

FILED

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
CASE NO.

2009 AUG 11 PM 12:34

U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS, FLORIDA

BRETT FIELDS,

Plaintiff,

v.

MICHAEL J. SCOTT, in his official capacity
as Sheriff of Lee County, Florida , and;
PRISON HEALTH SERVICES, INC.,
a Tennessee corporation,

Defendants.

2: 09-cv-529 -FTM-29DNF

ORIGINAL COMPLAINT

Plaintiff, BRETT FIELDS, (hereinafter "FIELDS"), through his retained undersigned attorneys, files this Complaint against the Defendants, MICHAEL J. SCOTT, in his official capacity as Sheriff of Lee County, Florida (hereinafter, "SHERIFF"), and; PRISON HEALTH SERVICES, INC., a Tennessee corporation, (hereinafter, "PHS"), and alleges:

PRELIMINARY STATEMENT OF FACTS

1. This case is brought pursuant to 42 U.S.C. § 1983. Fields is a 26-year-old U.S. citizen residing in Lee County, Florida who was incarcerated in the Lee County jail system, in Lee County, Florida from about July 6, 2007 until about August 9, 2007.

2. Fields entered the Lee County jail system on or about July 6, 2007 as a healthy young man in his mid-20's. On July 10, 2007, Fields requested medical attention from Lee County jail staff regarding an infected wound on his left arm. On that date Fields was examined by a nurse employed by PHS who observed a red, swollen, pus-

filled boil on Field's left arm. This PHS employee identified this wound as a furuncle (a boil caused by Staphylococci) and attempted to treat it with a medication call Bactrim.

3. Two weeks later, on July 24, 2007 Fields requested medical attention in writing, completeing an "Inmate Medical Request Form" and stating that the medication did not work and that the infection on his arm had not healed. This request for medical attention was ignored by PHS staff and SHERIFF'S employees at the jail.

4. In early August 2007 Fields began to suffer from severe back pains, difficulty ambulating, numbness and weakness in his lower extremities, and other symptoms. Starting on or about August 6, 2007 Fields began to plead further with PHS staff and Sheriff's employees for medical attention. Fields told them that he was having significant difficulty moving and had not urinated in days. These concerns and pleas for medical attention were ignored by Defendants.

5. On the evening of August 7, 2007 a PHS nurse finally examined Fields. During this encounter Fields gave her a history of his infection and the distinct neurological symptoms he was experiencing, including weakness and numbness in both his legs. The nurse arranged for Fields to see a PHS physician's assistant in the morning.

6. When Fields presented to the PHS physician's assistant on the morning of August 8, 2007 he was confined to a wheelchair because he could no longer walk. Fields related to this physician's assistant a history of his apparent infection on his arm, his recent alarming neurological symptoms, and his inability to urinate for days.

7. The physician's assistant conducted a cursory examination, ordered Tylenol be administered and had Fields returned to his cell. Once back in his cell, Fields, who no longer could use his legs, dragged himself to a mattress where he remained until the early morning hours of August 9, 2007.

8. At this point Fields attempted to use the toilet in the cell by dragging himself across the floor. Once on the toilet Fields realized that all the muscles in his anus had stopped working and his rectum was protruding through his anus and was completely visible outside his body. (This condition is called rectal prolapse and describes a medical condition wherein the walls of the rectum protrude through the anus and hence, become visible outside the body due to sphincter paralysis.)

9. Seeing Fields' condition, several of his cellmates summoned employees of Defendants who actually pushed Fields' rectum back into his body and removed him from the cell.

10. At this point, PHS employees noted that Fields, who had walked into the jail a healthy young man only one month prior, now had no motor function in his lower extremities. Despite the grave and critical nature of these symptoms, PHS waited almost 12 hours to have a doctor to examine Fields.

11. Finally, on August 9, 2007 at about 12:30 p.m. the decision was made to transfer Fields to Southwest Florida Regional Medical Center, where he presented with almost complete paralysis in his lower extremities.

12. Medical staff at Southwest Florida Regional Medical Center diagnosed Fields as suffering from a Methicillin-resistant Staphylococcus aureus (MRSA)-related abscess in his spine causing paraplegia. Fields underwent surgery.

13. Despite two years of intense physical therapy, Fields still suffers partial paralysis in both legs. Fields' now permanent spinal injury could have easily been avoided had Defendants not been deliberately indifferent to Fields' obvious serious medical needs during his incarceration and provided him with basic medical care.

14. Defendants intentionally refused to provide and in fact did deny Fields minimally adequate medical care and treatment in violation of the Eighth and Fourteenth Amendments to the United States Constitution. Defendants' acts are shocking to the conscience, are a severe deprivation of civil rights, and are intolerable in a society governed by civil laws and considerations of due process.

JURISDICTION AND VENUE

15. This Court's jurisdiction is invoked pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3). The substantive claims herein arise under 42 U.S.C. § 1983; and the Eighth and Fourteenth Amendments to the United States Constitution.

PARTIES

16. At all times material, Fields is and was a citizen of the United States and a resident of Lee County, Florida, which is in the Middle District of Florida. Fields was incarcerated within the Lee County Jail system from about July 6, 2007 until about August 9, 2007. During this time frame he was within the custody and control of the Defendants.

17. Defendant Sheriff Michael Scott, is responsible for the administration, operation and supervision of the Lee County jail system, and for the promulgation and enforcement of rules, regulations, policies, customs and practices relevant thereto and at all times pertinent hereto was acting in that capacity and under color of state law.

18. At all time relevant, Defendant Sheriff Michael Scott had a non-delegable duty to provide adequate medical care to prisoners within the Lee County jail system.

19. Defendant PHS, is a Tennessee corporation which at all times relevant to this Complaint contracted with the Sheriff of Lee County and or Lee County to provide medical/health care to prisoners within the Lee County Jail system and at all times

pertinent hereto, Defendant PHS was acting and under color of law.

CONDITIONS PRECEDENT

20. Plaintiff has complied with all conditions precedent in this case and exhausted all applicable administrative remedies, or they have been waived.

GENERAL FACTUAL ALLEGATIONS

21. Fields was incarcerated within the Lee County Jail system from about July 6, 2007 until about August 9, 2007. During this time frame he was within the custody and control of the Defendants.

22. During his incarceration, Defendants became aware that Fields had a serious medical condition that if left untreated posed a substantial risk of serious harm.

23. Despite being aware of Fields' serious medical condition requiring medical care, Defendants' purposefully or through deliberate indifference failed to provide Fields with the Constitutionally mandated level of care necessary to avoid the foreseeable consequence of an untreated Staphylococci infection.

25. Despite recognizing that a previously healthy Fields was suffering from paralysis in his lower extremities, Defendants made no attempt to discover the cause of the paralysis or treat it in any meaningful way. Defendants provided such cursory treatment of Fields that it amounted to no treatment at all. This lack of treatment resulted in an unnecessary and wanton infliction of pain and permanent paralysis.

26. Defendants' ignored and were deliberately indifferent to this serious medical condition with a full understanding that a sudden loss of motor function is paralysis, is a critical medical emergency, and can become permanent unless treated appropriately and quickly.

27. At all times material to this Complaint, it was the policy, practice, custom and/or procedure of PHS and/or its employees' who have final decision-making authority to refuse and/or delay providing necessary medical testing and treatment to prisoners and pre-trial detainees. This policy, practice, custom and/or procedure constitutes deliberate indifference to the known serious medical needs of Fields' and other prisoners and/or detainees within the Lee County Jail system.

28. At all times material to this Complaint, it was the policy, practice, custom and/or procedure of the Lee County Sheriff's Office and/or its employees' who have final decision-making authority to refuse and/or delay providing necessary medical testing and treatment to prisoners and pre-trial detainees in the custody of the Lee County Sheriff's Office. This policy, practice, custom and/or procedure constitutes deliberate indifference to the known serious medical needs of Fields and other prisoners and/or detainees.

COUNT I
(42 U.S.C. § 1983 Claim against
Defendant Sheriff MIKE SCOTT in his Official Capacity)

29. Fields re-adopts, incorporates by reference, and re-alleges Paragraphs 1 through 28 as fully set forth above.

30. Count I is brought against Defendant Sheriff Scott in his official capacity pursuant to 42 U.S.C. § 1983 for deliberate indifference to the critical medical needs of Fields, as an individual with an uncontrolled Staphylococci/MRSA infection that required testing and treatment to prevent substantial health deterioration, paralysis and even death.

31. The Lee County Sheriff's Office and/or its employees or agents, knew in July and August, 2007 that Fields had contracted Staphylococci/MRSA and that if left untreated he could suffer serious hard or even death.

32. By August 6, 2007 The Lee County Sheriff's Office and/or its employees or agents, knew that Fields' was suffering from neurological problems and had lost the ability to walk.

33. Despite the Lee County Sheriff's Office's and/or its employees' or agents' knowledge of Fields' serious medical needs, Defendant Sheriff's Office was deliberately indifferent to those serious medical needs in failing to provide the necessary care and treatment to Fields.

34. The Lee County Sheriff's Office and/or its employees or agents knew that taking no action and/or insufficient action could result in the rapid and permanent deterioration of Fields' health and even his death.

35. At all times relevant to this Complaint, it was Defendant Sheriff Scott's widespread custom, policy, practice and/or procedure to outright deny medical treatment of or be deliberately indifferent to the serious medical needs of Plaintiff and other prisoners/detainees incarcerated within the Lee County Jail system who had serious and potentially expensive medical problems.

36. As a direct and proximate result of the Sheriff's Office's institutional outright denial of medical treatment and/or deliberate indifference toward Fields' serious medical needs, Fields' suffered great physical injury, pain, discomfort and mental anguish in violation of Fields' Eighth and Fourteenth Amendment rights.

37. As a result, Fields suffered damages in an amount be determined at trial for his bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expenses for his care and treatment in an effort to alleviate and cure his injuries, and will continue to incur additional expenses

in the future, loss of earnings, loss of ability to earn money. The losses are either permanent or continuing and the Plaintiff will suffer the losses in the future. Fields also seeks reasonable attorneys' fees and costs, pre-judgment interest and further relief as the Court deems appropriate.

WHEREFORE, Mr. Fields respectfully requests this Court to (1) enter judgment declaring that the acts and omissions of Defendant Sheriff Scott, as set forth above, violate rights secured to Mr. Fields by the Eighth and Fourteenth Amendments to the Constitution of the United States, (2) that the Court award actual and compensatory damages to Mr. Fields, (3) the Court require Defendant Sheriff Scott to pay the legal costs and expenses herein including reasonable attorneys' fees, and (4) that the Court grant such further relief as it deems appropriate.

COUNT II
(42 U.S.C. § 1983 claim against Defendant PHS)

37. Fields re-adopts, incorporates by reference, and re-alleges Paragraphs 1 through 28 as fully set forth above.

38. Count I is brought against Defendant PHS pursuant to 42 U.S.C. § 1983 for deliberate indifference to the critical medical needs of Fields, as an individual with an uncontrolled Staphylococci/MRSA infection that required testing and treatment to prevent substantial health deterioration and even death.

39. PHS and/or its employees or agents, knew in July 2007 that Fields had contracted Staphylococci/MRSA and that if left untreated he could suffer serious irreparable harm and even death.

40. By August 6, 2007 PHS and/or its employees or agents, knew that Fields' was suffering from neurological problems and had lost the ability to walk.

41. Despite knowledge of Fields' serious medical needs, PHS and/or its employees' or agents' was deliberately indifferent to those serious medical needs in failing to provide the necessary medical care and treatment to Fields.

42. PHS and/or its employees or agents knew that taking no action and/or insufficient action could result in the rapid and permanent deterioration of Fields' health and even his death.

43. At all times relevant to this Complaint, it was PHS's widespread custom, policy, practice and/or procedure to outright deny medical treatment of or be deliberately indifferent to the serious medical needs of Plaintiff and other prisoners/detainees incarcerated within the Lee County Jail system who had serious and potentially expensive medical problems.

44. As a direct and proximate result of the PHS's institutional outright denial of medical treatment and/or deliberate indifference toward Fields' serious medical needs, Fields' suffered great physical injury, pain, discomfort and mental anguish in violation of Fields' Eighth and Fourteenth Amendment rights.

45. As a result, Fields suffered damages in an amount be determined at trial for his bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expenses for his care and treatment in an effort to alleviate and cure his injuries, and will continue to incur additional expenses in the future, loss of earnings, loss of ability to earn money. The losses are either permanent or continuing and the Plaintiff will suffer the losses in the future. Fields also

seeks reasonable attorneys' fees and costs, pre-judgment interest and further relief as the Court deems appropriate.

WHEREFORE, Fields respectfully requests this Court to (1) enter judgment declaring that the acts and omissions of Defendant PHS, as set forth above, violate rights secured to Fields by the Eighth and Fourteenth Amendments to the Constitution of the United States, (2) that the Court award actual, compensatory, and punitive damages to Fields, (3) the Court require Defendant PHS to pay the legal costs and expenses herein including reasonable attorneys' fees, and (4) that the Court grant such further relief as it deems appropriate.

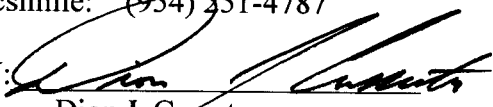
DEMAND FOR TRIAL BY JURY

Fields demands trial by jury on all issues and all counts of this Complaint so triable as a matter of right.

Dated: Aug. 6, 2009

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