

# ACCESS TO AND QUALITY OF MEDICAL TREATMENT<sup>1</sup>

## Federal Cases

### ~ Supreme Court

Estelle v. Gamble, 429 U.S. 97, 103-04, 97 S.Ct. 285, 290-91 (1976)(the key case that established “deliberate indifference to serious medical needs” in the prison context as a constitutional violation:

An inmate must rely on prison authorities to treat his medical needs; if the authorities fail to do so, those needs will not be met. In the worst cases, such a failure may actually produce physical torture or a lingering death, the evils of most immediate concern to the drafters of the Amendment. In less serious cases, denial of medical care may result in pain and suffering which no one suggests would serve any penological purpose. The infliction of such unnecessary suffering is inconsistent with contemporary standards of decency as manifested in modern legislation codifying the common law view that "(i)t is but just that the public be required to care for the prisoner, who cannot by reason of the deprivation of his liberty, care for himself."

### ~ First Circuit

Pagan v. Dubois, 894 F. Supp. 45 (D. Mass 1995) (dismissing for lack of standing claim by U.S. citizens of Latin American origin that prison was failing to give proper medical attention and counseling for HIV+ Latin American prisoners at facility because of lack of Spanish speaking staff).

Pagan v. Dubois, 884 F. Supp. 25 (D. Mass. 1995) (dismissing for lack of harm to class a class action claim by Latin American originated U.S. inmates asserting that lack of Spanish speaking staff caused lack of medical attention and counseling for HIV+ individuals).

### ~ Second Circuit

\*Parker v. Miller, 199 F.3d 1323, 1999 WL 1024108 (2<sup>nd</sup> Cir. 1999)(surviving family of deceased inmate with AIDS, who was seriously ill and who died after waiting hours for an ambulance service despite severe pain, bleeding from the mouth, and other serious symptoms, did not establish claim for 8<sup>th</sup> Amendment violation).

---

<sup>1</sup> Please note that this list contains some unpublished cases, which have limited precedential value. Such cases (e.g, unreported cases, unpublished table decisions, unpublished decisions with reported dispositions, etc.) are indicated by an asterisk (\*).

Hallett v. New York State Department of Correctional Services, 109 F. Supp 2d 190 (S.D. N.Y. 2000)(adequacy of HIV-related medical care not at issue; but failure for five month period to provide HIV positive amputee with type of wheelchair he could use stated claim for deliberate indifference).

\*Carter v. Cash, No. 92-CV-5526 (JG), 1995 WL 347028 (E.D.N.Y. May 31, 1995) (dismissing inmate's claim of improper medical treatment by doctor who failed to proscribe DDC or Interferon, finding doctor denied the drugs based on sound medical judgment).

\*Inmates of N.Y. State with Human Immune Deficiency Virus v. Cuomo, No. 90-CV-252, 1991 WL 16032 (N.D.N.Y. Feb. 7, 1991) (discussing discovery dispute involving identification of HIV+ inmates as parties in class action challenging AIDS services in NY prisons).

Nolley v. County of Erie, 776 F. Supp. 715 (W.D.N.Y. 1991) (dismissing inmate's 8th Amm. complaint, finding that prison was merely negligent in late and nondelivery of AZT, and that behavior to not rise to level of constitutional violation).

### ~ Third Circuit

\*Freed v. Horn, No. 95-CV-2824, 1995 WL 710529 (E.D. Pa. Dec. 1, 1995) (dismissing claim that prison officials were deliberately indifferent to inmate's medical condition in discontinuing prescription of Percoset and switching him to less addictive pain-killers).

McNally v. Prison Health Services, 46 F.Supp. 2d 49 (D. Maine 1999)(where an HIV positive detainee repeatedly informed prison medical personnel that he was following a strict regimen of HIV medication and was deprived of that medication for three days, a jury could find that the defendant was deliverately indifferent to the inmate's serious medical needs)

### ~ Fourth Circuit

Taylor v. Barnett, 105 F.Supp. 2d 483(E.D. Va. 2000)(claim of inmate with AIDS that prison Doctor switched his HIV medications not for medical purposes, but for cost considerations, causing serious side effects and shortening his life, stated a claim for violation of his 8<sup>th</sup> amendment rights to adequate medical care).

\*Williams v. Dehay, No. 94-7114, 94-7115, 1996 WL 128422 (4th Cir. (S.C.) Mar. 21, 1996) (dismissing complaint of HIV+ inmate who claimed prison officials were indifferent to his medical needs in failing to provide narcotics and sleep aids).

McIlwain v. Prince William Hosp., 774 F. Supp. 986 (E.D. Va. 1991) (reversing summary judgment on whether private doctor under contract to prison knowingly and deliberately failed to tell prisoner of prisoner's HIV+ status).

### ~ Fifth Circuit

Moore v. Mabus, 976 F.2d 268 (5th Cir. (Miss.) 1992) (vacating dismissal of and appointing counsel for claim asserting lack of medical care for HIV+ inmates).

~ **Sixth Circuit**

\*Owens v. O'Dea, 149 F.3d 1184, 1998 WL 344063 (6<sup>th</sup> Cir. 1998)(affirming dismissal of inmates claim of inadequate medical care concerning failure to have an adequate protocol for the treatment of HIV; court reasoned that as Owen's complaints went to the adequacy of the medical care, rather than showing that the defendants acted or failed to act with deliberate indifference, there was no evidence of unconstitutional conduct).

Doe v. Wigginton, 21 F.3d 733 (6th Cir. (Ky.) 1994) (dismissing claim of inmate demanding HIV test, upholding policy of testing only inmates who met criteria establishing them as high risk as furthering legitimate state purpose of insuring efficient use of scarce medical resources).

\*Rodgers v. Michigan Dep't of Corrections Medical Dep't, No. 93-1169, 93-1170, 1993 WL 225390 (6th Cir. (Mich.) June 24, 1993) (affirming dismissal of inmate's complaint that he was denied treatment for HIV after two negative HIV tests six months apart).

~ **Seventh Circuit**

\*Campbell v. Sheahan, No. 94-1184, 1995 WL 649920 (7th Cir. (Ill.) Nov. 2, 1995) (affirming dismissal of inmate's claim that prison failed to provide preventive medical treatment for his HIV+ condition).

~ **Eighth Circuit**

Edgington v. Missouri Dep't of Corrections, 52 F.3d 777 (8th Cir. (Mo.) 1995) (dismissing without prejudice for lack of specificity in complaint of pro se inmate that he was denied treatment for his mental and AIDS related illnesses).

~ **Ninth Circuit**

\*St. Hilaire v. Lewis, No. 93-15129, 1994 WL 245614 (9th Cir. (Ariz.) June 7, 1994) (dismissing claim of prisoner demanding HIV test, finding that it was not a serious medical need because plaintiff was not a member of a high risk group).

\*Williams v. Kelly, No. C 93-1141 BAC, 1993 WL 280365 (N.D.Cal. July 13, 1993) (dismissing with leave to amend complaint that officials denied, delayed, or intentionally interfered with medical care of HIV+ inmate, because of insufficiency of facts pleaded).

Casey v. Lewis, 834 F. Supp. 1477 (D. Ariz. Mar. 19, 1993) (finding medical care for mentally ill inmates (including HIV+ inmates) in prison system violated the 8th Amendment.).

\*Sullivan v. County of Pierce, 216 F.3d 1084, 2000 WL 432368 (9<sup>th</sup> Cir. 2000)(reversing district court's grant of summary judgment to jail official, finding that failure to provide detainee with AIDS with his prescribed antiretroviral combination therapy states a claim for deliberate indifference to inmate's serious medical needs).

**~ Tenth Circuit**

Perkins v. Kansas Department of Corrections, 165 F.3d 803 (10<sup>th</sup> Cir. 1999)(providing inmate with HIV disease AZT and 3TC, but not protease inhibitor, showed disagreement of inmate with treatment regimen, and even if malpractice, did not state 8<sup>th</sup> Amendment claim).

\*Fitzhugh v. Wyoming Bd. of Charities and Reform, No. 91-8045, 1992 WL 72959 (10<sup>th</sup> Cir. (Wyo.) Apr. 10, 1992) (affirming denial of appointment of counsel and reversing denial of extension of discovery time in claim by inmate asserting prison was deliberately indifferent to his HIV+ medical condition).

**~ D.C. Circuit**

\*Parker v. District of Columbia, No. CIV. A. 93-0600, 1993 WL 381710 (D.D.C. Sept. 9, 1993) (dismissing 8th Amm. claim that HIV+ inmate was being denied AZT and other HIV treatment because lack of medical attention was not deliberate, and dismissing § 1983 negligence claim for qualified immunity).