV to PROGRESS further the time to treat is NOW." Attached EXTRACTS shall show Significant Impairments & Functioning of Claimant; Unnecessary Suffering & Pain which verified medical records PROVE has worsened unnecessarily. Jan. of 2012 HCV symptoms worsened.

The ADC is LIABLE; the ADC has promulgated Policies (AR 833-Health Services & AD 11-10 Obtaining Medical Attention) for reasonable & necessary health care, the ADC has continually Recklessly Disregarded with Conscious Indifference the very Doctor(s) and Specialist the ADC deemed appropriate to transfer me to be Evaluated & Treated according to "Current Community & Professional Standards & Practices of Health Care". The ADC bows down to contracted Medical Care Provider (Carizon) and Carizon's HCV Criteria, which at a MINIMUM changes See: STATEMENT OF FACTS.

As parts of this complaint, the claimant makes the statements, and answers the following questions, as indicated: (1) Has claim been presented to any state department or officer thereof?

NO; when? -0- -0- -0-; to whom? -0-
(Yes or No) (Month) (Day) (Year) (Department)

and that \$ -0- was paid thereon: (2) Has any third person or corporation an interest in this claim? NO; if so, state name and address

-0- -0- -0- -0- -0-
(Name) (Street or R.F.D. & No.) (City) (State) (Zip Code)

and that the nature thereof is as follows: -0-; and was acquired on -0-; in the following manner:

THE UNDERSIGNED states on oath that he or she is familiar with the matters and things set forth in the above complaint, and that he or she verily believes that they are true.

David Williams #78730 (Print Claimant/Representative Name) David Williams (Signature of Claimant/Representative)

SWORN TO and subscribed before me at Grady AR.
Edward Lane Notary Public on this 18th day of April 2013
State of Arkansas Lincoln County
Commission # 12362690 Edward Lane (Notary Public)

Commission Expires July 20, 2017
My Commission Expires: July 20 2017
(SF1-R799) (Month) (Day) (Year)

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

MAY 1 2013

DAVID WILLIAMS (ADC #078730)

CLAIMANT RECEIVED

V. NO. 13-0747-CC

ARKANSAS DEPARTMENT OF CORRECTION

RESPONDENT

ANSWER

COMES NOW the Respondent, Arkansas Department of Correction, and for its Answer, states and alleges as follows:

1. Respondent denies liability in this claim and asserts it will hold the Claimant to strict proof on each allegation unless admitted by Respondent. Respondent reserves the right to plead further upon completion of the investigation by internal affairs and requests the matter be held in abeyance until the investigation is complete.
2. The applicable account information required by the Commission is:

a. Agency number: 0480	b. Cost Center: HCA0100
c. Internal Order: 340301	d. Fund Center: 509

WHEREFORE, for the reasons cited above the Respondent prays that the claim be dismissed with prejudice and that Claimant take nothing, or in the alternative that the matter be held in abeyance until completion of the investigation by internal affairs.

Respectfully submitted,
Department of Correction Office of Counsel

Lisa Mills Wilkins

 LISA MILLS WILKINS Ark. Bar #87190
 Attorney Supervisor
 Post Office Box 8707
 Pine Bluff, AR 71611
 (870)267-6844 Office
 (870)267-6373 Facsimile

CERTIFICATE OF SERVICE

I certify that a copy of this pleading has been served this 1 day of May, 2013, on the Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

DAVID WILLIAMS (ADC #078730)
CUMMINS UNIT
P.O. Box 500
GRADY, AR 71644-0500

Lisa Mills Wilkins

 LISA MILLS WILKINS Ark. Bar #87190

MAY 31 2013

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

DAVID WILLIAMS (ADC #078730)

RECEIVED
CLAIMANT

V.

NO. 13-0747-CC

ARKANSAS DEPARTMENT OF CORRECTION

RESPONDENT

MOTION TO DISMISS

COMES NOW the Respondent, Arkansas Department of Correction, and for its Motion to Dismiss, states as follows:

1. Claimant alleges negligence, failure to follow policy, mental anguish, personal injury, and pain and suffering. He seeks \$125,000.00.
2. Claimant has failed to state a claim upon which relief can be granted under ARCP 12(b)(6) and his claim should be dismissed.
3. Claimant alleges that he has been denied treatment for Hepatitis C ("HCV") although Dr. Iko and Dr. Samad have authorized it. That the ADC is has prevented this treatment and is liable for this denial of treatment and it has caused a worsening of his HCV.
4. If Claimant has any claim for damages it is against Corizon, Inc, not the ADC. Claimant fails to state any action that Respondents took which prevented him from having the medical follow-up. An official who was not involved in treatment decisions made by the unit's medical staff and who lacks medical expertise cannot be held liable for the medical staff's diagnostic decisions. *Keeper v. King*, 130 F.3d 1309, 1314 (8th Cir. 1997). If a claim of deliberate indifference to medical needs is to succeed, it must be brought against the individuals directly responsible for the inmate's medical care. *Keeper v. King*, 130 F.3d 1309, 1314 (8th Cir. 1997) (citing *Kulow v. Nix*, 28 F.3d 855, 858 (8th Cir. 1994)).
5. Respondents are not involved in treatment decisions made by the unit's medical staff. All medical appointments are made by the medical staff. If any claim for medical indifference is to succeed, it must be brought against the individual directly responsible for the inmate's medical care. *Kulow v. Nix*, 28 F.3d 855, 859 (8th Cir. 1994).
6. In addition, a general responsibility for supervising the operations of a prison is insufficient to establish the personal involvement required to support liability. *Keeper v. King*, 130 F.3d 1309, 1314 (8th Cir. 1997). Accordingly, a prison official who was not involved in treatment decisions made by the medical unit's staff and who lacked medical expertise cannot be liable for the medical staff's diagnostic decisions.
7. An official who was not involved in treatment decisions made by the unit's medical staff and who lacks medical expertise cannot be held liable for the medical staff's diagnostic decisions. *Keeper v. King*, 130 F.3d 1309, 1314 (8th Cir. 1997). If a claim of deliberate indifference to medical needs is to succeed, it must be brought against the individuals directly responsible for the inmate's medical care. *Keeper v. King*, 130 F.3d 1309, 1314 (8th Cir. 1997) (citing *Kulow v. Nix*, 28 F.3d 855, 858 (8th Cir. 1994)).

8. Claimant fails to state upon what theory the Respondent is liable. He simply states if the ADC is required to provide adequate medical care and he (by his own conclusion) did not get adequate medical care, then the ADC is liable, not the medical provider. Upon what *legal principle* is Claimant relying? It is impossible for the Respondent to defend the claim when Claimant has failed to state *what legal principle has been violated*. Once again, Claimant has failed to state a claim *against the Respondent*.
9. Respondent has failed to state any claim against the ADC for negligence. Respondent states again, that any claim for inadequate medical care is a federal violation under the 8th amendment and must be brought against the individuals directly responsible for the inmate's medical care. *Keeper v. King*, 130 F.3d 1309, 1314 (8th Cir. 1997) (citing *Kulow v. Nix*, 28 F.3d 855, 858 (8th Cir. 1994)). Based on the foregoing statements, has failed to state a claim upon which relief can be granted herein under ARCP Rule 12(b)(6) and 12(b)(1).
10. On page 11 of his Complaint, Claimant alleges that Dr. Iko stated on January 16, 2012, that Claimant required certain treatment after biopsy and Dr. Samad stated on March 6, 2012, that Claimant did not require a biopsy. Such differing medical opinions is more proof that review by Corizon providers is warranted to determine what level of care is necessary. Obviously there is no set standard of medical care in the community or the providers who have seen Claimant would not have differing opinions. In either case, ADC does not interfere in these decisions. It is not a medical provider.
11. As evidenced by Claimant's numerous medical attachments in his Exhibit 19, he has been seen on multiple occasions by Dr. Iko and Dr. Samad and various sick call visits have been placed. Claimant has been provided outside medical testing, and follow-up care on a continual basis. All of this evidence provided by the Claimant is proof that Respondent has met its obligation to provide reasonable access to timely medical care and treatment.
4. Claimant has misstated Dr. Samad's recommendations for treatment. On March 1, 2013, Claimant was seen for by Dr. Samad as he states. Dr. Samad's recommendation was that HCV treatment follow "Corizon guidelines for 2012 to be determined by CMS." His assessment does not meet the guidelines and he does not qualify for the next level of treatment provided by Corizon. Claimant is being re-evaluated at regular intervals and his condition is being monitored in the chronic care clinic.
5. Claimant alleges that his tramadol was reduced and Respondent has not increased it back to 100 mg 3x a day. Tramadol was not prescribed for HCV, but was prescribed for his knee and back pain. Respondent does not make medical decisions as to the dosage of medications. Corizon makes the decisions regarding proper dosage. Claimant has made numerous requests of the medical staff to have his Tramadol continued or increased over time.
6. Claimant alleges that he is being denied the '95% cure rate treatment.' A prisoner's disagreement with the defendant's medical judgment concerning the proper medications and medical aids for his esophageal reflux did not evidence deliberate indifference. *Hall v. Tyszkiewicz*, 28 Fed. Appx. 493 (6th Cir. 2002). The Eighth Circuit has made clear that "prisoners do not have a constitutional right to any particular type of treatment." *Long v. Nix*, 86 F.3d 761, 765 (8th Cir 1996).

7. For the reasons stated above, Respondent moves that the commission dismiss this claim. A motion to dismiss is proper when there are no facts upon which relief can be granted. ARCP 12(B)(6).

WHEREFORE, the Respondent prays that the claim be dismissed and for all other just and proper relief.

Respectfully submitted,
Department of Correction Office of Counsel

Lisa Mills Wilkins

LISA MILLS WILKINS Ark. Bar #87190

Attorney Supervisor

Post Office Box 8707

Pine Bluff, AR 71611

(870)267-6844 Office

(870)267-6373 Facsimile

CERTIFICATE OF SERVICE

I certify that a copy of this pleading has been served this 28 day of May, 2013, on the Claimant by placing a copy of the same in the U. S. Mail, regular postage to:

DAVID WILLIAMS (ADC #078730)

VARNER UNIT

P. O. BOX 600

GRADY, AR 71644-0600

Lisa Mills Wilkins

LISA MILLS WILKINS Ark. Bar #87190

BEFORE THE STATE CLAIMS COMMISSION
OF THE STATE OF ARKANSAS

JUN 12 2013

RECEIVED

David Williams, #78730

Claimant

vs.

Claim No. 13-0747-CC

Arkansas Department of Correction (ADC)

Respondent

Claimant's OPPOSITION For Respondent's MOTION TO DISMISS

I, David Williams, being competent and having personal knowledge do declare my opposition for Respondent's Motion To Dismiss and state as follow:

Respondent at 1. : Response. Claim in "Statement of Facts", filed 4/25/13, "page 2, at H.) Claimant claims that Exhibits shall disclose a pattern of Reckless Disregard by the ADC to its own Policies and Conscious Indifference to my Needless Pain, Suffering, loss of Quality of Life, worsening ongoing health situation and potentially life threatening situation; at C) on p.1, Claimant is filing this claim, claiming PERSONAL INJURY, DISABILITY BENEFIT and MISCELLANEOUS (Note: Under Misc. the Claims Commission can find Mental Anguish); Claimant seeks \$125,000.00 and a DECLARATORY JUDGMENT (page 25 under Wherefore) issued for the ADC to Comply with the ADC's promulgated policies and provide HCV treatment Dr. (s) IKO & SAMAD recommended according to Current Community Standard; and Any/All relief seen fit.

Respondent at 2. : Response. Facts and Exhibits clearly and convincingly state a claim upon which relief can be granted and claim should [NOT] be dismissed, esp. in light of the FACT that DISCOVERY (Production of Documents) shall further substantiate my claim... Discovery commenced by claimant.

Respondent at 3. : Response. Claim speaks for itself.

Respondent at 4. : Response. The state agency (ADC) has promulgated specific POLICIES (See Statement of Facts, p.2 at F.) also p.2 at E.) shows ADC is LIABLE as the ADC is obligated to ENSURE that the promulgated policies are followed. Claim Commission is "Admin. Quasi-Judicial Agency" -

- This is not a [Civil Rights] Claim; (See Claim Commission "Complaint Form"),
- OR a challenge to [Constitutional Issues] . . .

As Respondent's Attorney appears to argue in their Motion To Dismiss → Doctor(s) who [Physically Examined Me] and on [Verified Medical Records] based upon my [Individual Basis], not lumped into Corporations (Corizon) CRITERIA, a ever changing CRITERIA to delay and deny HCV treatment, compounded and enforced by "Even A Laymen Understands" (6-witnesses [Before Wheelchair Confinement], see Exhibit 3-Declaration to ADC Director of Medical Wendy Kelly) treatment for HCV required to improve Serious Medical Need.

Respondent at 5. : Response. Varner Unit DR. IKD repeatedly recommended HCV treatment and repeatedly sought HCV treatment from (consult) outside medical appointments to DR. Samad, who agreed with DR. IKD HCV treatment required . . . As A Matter of LAW a Contracted Corporation cannot deny or delay treatment to a prisoner [once] diagnosed by the Prison Doctor and a Outside Specialist Doctor Agree Required, BUT FOR THE FACT . . . the Corporation does not want to spend the money to treat HCV, A disease which [NDW] has a 95% Cure Rate . . . No legitimate penological reason exist [BUT FOR COST] for ADC's Officials, WHO HAVE repeatedly been made KNOWN OF denial of serious medical need, to refuse to follow their Own Promulgated Policies. State Agency (ADC) has sole custody of claimant. (See Ex. 19, p. 23 of 36, A.C.A. §12-27-101). Who ADC hires cannot turn a "Blind-Eye" to ADC's policy.

Respondent at 6: Response. (See Response at 5 above). ADC Med. Director Wendy Kelly (Ex. 1, 2, 3, 4, 5, 6, 7 also Warden Jimmy Banks, 8, 9, 10, 11, 12, 13 also Director Ray Hobbs, Director John Byers, Warden Jimmy Paige, Warden Joe Paige, 14, 15, 16, 18, [19] to ADC Director Ray Hobbs also Kelly, Byers, Banks, Paige (19, p. 24-29 of 36, Turner standard, "Director had ALTERNATIVE AVAILABLE to him"), Ex. 20 to Dir. Hobbs, also Kelly, Byers, Banks, Paige, 22, 23, 24, and Ex. 25) ... 23 Times on Written Record Director Kelly knew of; and on 11/1/12 she personally visited me regarding Delay & Denial of HCV treatment here at Varner. Numerous ADC Official were made [Aware OF] by Claimant, and Dr. IKO and Dr. Samad of specific treatment required, I personally discussed with Warden(s) Banks & Paige in Varner Unit hallway at Main Kitchen Area; I explained personally that Doctor(s) IKO & Samad (medical staff's diagnostic decisions) was to treat HCV with Dual or Triple Therapy, the same therapy that is practiced (AR 833 Health Services), "according to the [CURRENT] Community and Professional standards and practices of Health Care," (See my Statement of Facts, p. 4, at 1.) "Dual Therapy Interferon & Ribavirin, for Triple Therapy add VICTRELIS, VICTRELIS when used offers a 95% Cure Rate for HCV."

Even a LAYMAN understands [WHEN] two (2) Doctor(s) agree on a Course of treatment for a serious medical need that the Doctors both [Physically Examined Me] and [Verified Medical Records] on my [Individual Basis] the ADC's [OWN PICKED OUT DOCTOR(S)] ... the ADC IS LIABLE for letting a Corporation (Corizon's Criteria) to run Roughshod over its Est. Policies to protect ADC prisoners (my) serious medical need: Esp. in light of the fact the ADC director clearly had an available [ALTERNATIVE] KNOWN TO HIM; Ex. 19, p. 24 of 36, May 2, 2012 response letter to Mr. Hobbs, (Hobbs), "It is my opinion that inmates who are sentenced to life without and are "permanently incapacitated"

or "terminally ill" should be eligible for medical parole without limitations except for inmates convicted of certain sex offenses." Attorney General understood, "your question focuses on inmates sentenced to life imprisonment without parole." Ex. 19, p. 29 of 36, discloses ADC Director's Norris, "HISTORY and Application of A.C.A. § 12-29-404, releasing two ADC prisoners, Grabow with HCV also & Stephenson sentenced to Life Without Parole." (See Ex. 6, Grievance Filed [4/15/12] VU12-848, RE: Dir. Hobbs & A.C.A. 12-29-404).

On 11/1/12 visit with me Dir. Kelly talked to Dr. Fallhove on her cell phone with me present. They decided to draw blood again (Again on 11/1/12 blood drawn immediately on their authority) and "EF HCV-RNA came back HIGH again, I would once again be [RE]-evaluated for HCV treatment." (See Ex. 24, Grievance VSM 12-4762): More Poppycock.

Respondent at 7. : Response. (See 1, 4-6 Responses Above).

Respondent at 8. : Response. (See 1, 4-6 Responses Above).

Ex. 19, p. 23 of 36, A.C.A. § 12-27-101. "Purposes and construction of the ADC, (a) (1) The purpose of this act is to est. a ADC that SHALL assume the custody, control, & management of the state penitentiary, execute the orders of criminal courts of the State of Arkansas, AND provide for the custody, treatment, rehabilitation, and restoration of adult offenders as useful law-abiding citizens within the community. ; (4) Institutions and services SHALL be diversified in program, construction, and staff to provide effectually and efficiently for the MAXIMUM custody, care, SUPERVISION, AND TREATMENT of those persons committed to ADC. ; (b) This act SHALL be liberally construed so as to effectuate its purposes. PLAIN LANGUAGE.

AR. Claims Commission, Rules & Regulations, FOREWARD, "Commission designed to afford relief to individuals who have in Some Way Been Injured or Damaged by the state of Arkansas," P. 4 & 5 JURISDICTION OF Commission, specifically names Jurisdiction of claims against the "state" and its agencies such AS Department of Correction. P. 5 "In some instances, the Commission has ruled to award monetary damages WHEN A DEFICIENCY IS FOUND within a state agency's operations, methods or procedures that can be attributable to the Exclusive Control of the Agency."

A.C.A. 12-27-101, provides Clear & Convincing Evidence with MANDATORY PLAIN LANGUAGE that the ADC SHALL Control, Supervise, Care, & Treatment for AR. prisoners providing EFFECTUAL AND EFFICIENT for the Maximum care, supervision, and treatment of AR. prisoners: ADC has [Exclusive Control].

ADC's deficiency is its LACK IN CONTROL, Inadequate/Meaningless Fines or Sanctions IF OR WHEN the ADC enforce on contracted 3RD Party Contractor Corporation Corizon for adequate/meaningful health care, specifically HCV treatment for ADC prisoners (claimant). Corizon's HCV criteria for HCV treatment changes at a WHIM so treatment cost may be denied and ADC turns a "Blind-Eye" to DEATH[S] and Needless Suffering of ADC's HCV prisoners (claimant).

Jorden v. Farrier, 788 F.2d 1347 (8TH Cir. 1986) (The lower court's judgment was reversed and remanded on appeal, The court found that the case was not ripe for summary judgment because there was A FACT ISSUE as to whether the denial of the drug prescribed to the inmate was an ARBITRARY ADMINISTRATIVE DECISION or a Medical Decision.

In granting the Summary Judgment, the district court assumed that this was a dispute between treating physicians. Rather, the real issue appears to have been whether this was a dispute between physicians [CHOSEN BY THE PRISON] and an Administrator, thus creating a FACT ISSUE whether the denial amounted to the Kind of ARBITRARY DECISION constituting cruel and unusual punishment, and a matter for decision on the merits.

In a case quite similar, Sawyer v. Sigler, 320 F. Supp. 690, aff'd as to instant claimant, 445 F.2d 818, 819 (8th Cir. 1971) (As the courts should be guided by physicians as to their judgment that adequate medical treatment is being rendered, so the Courts should be guided by those SAME PHYSICIANS that Inadequate medical treatment is being rendered. ARBITRARY policy constitute both cruel and inhuman punishment and a denial of Adequate Medical Treatment. Dr. Shiva pour and Dr. Tippin, assert that the simpler means chosen -- that of prescribing phenobarbital -- are not effective to treat Jorden. In addition, there IS NO INDICATION in the record that Dr. Loeffelholz (Admin.) EVER EXAMINED, TREATED, OR OTHERWISE Acted as the health care provider for Jorden. For these reasons, It is difficult to conceive of the denial of Fiorinal to Jorden as being anything But An ARBITRARY decision. Summary Judgment cannot be sustained, esp., it seems that there is a fact issue whether there was a disagreement between treating physicians And An Administrator).

*NO Corizon Administrator Physically Examined or Treated Me.

Aswegen v. Bruhl, 965 F.2d 676, 1992 U.S. App. LEXIS 12464 (8th Cir. 1992) (deliberate indifference to his serious medical need based on a number of incidents, including the prison officials FAILURE TO FOLLOW Physicians' recommendations).

Estelle v. Gamble, 429 U.S. 97, 105, 97 S.Ct. 285 (1976) (Noting that "intentionally interfering with the treatment once prescribed" is a form of unlawful deliberate indifference).

Walker v. Benjamin, 293 F.3d 1030, 2002 U.S. App. LEXIS 11921 (The prisoner mentioned the defendants' failure to treat his pain NO FEWER than TEN TIMES in his complaint. That was more than sufficient notice of the nature of his claim against the defendants. A refusal to treat a medical condition marked by the existence of CHRONIC and substantial pain may give rise to an 8th Amendment claim. Walker was not seeking unconventional treatment, he just wanted the pain medication that the prison doctor had prescribed for him. The defendants deliberate refusal of it was a gratuitous cruelty; Boretti v. Wiscomb, 930 F.2d 1150, 1991 U.S. App. LEXIS 6045, QUOTING, Westlake v. Lucas, 537 F.2d 857, 860 (6th Cir. 1976) (this Court held that a prisoner who suffers PAIN NEEDLESSLY when RELIEF IS READILY AVAILABLE has a cause of action against those whose deliberate indifference is the cause of the suffering; Ralston v. McGovern, 167 F.3d 1160, 1999 U.S. App. LEXIS 1797 (plaintiff did not seek an unconventional

treatment; he just wanted the pain medication that the doctor had prescribed).

Johnson v. Wright, 412 F.3d 398, 2005 U.S.App. LEXIS 12428 (D.C. policy forbade HCV medication to any prisoner with evidence of active substance abuse, inmate suffers from CHRONIC HCV and once tested positive for marijuana use. On appeal inmate argued that Mechanically following Guideline (Criteria) that a jury could find reasonably that the defendants did subjectively KNOW OF, and disregard an excessive risk to, the inmate's health, EVERY SINGLE ONE of the inmate's treating physicians, including Prison Physicians, indicated to defendants that prescribing Ribavirin to the inmate was the medically appropriate course of treatment. Even sincere and honestly believed defendants if, that apply Guideline Policy was justifiable, but we believe that a jury could also reasonably reach the Contrary Result, namely, that the defendants here did subjectively Know of, and disregard an excessive risk to, plaintiff's health: 1. All treating physicians, including prison physician recommend ribavirin treatment; 2. Ribavirin is medically appropriate; 3. Defendants ignored the Unanimous advice of Johnson's [Treating Physicians] including prison physician, and Apply Guideline Policy in Johnson's case.

Byrd v. Wilson, 701 F.2d 592, 1983 U.S. App. LEXIS 29852 (Defendants failed to follow HCV precise course of treatment that was prescribed by the doctors. When an inmate can est. that prison officials have shown such indifference to his medical needs that it offends "evolving standards of decency," A VALID Constitutional claim has been made).

Blackmore v. Kalamazoo County, et al., 390 F.3d 890 (6th Cir. 2004)

(Most other circuits hold that a medical need is objectively serious if it is "one that has been diagnosed by a physician as mandating treatment or one that is so obvious that even a LAY PERSON WOULD EASILY RECOGNIZE the necessity for a doctor's attention. See Taylor v. Franklin County, 104 Fed. Appx. 531, 2004 WL 1595203, at 6 (6th Cir. 2004) (Such obvious SIGNS of RE-CURRING incontinence and DEBILITATING IMMOBILITY were clear, SYMPTOMS of a serious problem EVEN IF Defendants did not (choose) to believe Plaintiff. The "VERIFYING MEDICAL EVIDENCE" requirement is relevant, medical proof is Necessary to assess whether the delay caused injury). When Prison Officials are aware of a prisoner's Obvious and Serious Need for medical treatment and delay treatment of that condition for NON-MEDICAL REASONS, their conduct in causing the delay creates the constitutional infirmity).

Roe v. Elyea, 631 F.3d 843 (7th Cir. 2011) (Failure to consider an "INDIVIDUAL inmate's Condition" in treating HIV is not appropriate or reasonable medical judgment that medical personnel know is Ineffective. FBOP Guidelines make clear, Enzyme Levels [REPEATEDLY] twice normal, Individual's History, the FBOP Guidelines counsel antiviral therapy, Medical History & Symptoms are sufficient evidence that Doctor acted with a Sufficiently culpable state of mind. Treatment should be made on Case-By-Case Basis).

Respondent at 9. : Response. (See 1-8 above responses).

Respondent at 10. : Response. Differing Medical Opinions?

Both Doctor IKO, Ex. 19, p. 8 of 36, and DR. Samad Ex. 19, p. 10 of 36 recommend Dual Therapy of Interferon and Ribavirin required, IF required Triple Therapy with Victrelis if Dual Therapy fails.

Set Standard by CDC, NIH, N. Liver Institute & FBDP along with Dir. Kelly recognize the LONG Est. Course of Treatment is Interferon & Ribavirin; As of May 2011, Victrelis has proven excellent results if Dual Therapy Fails. Also, CDC, NIH, FBDP have set standards where Liver Biopsy may or may not be of any use to determine treatment. Both treating physicians agree that "HCV treatment required".

Respondent at 11. : Response. Opposed, no meaningful treatment.

at 11, 4. Response. Dr. Samad is [Not Mistated] by me, both Dr. Samad and his Head Nurse each asked me separately, "How are you responding to treatment? I stated each time asked, "I am not yet receiving treatment." Dr. Samad said, "I shall again recommend treatment" and noted in 3/1/13 medical record.

at 11, 5. Response. Arthritis in Joints by Verified Medical Records is a MAJOR Symptom of HCV... PAIN... Needless Pain that numerous Doctor(s) did recommend for Pain.

at 11, 6. Response. (See Response 8 above).

at 11, 7. Response. (See 1-11 Response Above, See Statement of Facts, Filed April 25, 2013 with Ex. 1-25).

WHEREFORE, the Claimant prays that the Respondent's MOTION TO DISMISS be DISMISSED; that Oral Hearing Scheduled and Discovery request be honored by Respondent, and for all other just and proper relief.

I declare under penalty of perjury that the foregoing is true & correct.
Executed this 7 day of June, 2013.

Humbly Submitted,
David Williams
David Williams #78730
P.O. Box 600, BKS, 19
Grady, AR. 71644

Certificate of Service

I certify that a copy of this pleading was served this 7 day of June, 2013, on Respondent by placing in U.S. Mail to:

ADC Attorney Lisa Wilkins
P.O. Box 8707
Pine Bluff, AR. 71611

BEFORE THE STATE CLAIMS COMMISSION
OF THE STATE OF ARKANSAS

Arkansas Claims Commission

JUN 26 2013

RECEIVED

David Williams, #78730

Claimant

vs. Claim No. 13-0747-CC

Arkansas Department of Correction (ADC)

Respondent

Claimant's MOTION TO APPEAL Claims Commission's June 14, 2013,
DENIED and DISMISSED CLAIM.

I, David Williams, being competent and having personal knowledge do declare :

- 1.) On June 14, 2013, the Ark. Claims Commission DENIED and DISMISSED my claim citing Respondent's "Motion To Dismiss" reasons set forth in para. 1, 3-8 & 10-14.
 - 2.) Claims Commission did not cite para. 2, 9, and 15 of Respondent's "Motion To Dismiss" as reasons set forth for DENIAL and DISMISSAL; In which para. 2, 9, & 15 (Nutshell state) "Claimant FAILED TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED under ARCP 12 (b) (6)".
 - 3.) This claim did present FACT(S) upon which relief can be granted by the Ark. Claims Commission (A Admin. Quasi-Judicial Agency), as Claims Commission recognizes [A CLAIM WAS CLEARLY STATED upon which relief can be granted]... This is a Private Contractor (CORIZON) being allowed to run Roughshod on [A] State Agency, the State Agencies Policies, and ADC officials BLIND-EYE to Corizon's Reckless Disregard of ADC Policies and Conscious Indifference to Serious Health Need (HCV treatment)... And Corizon's refusal to Provide ARKANSAS TAX PAYER(S) the Services Contracted to provide a Ark. Agency.
- Wherefore, Ar. General Assembly should Reverse & Remand this claim for further proceedings so prayed.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 24 day of June, 2013.

Certificate of Service

I certify that a copy of this pleading served 6/24/13, on Respondent by placing in U.S. Mail to:

Attorney Lisa Wilkins
P.O. Box 8707
Pine Bluff, AR. ~~71611~~
71611

Humbly Submitted,
David Williams

David Williams # 78730
P.O. Box 600, BKS, 19
Grady, AR. 71644

David Williams
Claimant

BEFORE THE STATE CLAIMS COMMISSION
OF THE STATE OF ARKANSAS

Arkansas Claims Commission

JUN 26 2013

RECEIVED

David Williams, #78730

Claimant

vs. Claim No. 13-0747-CC

Arkansas Department of Correction (ADC)

Respondent

Claimant's MOTION TO APPEAL Claims Commission's June 14, 2013,
DENIED and DISMISSED CLAIM.

I, David Williams, being competent and having personal knowledge do declare :

- 1.) On June 14, 2013, the Ark. Claims Commission DENIED and DISMISSED my claim citing Respondent's "Motion To Dismiss" reasons set forth in para. 1, 3-8 & 10-14.
 - 2.) Claims Commission did not cite para. 2, 9, and 15 of Respondent's "Motion To Dismiss" as reasons set forth for DENIAL and DISMISSAL; In which para. 2, 9, & 15 (Nutshell state) "Claimant FAILED TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED under ARCP 12 (b) (6)".
 - 3.) This claim did present FACT(S) upon which relief can be granted by the Ark. Claims Commission (A Admin. Quasi-Judicial Agency), as Claims Commission recognizes [A CLAIM WAS CLEARLY STATED upon which relief can be granted]... This is a Private Contractor (CORIZON) being allowed to run Roughshod on [A] State Agency, the State Agencies Policies, and ADC officials BLIND-EYE to Corizon's Reckless Disregard of ADC Policies and Conscious Indifference to Serious Health Need (HCV treatment)... And Corizon's refusal to Provide ARKANSAS TAXPAYER(S) the Services Contracted to provide a Ark. Agency.
- Wherefore, AR. General Assembly should Reverse & Remand this claim for further proceedings, so prayed.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 24 day of June, 2013.

Certificate of Service

I certify that a copy of this pleading served 6/24/13 on Respondent by placing in U.S. Mail to: Attorney Lisa Wilkins
P.O. Box 8707
Pine Bluff, Ar. 71611

Humbly Submitted,
David Williams

David Williams # 78730
P.O. Box 600, BKS. 19
Grady, AR. 71644

David Williams
Claimant