

DOCKET NO. CV-23-5001426-S

STATE OF CONNECTICUT  
SUPERIOR COURT  
G.A. 19

SUPERIOR COURT

RAYMOND CERILLI

2024 MAY 22 P 12: 16

JUDICIAL DISTRICT  
OF TOLLAND ---  
HABEAS DOCKET

V.

COMMISSIONER OF CORRECTION

MAY 22, 2024

**MEMORANDUM OF DECISION**

Raymond Cerilli, who is a sentenced inmate in the custody of the Department of Correction (“DOC”), filed his amended petition for a writ of habeas corpus on September 8, 2023, in which he identified several medical conditions of confinement issues. The respondent filed its return on April 3, 2024. The parties appeared for trial before this court on April 4, 2024. For the reasons articulated below, the petition is denied.

**FINDINGS OF FACT**

The following witnesses testified at the petitioner’s habeas trial.

- 1. Dr. Richard Williams

Dr. Williams works for DOC and provides medical care for inmates. Dr. Williams saw the petitioner for a total of twelve visits in the clinic between 2022 and 2023. In particular, Dr. Williams helped treat the petitioner’s diabetes and high blood pressure and also saw him for the complaints the petitioner made regarding Metformin, a medication that he had been prescribed to treat his diabetes. In particular, the petitioner had concerns about being prescribed the generic medicine rather than the name brand. Regarding the petitioner’s complaints of a bulge on the side of his abdomen, Dr. Williams testified that the CT scan of the area was normal and showed no hernia, mass, or tumor. The petitioner is also being treated with oxycodone for chronic back pain.

Dr. Williams testified that he ordered testing following the petitioner’s complaint of pain in April of 2023. The blood work panel included testing of the petitioner’s kidneys and liver, and the results

of those tests were all normal. Regarding the abdominal bulge, Dr. Williams testified that it could be related to constipation or could be the petitioner's unique anatomy. However, nothing pathological was revealed through the testing.

In response to the petitioner's complaints that he has an allergic reaction to all generic drugs, including Metformin—namely swelling in his lower extremities—Dr. Williams testified that such a complaint does not make pharmaceutical sense. While an individual may have an allergic reaction to a particular pill that has fillers or inert ingredients that cause stomach upset, it is untrue that someone could have an allergic reaction to all generic drugs. Dr. Williams also testified that there was no sign at all that the petitioner had an allergic reaction to Metformin, in particular. To the extent the petitioner experienced swelling in his legs, Dr. Williams explained that such swelling was not an allergic reaction but a common side effect that is treated by prescribing patients a diuretic. According to Dr. Williams, the medication may cause leg swelling, but it is effective at controlling hypertension, and controlling the petitioner's blood pressure is a top medical priority. Additionally, Dr. Williams noted that the leg swelling was not a medical emergency since the petitioner's blood work showed good kidney function and no sign of heart failure or disease.

## 2. Dr. Peter Jamison

Dr. Jamison works as an optometrist for DOC. He examines eyes, prescribes glasses, medications, and facilitates orders of glasses from DOC vendors. In response to the petitioner's claim that the tint of his eyeglasses is insufficient, Dr. Jamison explained that the current tint of the petitioner's eyeglasses is 40% grey, which is "quite dark" and which is more than adequate to address light sensitivity. According to Dr. Jamison, the petitioner has small cataracts that are likely not causing his eye complaints.

3. Dr. James Smyth

Dr. Smyth is an optometrist for DOC who also testified that he does not believe that the petitioner's cataracts are contributing to his light sensitivity complaints, nor does he believe that the petitioner's eyes have deteriorated as a result of sun exposure or that his cataracts have worsened due to the same. Based on his review of the petitioner's medical history and from his encounters with the petitioner, Dr. Smyth believes the 40% tint is appropriate to treat light sensitivity and a higher tint is medically unnecessary.

4. Dr. Henry Fedus

Dr. Fedus is a podiatrist at DOC, who has seen the petitioner several times dating back to 2021. According to Dr. Fedus, the petitioner has requested special footwear; however, such footwear is not medically indicated. The petitioner has been diagnosed with a bone spur and has been prescribed heel cups and arch supports to address his needs. Additionally, Dr. Fedus testified that he has observed the petitioner walking normally in the hallway, and he is able to pivot to speak with fellow inmates. Dr. Fedus usually sees diabetic patients once a year, and the petitioner will be seen again some time in May of 2024.

5. Dr. Cary Freston

Dr. Freston, the principal physician and acting medical director for DOC, testified that he is very familiar with the petitioner's case. Regarding the petitioner's current treatment status, Dr. Freston explained that he had been referred to UCONN pulmonology for shortness of breath and has been prescribed a c-pap machine. Additionally, an MRI of the petitioner's liver has been ordered that will also give details regarding the abdominal bulge he complains of. This MRI is a precautionary measure, as there does not currently appear to be a problem with the petitioner's liver.

Dr. Freston was asked about the petitioner's complaint that he is allergic to generic drugs. Dr.

Freston testified that he had reviewed this issue in detail prior to trial and was unable to find anything to support this claim. According to Dr. Freston, the petitioner has never had a real allergic reaction while in DOC custody. The swelling the petitioner associates with his ingestion of generic drugs is benign-appearing edema, which is common for individuals in his age group with his medical conditions. Dr. Freston further explained that oxycodone is a generic brand that everyone uses, and it can be ordered as a short or long-acting medication. Dr. Freston testified that the petitioner has a history of diverting oxycodone and using it recreationally.

Regarding the petitioner's complaint that he has not been prescribed Halog cream, which he prefers for his skin condition, Dr. Freston testified that the petitioner has an active order in his chart for the cream. However, the medication is currently unavailable. For the time being, the petitioner has been prescribed an alternative cream to treat the same symptoms, which is actually a higher potency steroid cream.

Having reviewed the petitioner's medical records and testimony, Dr. Freston testified that the petitioner is receiving not just medically indicated treatment but a "Cadillac workup" and has seen more medical attention than someone outside of prison would receive for the same medical complaints.

Additional facts will be discussed below as necessary to address the petitioner's claims.

## DISCUSSION

"The eighth amendment, which applies to the states through the due process clause of the fourteenth amendment to the United States constitution; see, e.g., Rhodes v. Chapman, 452 U.S. 337, 344-45, 101 S. Ct. 2392, 69 L. Ed. 2d 59 (1981); 'prohibits detention in a manner that constitutes cruel and unusual punishment.' Hunnicut v. Commissioner of Correction, 67 Conn. App. 65, 66, 787 A.2d 22 (2001). 'Cruel and unusual punishment refers to punishment that involves the unnecessary and wanton infliction of pain or is grossly disproportionate to the severity of the

crime.’ Santiago v. Commissioner of Correction, 39 Conn. App. 674, 683, 667 A.2d 304 (1995).

Under the eighth amendment, ‘prison officials must ensure that inmates receive adequate food, clothing, shelter, and medical care, and must take reasonable measures to guarantee the safety of the inmates . . . .’ (Citation omitted; internal quotation marks omitted.) Farmer v. Brennan, 511 U.S. 825, 832, 114 S. Ct. 1970, 128 L. Ed. 2d 811 (1994).

Every injury suffered, however, at the hands of an inmate does not necessarily translate into constitutional liability for prison officials. Prison officials will be found to have violated the eighth amendment to the United States constitution if, by virtue of their deliberate indifference to an inmate’s serious medical needs, they refuse to provide care or treatment to that inmate. Estelle v. Gamble, 429 U.S. 97, 97 S. Ct. 285, 50 L. Ed. 2d 251 (1976); Faraday v. Commissioner of Correction, 288 Conn. 326, 328, 952 A.2d 764 (2008).

The standard of deliberate indifference has both subjective and objective components. First, the deprivation alleged must be, objectively, “sufficiently serious.” Faraday v. Commissioner of Correction, supra, 288 Conn. 338. With respect to the objective component of the deliberate indifference standard, the term “sufficiently serious” has been described as “a condition of urgency, one that may produce death, degeneration, or extreme pain.” (Internal quotation marks omitted.) Hathaway v. Coughlin, 99 F.3d 550, 553 (2d Cir. 1996); Archer v. Dutcher, 733 F.2d 14, 16–17 (2d Cir.1984) (“extreme pain”); Todaro v. Ward, 565 F.2d 48, 52 (2d Cir.1977) (“physical torture and lingering death”). Second, the government official must act with a sufficiently culpable state of mind. Faraday v. Commissioner of Correction, supra, 288 Conn. 338. A “sufficiently culpable state of mind” is “one of deliberate indifference to inmate health or safety.” (Citations omitted; internal quotation marks omitted.) Farmer v. Brennan, supra, 511 U.S. 834.

“An official acts with the requisite deliberate indifference when that official knows of and disregards an excessive risk to inmate health or safety; the official must both be aware of facts from

which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference.” Faraday v. Commissioner of Correction, supra, 338; see also Farmer v. Brennan, supra, 837. Thus, “an official’s failure to alleviate a significant risk that he should have perceived but did not [does not violate the eighth amendment].” (Internal quotation marks omitted.) Faraday v. Commissioner of Correction, supra, 338, quoting Farmer v. Brennan, supra, 838.

The petitioner has alleged that he has been given generic medications that he is allergic to, has been denied specific cream that he prefers for an on-going skin condition, has been denied medically necessary footwear, and has been denied glasses with a tint greater than 40%. In light of the testimony that was adduced at his habeas trial, these claims are not sufficiently serious for eighth amendment purposes. The petitioner has also failed to demonstrate with credible evidence that DOC acted with deliberate indifference to his medical needs.

The petitioner’s medical records as well as the credible evidence presented through the various medical professionals called to testify at trial all demonstrate that the petitioner’s medical complaints are not sever in nature. To the contrary, the petitioner’s abdominal bulge was addressed by a doctor and was determined not to be pathological in nature. According to the testimony of two doctors, the leg swelling the petitioner complains of is not an allergic response to generic medication but instead a common side effect that is being managed through the use of diuretics. As his doctors testified, while the medication can cause swelling, it is far more important to control the petitioner’s high blood pressure. Dr. Fedus testified that that he had evaluated the petitioner, would evaluate him again this month, and had determined that special footwear was not medically indicated. The petitioner has been receiving prescribed heel cups and arch supports to address his bone spurs. Two DOC optometrists both testified that the 40% eyeglass tint that the petitioner has been prescribed is adequate to meet his medical needs and is not contributing to any deterioration of his vision. Finally, Dr. Freston testified that the petitioner is receiving steroid cream that is more potent than the brand

he prefers and that the petitioner will receive the preferred Halog cream once it becomes available. Dr. Freston also testified that the petitioner has received overgenerous medical care and that his medical needs are all being adequately addressed. Thus, it is clear from the evidence that DOC has provided medical care in keeping with the eighth amendment, and the petitioner has failed to prove that DOC acted with deliberate indifference to his medical issues.

There has been no showing made of constitutionally deficient medical care. Accordingly, the petition must be denied.

### CONCLUSION

Judgment shall enter denying the petition for a writ of habeas corpus.

  
Wagner, J.

Copies sent to:

Raymond Cerilli w/pet cert + apfeco - mail

AAG Jacob McChesney - JDND

Judge Wagner

by: Krista McKen, Asst. Clerk 7/22/24