

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS

JEFFREY ORR, CHARLES B. PALMER,)
DAVID DICKSON, HAROLD HIGGENS,)
SCOTT PADRICK, DUSTIN L. COLLINS,)
CHANSOUK HAKSASILA, SERAFIN FLORES)
MIQUEL SANTOS, RODNEY GRAVES,)
PAUL CARTER, WADE LESHER, STURGIS)
JONES, TERRY REEVES, ROBERT QUINN,)
DAVID WORKMAN, EUGENE SMOLA,)
NANCY GRAY, JOHN L. MARKIEWICZ,)
DONALD DAWSON, ALLEN PETERS,)
JEFF HAMMER, CHRISTOPHER FOGARTY,)
ROBERT GARRETT, KENNETH BAUZA,)
CLAYTON ROCKMAN, WENDELL ROSS,)
MICHAEL D. SMITH, KEVIN DEAN,)
MICHAEL MONTGOMERY, RONNIE)
JOHNSON, DENNIS HARADON, LAWRENCE)
NAPUE, MICHAEL D. ROY, KENT L. FIELDS,)
JAY C. FRAME, GREGORY THOMPSON,)
QUINTEN B. SMITH, BRAD CREASON,)
CHASE COPELEN, KEVIN TAYLOR,)
JON KENT ROBERTS, JOHN SMALL,)
GREG BASHARES, MICHAEL E. DENNING,)
MICHAEL SHEEHAN, BRIAN LEE WILSON,)
JOHN BERNARD LATHON, DANIEL BAXTER,)
VICENTE DIAZ, JR., TERRENCE LEE,)
DONALD R. RUTHERFORD, LEWIS C. HENRY,)
TERRY DIBBLE, JAMES HART, JAMES)
DeBARBARA, GARY L. DAILY, LAWRENCE)
MOYE', NORMAN BELL, LUIS REYES,)
DEBRA BLANCHARD, VITO BASILE,)
EDWARD B. FRANCO, FORREST SANDERS,)
CORNELIUS B. LEWIS, CLARENCE R. JONES,)
FERNANDO HERNANDEZ, JAMES BOURQUE,)
TIMOTHY GIANCANA, ERNESTO PEREZ,)
EUGENE SPAGNOLA, ERIC ZIKE,)
LaVERTIS STEWART, KELLY RAY HART,)
and RONNIE F. STOOKEY-ORTIZ,)

Plaintiffs,)
)**FILED**

SEP 29 2008

CLERK OF THE COURT
U.S. DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
URBANA, ILLINOIS

-vs.-	)	No. 08- 2232
	)	
WILLARD O. ELYEA, M.D.,	)	
MICHAEL PRUISIS, and WEXFORD CORP.,	)	
	)	
Defendants.	)	

COMPLAINT

JURISDICTIONAL STATEMENT

Plaintiffs are all inmates or former inmates of the Illinois Department of Corrections. Plaintiffs' civil rights were violated in contravention of 42 U.S.C. §1983 because the Defendants were deliberately indifferent to Plaintiffs' medical condition in that inmates did not receive needed medical treatment for Hepatitis C. As further set forth in this Complaint, Plaintiffs have exhausted all administrative remedies.

This action arises under the Eighth and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983. Jurisdiction is invoked pursuant to 28 U.S.C. §§ 1331 and 1343(a). This Court has jurisdiction over the Plaintiff's request for declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201-2202.

PARTIES

1. The Plaintiffs are or were inmates at various Correctional Centers, prisons maintained by the Illinois Department of Corrections (hereinafter "IDOC") in Illinois.
2. The Plaintiffs have all been diagnosed through blood work as carrying the hepatitis C virus.
3. Defendant WILLARD O. ELYEA, M.D., was the Agency Medical Director of IDOC, and

thus had primary responsibility for determining procedures within IDOC for the medical treatment of state inmates. In his professional capacity he was informed of Plaintiffs' complaints and grievances, and has taken no action thereupon. He personally adopted the policy which denied medical treatment to Plaintiffs.

4. That Defendant Michael Pruisis succeeded Willard O. Elyea as Agency Medical Director, Illinois Department of Corrections and he personally adopted and continued the policy promulgated by Defendant Elyea in refusing to give medical care to prisoners with Hepatitis C.

5. That Wexford, Corp., by and through its agents and employees, conspired with and aided and abetted with the Defendants in implementing their policy and in the process of denying Plaintiffs their constitutional rights.

6. Plaintiffs have exhausted all administrative remedies available to them. Further, Defendants have adopted a policy that all grievances in this matter are to be denied without consideration making further administrative efforts futile.

FACTUAL CLAIMS

7. Hepatitis C is a potentially fatal disease which if left untreated may cause cirrhosis, or destruction of the liver, may lead to liver cancer and causes other symptoms to those it afflicts, thus it poses a substantial risk of serious harm to Plaintiffs.

8. Defendants know that Hepatitis C poses a substantial risk of serious harm to the Plaintiffs.

9. A highly effective chemical treatment program for Hepatitis C is available, which has been shown to reduce the effects of Hepatitis C, and even in some cases destroy it completely.

10. Before initiating this chemical treatment, however, the usual clinical step is to refer the

patient to a specialist to determine a geno-type of the virus, determine viral level, and perform a liver biopsy on a patient to determine whether a patient is a good candidate for chemical treatment.

11. None of the Plaintiffs have received proper medical care for his or her Hepatitis C.

12. IDOC, through Defendants, claims to follow the federal guidelines for treatment of Hepatitis C. They follow the provision for pretrial detainees.

13. Plaintiffs were told that after a diagnosis for Hepatitis C based on blood work, inmates must wait one year before receiving a liver biopsy and beginning treatment. This requirement appears nowhere within the federal guidelines IDOC claims to follow.

14. Treatment for Hepatitis C is more effective when it is begun early in the course of the disease. However, if treatment is postponed, adverse effects of the disease and the necessity of a liver transplant become much more likely. Liver transplants are painful, difficult to obtain, and result in a lower recovery rate than the chemical treatment available for the early stages of Hepatitis C infection.

15. Defendants refuse to administer the Hepatitis C chemical treatment to Plaintiffs.

16. By refusing to treat Plaintiffs for Hepatitis C, Defendants are deliberately indifferent to the substantial risk of serious harm faced by the Plaintiffs.

17. Defendants' refusal to treat Plaintiffs for Hepatitis C is a willful and intentional deprivation meriting a punitive damage award against Defendants.

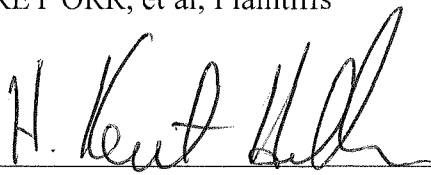
18. Defendant' refusal to treat Plaintiffs for Hepatitis C is causing and continues to cause irreparable harm to Plaintiffs.

19. Defendants' refusal to treat Plaintiffs for Hepatitis C is causing the Plaintiffs

compensable pain and suffering.

WHEREFORE, Plaintiffs pray this court for injunctive relief in the form of an order to administer Hepatitis C treatment, follow federal guidelines in treating Hepatitis C including referral to a specialist and performing liver biopsies as soon as possible. Plaintiffs also pray for a declaration that Defendants are violating the rights of Plaintiffs under the 8th and 14th Amendments to the United States Constitution. Plaintiffs also pray for their attorneys' fees pursuant to 42 U.S.C. § 1988. Finally, Plaintiffs pray for damages from the Defendants in the sum of One Million Dollars (\$1,000,000.00) each for the pain and suffering they have had to endure as a result of Defendants' constitutional violations and One Million Dollars (\$1,000,000.00) each in punitive damages together with their costs of this action.

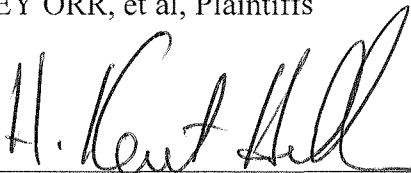
JEFFREY ORR, et al, Plaintiffs

By 
 Of Heller, Holmes & Associates, P.C.
 Their Attorneys

JURY DEMAND

Plaintiffs hereby demand trial by jury.

JEFFREY ORR, et al, Plaintiffs

By 
 Of Heller, Holmes & Associates, P.C.
 Their Attorneys

H. KENT HELLER
HELLER, HOLMES & ASSOCIATES, P.C.
1101 Broadway Avenue
P.O. Box 889
Mattoon, IL 61938
TEL: 217-235-2700
FAX: 217-235-0743
c:newprisoners.complaint/kjs09262008

JS 44
(Rev. 07/89)

CIVIL COVER SHEET

08-2232

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I (a) PLAINTIFFS

Jeffrey Orr, et al.

DEFENDANTS

Willard O. Elyea, M.D., Michael
Pruisis, and Wexford Corp.(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF
(EXCEPT IN U.S. PLAINTIFF CASES)

Macon

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

H. Kent Heller
Heller, Holmes & Associates, P.C.
P.O. Box 889, Mattoon, IL 61938

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION

(PLACE AN X IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN X IN ONE BOX
FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | | | | | |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | ☒ 1 | ☒ 1 | Incorporated or Principal Place of Business in This State | ☐ 4 | ☐ 4 |
| Citizen of Another State | ☐ 2 | ☐ 2 | Incorporated and Principal Place of Business in Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 6 |

IV. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY:

42 U.S.C. Section 1983

V. NATURE OF SUIT

(PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 151 Medicare Act ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans) ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholders' Suits ☐ 190 Other Contract ☐ 195 Contract Product Liability	PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Federal Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury	PERSONAL INJURY ☐ 362 Personal Injury—Med Malpractice ☐ 365 Personal Injury—Product Liability ☐ 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY ☐ 370 Other Fraud ☐ 371 Truth in Lending ☐ 380 Other Personal Property Damage ☐ 385 Property Damage Product Liability	☐ 610 Agriculture ☐ 620 Other Food & Drug ☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 630 Liquor Laws ☐ 640 R.R. & Truck ☐ 650 Airline Regs ☐ 660 Occupational Safety/Health ☐ 690 Other LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Mgmt. Relations ☐ 730 Labor/Mgmt. Reporting & Disclosure Act ☐ 740 Railway Labor Act ☐ 790 Other Labor Litigation ☐ 791 Empl. Ret. Inc. Security Act	☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 PROPERTY RIGHTS ☐ 820 Copyrights ☐ 830 Patent ☐ 840 Trademark SOCIAL SECURITY ☐ 861 HIA (1395ff) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI ☐ 865 RSI (405(g)) FEDERAL TAX SUITS ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS—Third Party 26 USC 7609	☐ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce/ICC Rates/etc. ☐ 460 Deportation ☐ 470 Racketeer Influenced and Corrupt Organizations ☐ 810 Selective Service ☐ 850 Securities/Commodities/Exchange ☐ 875 Customer Challenge 12 USC 3410 ☐ 891 Agricultural Acts ☐ 892 Economic Stabilization Act ☐ 893 Environmental Matters ☐ 894 Energy Allocation Act ☐ 895 Freedom of Information Act ☐ 900 Appeal of Fee Determination Under Equal Access to Justice ☐ 950 Constitutionality of State Statutes ☐ 890 Other Statutory Actions
REAL PROPERTY ☐ 210 Land Condemnation ☐ 220 Foreclosure ☐ 230 Rent Lease & Ejectment ☐ 240 Torts to Land ☐ 245 Tort Product Liability ☐ 290 All Other Real Property	CIVIL RIGHTS ☐ 441 Voting ☐ 442 Employment ☐ 443 Housing/Accommodations ☐ 444 Welfare ☒ 440 Other Civil Rights	PRISONER PETITIONS ☐ 510 Motions to Vacate Sentence ☐ 530 General Habeas Corpus ☐ 535 Death Penalty ☐ 540 Mandamus & Other ☐ 550 Other			

VI. ORIGIN

(PLACE AN X IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation

Appeal to District Judge from Magistrate Judgment

☐ 7

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
☐ UNDER F.R.C.P. 23

DEMAND \$

Check YES only if demanded in complaint:

JURY DEMAND: ☒ YES ☐ NO

VIII. RELATED CASE(S) IF ANY

(See instructions):

H. Kent Heller
JUDGE Baker

DOCKET NUMBER 06-3034

DATE
9/29/08

SIGNATURE OF ATTORNEY OF RECORD