

**STATE OF CONNECTICUT**

DOCKET NUMBER: CV22-5001124-S

SUPERIOR COURT

EARL BRADLEY (INMATE # 415266)

TOLLAND JUDICIAL DISTRICT  
HABEAS DOCKET

V.

COMMISSIONER OF CORRECTION

JUNE 5, 2024

2024 JUN -5 P 3:04  
STATE OF CONNECTICUT  
SUPERIOR COURT  
G.A.19

**MEMORANDUM OF DECISION**

On or about August 26, 2011, the petitioner, Earl Bradley, was convicted of variety of crimes in the state of Delaware. Connecticut Department of Correction ("DOC") records show that in 2016 he was transferred to the custody of the Connecticut DOC pursuant to an interstate custody compact. He is currently housed at Cheshire Correctional Institution.

On or about November 18, 2021, the petitioner initiated the instant habeas corpus action alleging that the DOC had violated his Eighth Amendment rights by willfully delaying and/or ignoring various medical and dental issues. He additionally alleged that he was subject to elder abuse, that his rights under the ADA were being infringed, and that he had been subject to threats on his life (by other inmates) which were ignored and/or tolerated by DOC staff.

On October 27, 2022, again on March 8, 2023, and again on October 20, 2023, the petitioner amended and clarified his initial petition. Specifically, he stated that the medical providers at Cheshire CI "are excellent [and] this makes my request for court intervention moot," and that "I have no complaints regarding current medical care." However, his amended pleadings made clear that he was still pursuing his complaints about dental care and treatment. He additionally wished to continue to pursue claims of ADA violations and

elder abuse crimes.

On or about May 30, 2024, the respondent, the Commissioner of Correction, filed a return in which he denied all the petitioner's allegations and averred that all of the petitioner's medical and dental concerns have been, or are currently being, addressed in a medically appropriate manner. The respondent further asserted that the petitioner's claims regarding ADA and elder abuse were not cognizable in habeas court, as there was no relief that the court could grant.

A trial was held before this court on June 4, 2024. Before evidence began, the petitioner agreed that his claims regarding medical care were moot given that all of his medical needs have been or are currently being met by the medical staff at Cheshire CI. He therefore orally withdrew all of the claims related to his medical care; as such, no evidence was adduced with respect to medical care. He also acknowledged that the habeas court does not have jurisdiction or authority over any claims arising under the ADA, nor does it have the ability to intervene in matters pertaining to DOC security policies or classifications.<sup>1</sup> As such, no evidence was adduced with respect to those subjects, either. The following people testified at the trial: the petitioner on his own behalf, and Dr. Maher Kasabji, the DOC's dental director, for the respondent. By agreement, the parties also offered into evidence voluminous and detailed DOC medical and dental records for the petitioner, dating back to 2020. They were marked as Respondent's Exhibits A, B, and C.

For the following reasons, the court concludes that the only remaining claims in the petition, regarding the petitioner's dental care, must be DENIED, given that, by the

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<sup>1</sup> The petitioner is currently in protective custody at Cheshire CI.

petitioner's own admission, his dental health is currently being adequately and appropriately addressed by DOC.

### **FACTUAL FINDINGS**

Dr. Maher Kasabji testified that he is the dental director for DOC and that he was not only familiar with the petitioner's dental matters but had actually been involved in his dental treatment. Kasabji testified, and medical records in evidence showed, that since 2019, the petitioner has routinely been seen and treated by various DOC dentists and dental hygienists who have provided him with dental exams, x-rays, cleanings, extractions, and fillings. Medical records show that the petitioner has had dental issues for several years that have required several tooth extractions and fillings. For example, in 2021 alone, the petitioner had three teeth extracted (# 7, 9, and 10) and two fillings on tooth # 15. Resp's. Exh. C.

The extraction of so many teeth necessitated making a partial dental bridge for the petitioner, which the dental team at Cheshire CI discussed with him on several occasions. Records show, and Kasabji testified, that on 10/6/21 and 11/9/22, DOC dentists advised the petitioner to have two additional teeth extracted, specifically, teeth # 6 and # 11, which Kasabji identified as the canine teeth. However, records show, and the petitioner candidly testified, that the petitioner was reluctant to have additional teeth pulled at that time, and, therefore, he refused the recommended extractions. Dr. Kasabji testified that the petitioner's refusal to agree to the additional extractions delayed the dental clinic's ability to take dental impressions in order to begin the "multi-step process" of making the partial dental bridge for the petitioner.

On 2/14/23, the petitioner got a filling done on one of his teeth and was again advised by a DOC dentist that he should have teeth # 6 and 11 extracted. Resp's. Exh B. The

petitioner again told the dentist that he wanted to keep those teeth and did not want them extracted. Id. The DOC dentist, Dr. Gloria Perry, opined that teeth # 6 and 11 were "too broken down" to support a partial bridge. Dr. Kasabji testified that this caused yet another delay in the petitioner obtaining his partial bridge. Kasabji explained that, absent exigent circumstances, DOC policy allows for only one dental bridge every seven years. He stated that if the petitioner had gotten a bridge without first having teeth # 6 and 11 extracted, the bridge would likely fail within a year, and the petitioner would be unable to get another.

In December of 2023, Dr. Kasabji was informed that the petitioner had agreed to the extraction of teeth # 6 and 11. On December 19, 2023, Kasabji saw the petitioner in the dental clinic at Cheshire CI and extracted teeth # 6 and 11. Resp's. Exh. C. On April 9, 2024, dental staff again saw the petitioner to begin the process of making his partial bridge. Resp's Exh C. On that date, dental staff took a wax impression of the petitioner's teeth. On May 14, 2024, the petitioner again saw Dr. Perry, who took a final dental impression for the bridge. Resp's. Exh. C. Dr. Kasabji testified that the next step for the petitioner will be a trial fitting of the bridge. He stated that, once the bridge is properly fit to the petitioner's teeth and mouth, the petitioner will have his completed partial bridge. Kasabji testified that there was "no reason to believe" that the petitioner would not get his bridge as scheduled.

The petitioner testified on his own behalf and disagreed with some of the testimony and statements in the medical records. For example, the petitioner disagreed with the designation on his dental records stating that he "refused" the extractions of teeth # 6 and 11. He explained to the court various reasons for his reluctance to have more teeth pulled at that time. However, Dr. Kasabji testified that when a patient declines a recommended dental treatment, for whatever reason, it is properly marked as "refused" on the medical chart. The

petitioner expressed his gratitude toward Dr. Kasabji and his dental team for getting the petitioner the dental bridge he has wanted and needed.

### **DISCUSSION**

As stated above, the petitioner in both his amended pleadings, and on the record in open court, voluntarily withdrew his complaints regarding medical treatment. He also acknowledged that habeas court is not the proper forum in which to bring complaints of elder abuse or ADA violations. Accordingly, the only remaining matter to be decided is whether, as alleged in his complaint, DOC has failed to treat his dental issues in a timely and medically appropriate manner. This claim must be denied for his failure to meet his burden of proving that the dental treatment that he has received, and is continuing to receive, violates the Eighth Amendment's prohibition on cruel and unusual punishment.

#### **A. Relevant Legal Principles**

The scope of relief available through a petition for a writ of habeas corpus is limited to allegations of illegal confinement or deprivation of liberty. Dinham v. Commissioner of Correction, 191 Conn. App. 84, 89 (2019). Regarding the latter, the petitioner must demonstrate the deprivation of a constitutionally protected liberty interest that is sufficient to give rise to habeas relief, i.e., "one that is assured by statute, judicial decree or regulation."

Id.

"Under Estelle v. Gamble, 429 U.S. 97 (1976), 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." Faraday v. Commissioner of Correction, 288 Conn. 326, 328 (2008).

In order to establish an [e]ighth [a]mendment claim arising out of inadequate medical

care, a prisoner must prove deliberate indifference to [his] serious medical needs. The standard of deliberate indifference includes both subjective and objective components. First, the alleged deprivation must be, in objective terms, sufficiently serious. Second, the [government official] must act with a sufficiently culpable state of mind. 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....

Accordingly, to establish a claim of deliberate indifference in violation of the eighth amendment, a prisoner must prove that the officials' actions constituted more than ordinary lack of due care for the prisoner's interests or safety. "[D]eliberate indifference" is a stringent standard of fault ... requiring proof of a state of mind that is the equivalent of criminal recklessness. Consequently, a complaint that a physician has been negligent in diagnosing or treating a medical condition does not state a valid claim of medical mistreatment under the [e]ighth [a]mendment. Medical malpractice does not become a constitutional violation merely because the victim is a prisoner.

Internal citations and quotation marks omitted) Id. at 339-40.

**B. The Petitioner Has Not Sustained His Burden And His Claim Must Be Denied**

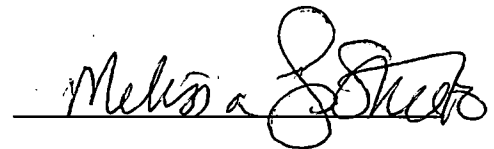
Regarding the petitioner's complaints surrounding DOC's dental treatment, he has not sustained his burden of showing that the DOC dental staff were deliberately indifferent to his need for dental care, specifically, his need for a partial dental bridge. On the contrary, DOC medical records show that each time the petitioner complained of a dental issue, he was examined and treated by a DOC dentist or dental hygienist. The petitioner was regularly provided with dental cleanings, x-rays, and fillings. He had several teeth extracted in 2021. His reluctance to have the final two teeth (# 6 and 11) extracted when recommended by DOC dental providers in 2021 and again in 2022 led to a delay in moving forward with getting his bridge made, due to the fact that teeth # 6 and 11 would not support a dental bridge if left intact. Records and testimony show that when the petitioner agreed to have teeth # 6 and 11 extracted, the extraction procedure was done promptly and, soon thereafter, impressions were taken to being the multi-step process of having his bridge made. Indeed, as recently as

mid-May, 2024, the petitioner saw a DOC dentist for a "final fitting" of his bridge.

Based on the testimony and voluminous and detailed medical records pertaining to the petitioner's dental conditions and complaints, the court concludes that, far from being "deliberately indifferent" to the petitioner's needs, DOC dental personnel were responsive and examined and treated the petitioner often and medically appropriately. Any disagreement he may have with DOC over the timing or progression of the dental bridge is an inadequate ground by which to establish an Eighth Amendment claim. Farady v. Commissioner, 288 Conn. at 343-44. This is especially so given that continuing dental treatment is currently ongoing and will continue to be until the bridge is complete. Even the petitioner stated in his closing argument that he is "thrilled" that his partial bridge will soon be completed. There is no relief that the court would be able to order, given that the petitioner shall imminently receive the dental bridge he has been waiting for.

### CONCLUSION

This court concludes that the petitioner has failed to sustain his burden of demonstrating that DOC acted with deliberate indifference regarding any of the dental issues complained of. His petition for a writ of habeas corpus is, therefore, DENIED.



Hon. Melissa L. Streeto

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