

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DON LIPPERT,

Plaintiff,

$$V.$$

PARTHA GHOSH, M.D., WILLARD
ELYEA, JOSEPH SSENFUMA, TAMMY
GARCIA, TERRY McCANN, MELODY
FORD, ROGER WALKER AND QUENTIN
TANNER.

Defendants.

No. 10-CV-4603

Judge Ruben Castillo
Magistrate Judge Morton Denlow

FIRST AMENDED COMPLAINT

Don Lippert (“Lippert”), by and through his attorneys, and for his First Amended Complaint against Defendants Partha Ghosh (“Ghosh”), Willard Elyea (“Elyea”), Joseph Ssenfuma (“Ssenfuma”), Tammy Garcia (“Garcia”), Terry McCann (“McCann”), Melody Ford (“Ford”), Roger Walker (“Walker”) and Quentin Tanner (“Tanner”), alleges and states as follows:

NATURE OF THE ACTION

1. This is an action by Lippert, an inmate in the custody of the Stateville Correctional Center (“Stateville”), whose constitutional rights have been violated by the Defendants’ continued and consistent deliberate indifference toward his acute medical and dietary needs during his incarceration.

2. Lippert brings this action pursuant to Title 42 U.S.C. § 1983 to redress violations of the Eighth Amendment, applicable to the states by incorporation into the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution.

3. Lippert seeks actual, consequential, compensatory and punitive damages, as well as attorneys' fees and court costs from Defendants.

JURISDICTION AND VENUE

4. Jurisdiction is conferred upon this Court pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343 because the matters in controversy arise under the Constitution and laws of the United States.

5. Venue is proper in this Court under 28 U.S.C. § 1391(b) because a substantial part of the events that give rise to Lippert's claims took place within the Northern District of Illinois.

6. This Court has authority pursuant to 42 U.S.C. § 1983 to award appropriate actual, consequential, compensatory, and punitive damages, and has authority under 42 U.S.C. § 1988 to award attorney fees and costs to successful civil rights plaintiffs.

7. Lippert has exhausted all administrative remedies available to him prior to bringing this 42 U.S.C. § 1983 civil rights lawsuit within the meaning of the Prison Litigation Reform Act, 42 U.S.C. § 1997(e)(a).

PARTIES

8. Lippert is an inmate of Stateville (ID # B-74054). He was incarcerated on or around February 29, 1996, and remains in custody to this day.

9. Defendant Ghosh is, and at all times relevant to this lawsuit was, the medical director at Stateville and was and had management and administrative responsibilities at Stateville, including Plaintiff's medical treatment and care at Stateville. Lippert sues Ghosh in his official and individual capacity.

10. Defendant Elyea is, and at all times relevant to this lawsuit was, an employee of the Illinois Department of Corrections and acted as Agency Medical Director, and is and had management and administrative responsibilities at the Illinois Department of Corrections,

including Plaintiff's medical treatment and care at Stateville. Lippert sues Elyea in his official capacity.

11. Defendant Ssenfuma is, and at all times relevant to this lawsuit was, an employee of Stateville and acted as a Registered Nurse, and is and had management and administrative responsibilities at Stateville, including inmate grievances and medical care. Lippert sues Ssenfuma in his official and individual capacities.

12. Defendant Garcia is, and at all times relevant to this lawsuit was, a Grievance Counselor, and had management and administrative responsibilities at Stateville, including inmate grievances. Lippert sues Garcia in her official capacity.

13. Defendant McCann is, and at all times relevant to this lawsuit was, the warden of Stateville, as well as, for purposes of this Complaint, the Chief Administrative Officer, and had management and administrative responsibilities at Stateville, including inmate grievances. Lippert sues McCann in his official capacity.

14. Defendant Ford is, at all times relevant to this lawsuit was, the Chair of the Administrative Review Board and had management and administrative responsibilities at Stateville, including inmate grievances. Lippert sues Ford in her official capacity.

15. Defendant Walker is, at all times relevant to this lawsuit was, the Director of the Illinois Department of Corrections and is the Illinois Department of Corrections and acted as Agency Medical Director, and had management and administrative responsibilities at the Illinois Department of Corrections, including Plaintiff's medical treatment and care at Stateville.. Lippert sues Walker in his official capacity.

16. Defendant Tanner is, at all times relevant to this lawsuit was, the Food Supervisor at Stateville and had management and administrative responsibilities at Stateville, including inmate dietary needs. Lippert sues Tanner in his official capacity.

FACTUAL ALLEGATIONS – LIPPERT’S MEDICAL PROBLEMS

Lippert Suffers From Type I Diabetes Requiring Acute Medical Treatment and Care

17. Lippert suffers from Type I Diabetes, which was diagnosed prior to his incarceration and for which Lippert received treatment prior to his incarceration.

18. On or about September 16, 1999, Lippert was placed into the Diabetes Data Base at Stateville.

19. The medical progress notes from this date recognize that Lippert suffers from IDDM type I diabetes, which was first diagnosed in 1990 and which requires a diet of 2800 calories pursuant to the American Diabetes Association. The notes further recognize the need for such a diet, and that Lippert agrees to comply with this diet. See Medical Progress Notes dated September 16, 1999 (Exhibit A).

20. On May 7, 2001, the current Medical Director at Stateville, Dr. Joseph K. Smith, emphasized that Type I diabetes like that suffered by Lippert requires “management of LDL and total cholesterol values within a strict range,” noting further that “diet” plays a “pivotal” role in the management of Type I Diabetes. See Memorandum fro Medical Director Dr. Joseph K. Smith, dated May 7, 2001 (Exhibit B).

21. Despite recognition of such a need to manage Lippert’s diabetes by rationing foods within a strict range, Lippert has repeatedly received inadequate dietary care throughout his incarceration at Stateville. In turn, Lippert has repeatedly filed grievances. These grievances have previously been denied based upon a finding that the stated policy had been followed, as

“strict adherence is carried out relative to his special medically prescribed diet.” See October 14, 2004 Grievance Officer’s Report (Exhibit C).

22. Despite his necessary “medically prescribed diet”, however, strict adherence has not been carried out.

23. Due to Lippert’s grave concerns about the indifference to his medical needs, on July 2, 2004, Lippert contacted the Director of IDOC, Defendant Walker, notifying him as to the ineffective medical treatment that Lippert was receiving, including an improper and non-compliant diet, and requesting a medical transfer to Dixon Correctional Center so that Lippert could received proper medical care.

24. On February 18, 2005, Defendant Ghosh drafted a letter memorandum, which appears to be addressed to certain inmates with diabetes, including Lippert. The memorandum indicates that official policy at Stateville for diabetes will change from a calorie-controlled diet to a “LCS” diet, or “Low Concentrated Sweets” diet, which restricts concentrated sweets such as “sugar, candy, honey, jelly, jam, syrup, pies, cakes, puddings and sweetened soft drinks, etc.” See February 18, 2005 Memorandum from P. Ghosh re: Diabetic Diet (Exhibit E).

25. This memorandum also was carbon copied to several other individuals, including Defendant Tanner, the food supervisor at Stateville, placing him on notice of the need to supervise diabetic diets to conform to the diabetic diet policy at Stateville.

26. After receiving the letter from Ghosh, Lippert repeatedly complained to Ghosh and other medical officials that he was not being provided a LCS diet, and that he continued to received the standard prison diet, including sweets, desserts and other items expressly prohibited in Ghosh’s memorandum of February 18, 2005.

27. On at least one occasion, Ghosh responded that Lippert “shouldn’t be getting these things with [his] meals, but that [Lippert] know[s] not to eat them so what is [his] concern.”

28. To this date, despite the clear medical need, and acknowledgment of such a need, Lippert continues to receive a standard prison diet containing inappropriate sweets and desserts forbidden under the official “diabetic diet” at Stateville.

29. As a result, Lippert suffers ongoing injuries of diabetic neuropathy, severe headaches, weight loss, poor vision, severe fluctuating blood sugar levels and pain/numbness in his hands, feet and legs, requiring emergency treatment on several occasions.

Lippert Files a Grievance to Receive His Medically Necessary Diabetic Diet

30. Fearful of his deteriorating medical condition and fearful that he would eventually go into a diabetic coma, on April 20, 2008, Lippert, left with no other reasonable choice, filed a grievance against Ghosh for first improperly taking away the previously adopted ADA diet and implementing, as the Stateville policy, a LCS diet, and then, subsequently failing to monitor and enforce the diet. See Offender’s Grievance dated April 20, 2008 (Exhibit F).

31. In his grievance, Lippert clearly states that despite the official Stateville diabetic diet, as well as the recommended ADA requirements, Lippert continues to be served “jelly, syrup, pies, cakes, cookies, puddings and ice cream” for his meals at breakfast, lunch and dinner. Id.

32. At the time, Lippert sought nothing more than to have the proper diet implemented, including “fresh fruits, fresh or steamed beans and starchy vegetables and whole grains” as well as “unrefined carbohydrates”. Id.

33. On May 19, 2008, the RN Supervisor, Defendant Ssenfuma purportedly “reviewed” Lippert’s chart and “investigated” the grievance. See Memorandum dated May 19, 2008 (Exhibit G)

34. Ssenfuma stated that, despite numerous documents reflecting the need and existence of a diabetic diet, no special diabetic diet existed, and that the only “special diets” were “dental” for people with no teeth, “rend (*sic*)” for people with end stage renal disease, and “vegan” a “Hebrew diet”. Id.

35. On June 5, 2008, Defendant Garcia, the Grievance Officer, apparently did no further investigation, and instead rubber-stamped the opinion of the registered nurse. More concerning, it appears that she utilized boiler plate language that she had no “authority to contradict the doctor’s recommendation/diagnosis,” despite no such recommendation or diagnosis being presented in the medical response. See Grievance Officer’s Report dated June 6, 2006 (Exhibit H).

36. It is the duty and obligation of the grievance officer to assemble all necessary information relevant to a grievance, interview the grievant and make recommendations to the IDOC Director.

37. Again in rubber-stamp fashion, on June 18, 2008, Defendant McCann concurred with the assessment of the Grievance officer with deliberate indifference to Lippert’s medical needs. Id.

38. McCann is responsible for the overall operations of the facilities at Stateville, the supervision of its staff members, the oversight of both program and operational services of the facility, as well as ensuring compliance with all Departmental directives, rules and policies.

39. On November 17, 2008, after purportedly conducting a review of “all available information”, Defendant Ford and Defendant Walker “determined that the issue will be addressed without a formal hearing” and “recommended the grievance be denied.” See Letter dated November 17, 2008 from the Illinois Department of Corrections to D. Lippert (Exhibit I).

COUNT I – FAILURE TO PROVIDE ADEQUATE MEDICAL TREATMENT
42 U.S.C. § 1983
(Against all Defendants in their Official Capacity)

40. Lippert repeats and re-alleges the allegations contained in paragraphs 1 through 39 as if fully restated here.

41. From the date of his incarceration, Lippert has an objectively, sufficiently serious injury, namely Type I Diabetes, which required ongoing medical care and treatment, including strict adherence to Lippert’s dietary needs. The need for such dietary care is well-documented in Lippert’s records, as well as well-recognized in this Circuit.

42. Since as early as 2004, Defendant Ghosh has been on notice of Lippert’s serious medical dietary needs related to his Type I diabetes and, since 2005, has been aware of the official diabetic diet in place at Stateville.

43. Since as early as 2004, Defendant Walker has been on notice of Lippert’s serious medical dietary needs related to his Type I diabetes and the official diabetic diet in place at Stateville.

44. Since as early as 2005, Defendant Tanner has been on notice of Lippert’s serious medical dietary needs related to his Type I diabetes and the official diabetic diet in place at Stateville.

45. Since as early as 2008, Defendants Ssenfuma, Elyea, Garcia, McCann and Ford have been on notice of Lippert's serious medical dietary needs related to his Type I diabetes and, were aware of the official diabetic diet in place at Stateville.

46. Despite possessing this knowledge, the Defendants each intentionally, with criminal recklessness, through repeated acts of negligence disregarded or with deliberate indifference to the serious medical needs of Lippert by failing to follow the instituted diabetic diet, failing to take steps to ensure that the treatment plan was properly carried out and that Plaintiff was provided a routine and healthy diet.

47. Further, each Defendant, despite possessing the knowledge regarding Lippert's serious medical condition, denied access to adequate medical dietary care and knowingly disregarded excessive risks to Plaintiff's health and well-being by, among other things, (a) refusing to take corrective action measures, (b) allowing and condoning the actions of the medical department, grievance officer, chief administrative officer and administrative review board to disregard an instituted dietary policy at Stateville, and (c) knowingly and deliberately refusing to follow proper procedure in conducting a complete and thorough investigation into the grievance submitted by Lippert.

48. Each of the above-described actions were in contravention of the policies and procedures in place at Stateville and contrary to sound medical care for treating and managing Plaintiff's chronic medical condition.

49. Defendants continue to refuse to provide Lippert the proper medical care and the medically necessary diabetic diet proscribed by the Medical Director of Stateville.

50. The Defendants' ongoing deliberate indifference has deprived Lippert of his right to be free from cruel and unusual punishment as secured to him under the Eight and Fourteenth

Amendments to the United States Constitution, and has resulted in actual harm in the form of severe headaches, diabetic neuropathy, weight loss, poor vision, severe fluctuating blood sugar levels and pain/numbness in his hands, feet and legs.

WHEREFORE, Plaintiff Don Lippert, respectfully requests that this Court:

- A. Declare the conduct of Defendants to have violated the rights guaranteed to Lippert under appropriate Federal Law;
- B. Order Defendants to make whole Lippert by providing the affirmative relief necessary to eradicate the effects of Defendants' unlawful practices;
- C. Grant Lippert actual, consequential, compensatory, punitive and any other damages that the Court may deem appropriate against Defendants;
- D. Award Lippert his costs and reasonable attorney's fees pursuant to 42 U.S.C. § 1988;
- E. Enter such other appropriate relief.

**COUNT II – FAILURE TO PROVIDE ADEQUATE MEDICAL TREATMENT
(Against Ghosh, Elyea and Ssenfuma in Their Individual Capacities)**

51. Lippert repeats and re-alleges the allegations contained in paragraphs 1 through 50 as if fully restated here.

52. Defendants had a duty to provide all prisoners, including Lippert, with adequate medical treatment for serious medical conditions.

53. Defendants were deliberately indifferent to Lippert's medical needs.

54. From the date of his incarceration, Lippert has an objectively, sufficiently serious injury, namely Type I Diabetes, which required ongoing medical care and treatment, including strict adherence to Lippert's dietary needs. The need for such dietary care is well-documented in Lippert's records, as well as well-recognized in this Circuit.

55. Since as early as 2004, Defendant Ghosh has been on notice of Lippert's serious medical dietary needs related to his Type I diabetes and, since 2005, has been aware of the official diabetic diet in place at Stateville.

56. Since as early as 2008, Defendants Ssenfuma and Elyea have been on notice of Lippert's serious medical dietary needs related to his Type I diabetes and were aware of the official diabetic diet in place at Stateville.

57. Defendants were each aware of Lippert's serious medical condition, but acted with a sufficiently culpable state of mind, in that they each knew Lippert faced a substantial risk of harm and disregarded that risk.

58. As a result of Defendants' conduct, Lippert's diabetes has become more severe, including more frequent severe headaches and increasing diabetic neuropathy, Lippert has continued to suffer from weight loss, increasingly impaired vision, and Lippert has continued to experience a significant amount of pain and discomfort, all of which continue today.

59. Defendants showed deliberate indifference to Lippert's serious medical needs, through their actions, which include, but are not limited to, Defendants':

- a. failure to follow the Stateville diabetic diet prescribed for Lippert;
- b. negligently ignoring Lippert's repeated complaints regarding the improper diet being provided him;
- c. ignoring Lippert's diabetes and Lippert's medically necessary diabetic meal plan; and
- d. recklessly failing to conduct the proper medical inquiries into Lippert's complaints and to treat the inquiries with the prescribed diabetic diet.

60. As a licensed physician and Agency Medical Director for the Illinois Department of Corrections, and as a result of Lippert's grievances, Elyea was aware of the risks associated with Lippert's serious medical condition, yet disregarded those risks by failing to ensure that

Lippert's received the prescribed and appropriate diabetic diet while incarcerated within an Illinois correctional institution.

61. As a licensed physician and Medical Director, and as a result of Lippert's repeated written and oral grievances, Ghosh was aware of the risks associated with Lippert's serious medical condition, yet disregarded those risks by failing to ensure that Lippert's received the prescribed and appropriate diabetic diet while incarcerated within an Illinois correctional institution.

62. As a registered nurse, Ssenfuma was aware of the risks associated with Lippert's serious medical condition, yet disregarded those risks by failing to conduct a proper investigation into Lippert's medical history and history of grievances, and failing to ensure that Lippert's received the prescribed and appropriate diabetic diet while incarcerated within an Illinois correctional institution.

63. The Defendants' ongoing deliberate indifference has deprived Lippert of his right to be free from cruel and unusual punishment as secured to him under the Eight and Fourteenth Amendments to the United States Constitution, and has resulted in actual harm in the form of severe headaches, diabetic neuropathy, weight loss, poor vision, severe fluctuating blood sugar levels and pain/numbness in his hands, feet and legs.

WHEREFORE, Plaintiff Don Lippert, respectfully requests that this Court:

- A. Declare the conduct of Defendants to have violated the rights guaranteed to Lippert under appropriate Federal Law;
- B. Order Defendants to make whole Lippert by providing the affirmative relief necessary to eradicate the effects of Defendants' unlawful practices;
- C. Grant Lippert actual, consequential, compensatory, punitive and any other damages that the Court may deem appropriate against Defendants;
- D. Award Lippert his costs and reasonable attorney's fees pursuant to 42 U.S.C. § 1988;

E. Enter such other appropriate relief.

DEMAND FOR JURY TRIAL

Pursuant to the Federal Rule of Civil Procedure 38(b), Lippert demands trial by jury for all of the issues pled so triable.

Dated: November 10, 2010

Respectfully submitted,

DON LIPPERT

By: s/ Jason P. Stiehl
One of His Attorneys

Mark L. Johnson
Jason P. Stiehl
Seyfarth Shaw LLP
131 South Dearborn Street
Suite 2400
Chicago, Illinois 60603
Phone: (312) 460-5000
Fax: (312) 460-7000

CERTIFICATE OF SERVICE

The undersigned certifies that on November 10, 2010, a true and correct copy of the foregoing FIRST AMENDED COMPLAINT was electronically filed with the Clerk of the Court for the Northern District of Illinois using the CM/EF system. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's CM/ECF system.

____s/ Jason P. Stiehl_____

Mark L. Johnson
Jason P. Stiehl
Seyfarth Shaw LLP
131 South Dearborn Street
Suite 2400
Chicago, Illinois
Phone: (312) 460-5000
Fax: (312) 460-7000

Attorneys for Plaintiff Don Lippert

Exhibit A

MEDICAL PROGRESS NOTES

Resident's
Name

LIPPETT

DONALD

Resident's
Number

B 74054

Last

First

DATE/ TIME	PROB- LEM #	S.O.A.	PLANS
9/16/99		DIABETES DATA BASE	Pl to bring his own diabetic needs for 1 month
11/30/Am S	I D D M I N I D D M II		MEDICATIONS HUMULIN 20U + 5U R 8 AM
	Onset 9 YEARS AGO		NPH 10 AM - 12 PM 8 PM
	Family history GRAND- FATHER		Diet
	History of alcohol consumption YES		Pl to go to unit to PATIENT EDUCATION
	Diet 2800 ARA		1. Diet Counseling 2800 CAL A.D.
	History of hypertension DENIES years		2. Foot care
	Present Medication HUMULIN 20U 8 PM 30U 8 AM		3. Exercise
	PHYSICAL EXAMINATION		4. Noncompliance complications
	0 Fundus LSA		5. Signs and symptoms of hyper and hypoglycemia
Weight 143	Neck LSA		6. Medication compliance
	Lungs CMM		7. Compliance with diabetic clinic every 4 months
Pulse 78	Heart S, S		8. Monitoring of blood sugar before clinic visit
B.P. 90/70	Abdomen S/A		Return to clinic every four months
R 18	Lower Extremities	Pulse Foot	Yearly Hemoglobin A1c and Chem scan
T= 98.8	Neurological examination		Yearly funduscopic exam
	LABORATORY		Special placement and assignment
	7/28/99 F B S 420		
	Hemoglobin A1c 9.0		
	Cholesterol		
	B U N CREATININE		
A	DIABETES I D D M type I		
	N I D D M type II		

Extensive
counseling
given
Pl agreed to
follow the
diet
and
medication

Extensive
education given
about diet
Pl agreed to
follow the
diet and
medication

Handwritten signature and date 9/11

MD

Exhibit B



Illinois
Department of
Corrections

George H. Ryan
Governor

Donald N. Snyder, Jr.
Director

Stateville Correctional Center / P.O. Box 112 / Joliet, IL 60434 / Telephone: (815) 727-3607
TDD: (800) 526-0844

MEMORANDUM

Date: May 7, 2001

To: Counselor A. Johnson

From: Dr. Joseph K. Smith
Medical Director

JS
5/8/01

Re: **Medical Grievance of Donald Lippert #B74054 H1 C 12**

Dr. Tilden has taken over the Diabetic Clinic. He will evaluate and treat Mr. Lippert commensurate with his medical needs. He will be evaluating the need for glucose monitoring and the specific method(s) in achieving this.

There is no information in Mr. Lippert's medical file substantiating his allegations against Dr. Kurian.

One of the many goals we strive towards in managing Type 1 Diabetes Mellitus is a HbA1C value less than 7%. This team approach requires both doctor and patient effort. Other objectives include preservation of vision and kidney function, tight control of blood pressure, oral hygiene, foot care and management of LDL and total cholesterol values within a strict range.

Exercise and diet play pivotal roles in the management of both Type 1 and Type 2 Diabetes Mellitus.

JO: amt

cc: A/W Robert Catchings
Barbara Miller, RN, HCUA
Dr. Joseph K. Smith - Medical Director
Dr. Andrew Tilden

Superintendent Mark Hosey [H House]
C/W Supervisor Mark Nelson [H House]
Medical Records Department
File

Exhibit C

Grievance Officer's Report		
Date Received: 10-14-04	Date of Review: 1-13-05	Grievance # (optional)
Committed Person: Don Lippert		ID#: B-74054
Nature of Grievance: Dietary		
Facts Reviewed: The grievant claims that dietary staff on 9-17-04 refused to address his dietary needs according to his ADA Diet. The grievance allegations are unsubstantiated, no supporting documentation or evidence was presented. Counselor Dennis indicates that the issues have been addressed in the past and that strict adherence is carried out relative to his special medically prescribed diet. Dr. Ghosh validates through medical records that the dietary needs are not an issue in this regard.		
Recommendation: Grievance denied.		
Sandra Hawkins Print Grievance Officer's Name		Grievance Officer's Signature (Attach a copy of Committed Person's Grievance, including counselor's response if applicable)

Chief Administrative Officer's Response			
Date Received: 1/20/05	☒ I concur	☐ I do not concur	☐ Remand
Comments:			
Chief Administrative Officer's Signature			01-20-05 Date

Committed Person's Appeal To The Director		
I am appealing the Chief Administrative Officer's decision to the Director. I understand this appeal must be submitted within 30 days after the date of the Chief Administrative Officer's decision to the Administrative Review Board, P.O. Box 19277, Springfield, IL 62794-9277. (Attach a complete copy of the original grievance, including the counselor's response, if applicable, and any pertinent documents.)		
Committed Person's Signature	B-74054 ID#	2-2-05 Date

Exhibit D

Don Lippert
#B-74054
P.O. Box 112
Joliet, IL 60434

July 2, 2004

Roger E. Walker JR.
Director
1301 Concordia Ct.
P.O. Box 19277
Springfield, IL 62794-9277

Re: INTERVENTION / MEDICAL * TRANSFER **

Dear Director, Walker,

Please allow me a moment or two of your time, I'm aware that you are a very busy person and I shall not waste one second because it has become too time consuming as to date.

I've taken these precious few moments to ask for your immediate intervention into me being able to "Properly Manage" my Type 1 Diabetes, as it is extremely vital that certain medical procedurals and / or steps are taken in

the cause of said "Proper Diabetes Management" of my chronic diabetes illness.

Mr. Walker, I'm not sure whether you are familiar with this disease, but my whole concern consists of me being more empowered to insure the proper management of my diabetes illness is followed by the American Diabetes Associations Guidelines (i.e. to receive the administration of my diabetes medicine (insulin) before meals, to receive Glucose Monitoring (daily blood sugar level) tests done before meals and before I take my diabetes shots, to receive a proper Nutritional Diet with the proper calorie intake to incorporate with my diabetes management). These are very important parts of standard care of Diabetes Management, and it is very critical for me to receive these standards of medical management / care for my chronic diabetes illness.

Due to the nature and circumstances surrounding incarceration, I have unique circumstances that need to

be considered so that all of the standards of care (1) may be provided for my chronic diabetes illness. But I'm not being provided proper diabetes management and care within maximum prisons due to the direct result of "indifference" and "lack of uncaring medical staff" here. I have suffered severe diabetes complications of low blood sugar levels and constant severe high blood sugar levels. Furthermore, and most importantly due to these complications I have suffered severe diabetic reactions to the point of falling out unconscious, because my Type 1 Diabetes is not being properly managed... by IDOC officials here in maximum prisons. And I fear that if nothing is done about properly controlling and managing my chronic diabetes illness here my health and sanity will further deteriorate. And I ask due to Dixon Correctional Center is a medical facility for inmates who require special medical care because of age or chronic illnesses I am asking to be transferred

there due to my Type I Diabetes illness in which is a chronic illness which is also not being properly managed and out of control. And so as I conclude, I end this with my greatest fear... going into a diabetic coma and dying.

Respectfully, I
Remain,

Don Lippert
~~Don Lippert~~
B-74054
P.O. Box 112
Joliet, IL, 60434

CC: Edward McNeil, Manager Transfer Coordinator's Office
Personal File

Exhibit E

Case 1:10-cv-04603 Document 1 Filed 07/23/10 Page 18 of 19



Illinois
Department of
Corrections

Rod R. Blagojevich
Governor

Roger E. Walker, Jr.
Director

Stateville Correctional Center / P.O. Box 112 / Joliet, IL 60434 / Telephone: (815) 727-3607
TDD: (800) 526-0844

TO:

Lippert #B74054 F132

FROM:

Dr. Partha Ghosh, MD, Medical Director
Carol Jushkewich, RD, LDN Dietitian *of*

P64

DATE:

2/18/05

SUBJ:

Diabetic Diet

Effective immediately, the diet used to treat diabetes will be a "Low Concentrated Sweets" or LCS Diet. Calorie controlled diets (1800 cal, 2500 cal, 2800 cal, etc.) will no longer be used. The LCS diet restricts concentrated sweets such as sugar, candy, honey, jelly, jam, syrup, pies, cakes, puddings and sweetened soft drinks, etc.

As a diabetic, it is important for you to eat a consistent amount of carbohydrate at each meal, while limiting your intake of sweets and sugar containing foods. If you are overweight, you should lose weight and focus on portion sizes. Overeating will increase your blood sugar levels. Engaging in physical exercise at least four or more times per week is recommended.

Cc:

Mary Garbs, RN AHCUA
Florence Trotta, RN, Director of Nurses
Jimmy Dominguez, Asst Warden of Programs
Alex Jones, Asst. Warden of Operations
Quenton Tanner, Food Supervisor

EXH. 4

Exhibit F

19 B405 Loxos

EXH. 19

This IDOC Employee, Dr. Partha Ghosh implementation medical order of this LCS Diet is to restrict concentrate sweets such as sugar, candy, honey, jelly, Jam, pies, syrup, cakes, puddings and sweetened soft drinks, etc.

The facts of this grievance is that I have voiced my concerns to Dr. Partha Ghosh verbally and by written communications means regarding to his LCS Diet to which that I am still being served jelly, syrup, pies, cakes, cookies, puddings and ice cream for my meals of breakfast, lunch, and dinner.

Dr. Partha Ghosh's verbal medical response to me is that, 'I shouldn't be getting these things with my meals, but I know not to eat them so what is my concern.' I informed this IDOC Employee, Dr. Ghosh that my concern is that he knows that I'm still being served nothing but sugary and high carbohydrate containing foods for my meals and nothing nutritious or wholesome to help treat and manage my chronic diabetes illness. I further stated to Dr. Partha Ghosh that due to his unconcerns for my diabetic dietary needs which is still non-existent is a big factor to why I have suffered severe diabetic complications of out of control blood sugar levels which has caused me to get sick and ER (Emergency Room) visits of severe low blood sugar levels. I have lost weight and have complications of bad/poor vision and circulation in my hands and feet.

This IDOC Employee, Dr. Partha Ghosh is well aware of my medical concerns regarding my dietary needs for ~~my~~ the proper treatment/management of my Type 1 Diabetes illness. But this IDOC Employee, Dr. Ghosh refuses to fix and correct the Prison Dietary Departments poor and unhealthy and unnutritious foods being served to me and other diabetics.

RELIEF REQUESTED CON: ① To have a registered dietitian, knowledgeable and skilled in implementing proper nutrition into diabetes management here in S.C.C. ② To receive a ADA Standard Recommended Diet referring to Fiber-Containing healthy foods such as (Fresh fruits, Fresh or Steamed beans and starchy vegetables and whole grains) ③ To be served unrefined carbohydrates such as (breads and other products made with whole wheat and other whole grains).

EXH. 16

Exhibit G

MEMORANDUM

Date: May 19, 2008
To: Grievance Office
From: Joseph Ssenfuma
RN Supervisor
Subject: Medical Grievance for Lippert, Don B74054

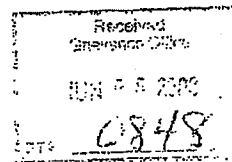
The offender Lippert grievance on ADA diet, chart reviewed and grievance investigated.

According to the memo that Dr. Ghosh dated on 10/17/07, in reference to the Agency Medical Director, Stateville Correction center was giving a regular diet that was already low in cholesterol, fat, and concentrated carbohydrates As such it is a therapeutic diet.

The only special diets we have are as following:

- 1.) Dental – soft pureed diet, people with no teeth.
- 2.) Rend diet – people with end stage renal disease
- 3.) Vegan (Hebrew diet (only after approval from chaplain).

I strongly believe offender Lippert diet is very appropriate for his medical condition we have not had any problems with other diabetic patients.



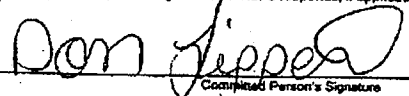
EXH. 1c

Exhibit H

Case 1:10-cv-04603 Document 1 Filed 07/23/10 Page 12 of 19
 RESPONSE TO COMMITTED PERSON'S GRIEVANCE

Grievance Officer's Report		
Date Received: April 22, 2008	Date of Review: June 6, 2008	Grievance # 0848
Committed Person: Don Lippert	Inmate #: B74054	
Nature of Grievance: Medical Tx		
Facts Reviewed: Grievant alleges he should be on a special diet because of his diabetes Relief Requested: diabetic diet Grievance written: 4-20-08 Sent to HCU: 4-21-08 Medical response received: 6-5-08 Per RN Supervisor, Joseph Ssenfuma: (summarized) According to the memo that Dr. Ghosh dated on 10-17-07, in reference to the Agency Medical Director, Stateville Correctional Center was giving a regular diet that was already low in cholesterol, fat, and concentrated carbohydrates as such it is already a therapeutic diet. I strongly believe offender Lippert diet is very appropriate for his medical condition we have not had any problems with other diabetic patients It appears that this grievance issue has been resolved. This Grievance Officer has no medical expertise or authority to contradict the doctor's recommendation/diagnosis. Recommendation: No further action necessary at this time.		
Tammy Garcia Print Grievance Officer's Name		 Grievance Officer's Signature
(Attach a copy of Committed Person's Grievance, including counselor's response if applicable)		

Chief Administrative Officer's Response	
Date Received: 6-18-08	☒ I concur ☐ I do not concur ☐ Remand
Comments: 	
 Chief Administrative Officer's Signature	6/18/08 Date

Committed Person's Appeal To The Director	
I am appealing the Chief Administrative Officer's decision to the Director. I understand this appeal must be submitted within 30 days after the date of the Chief Administrative Officer's decision to the Administrative Review Board, P.O. Box 19277, Springfield, IL 62794-9277. (Attach a complete copy of the original grievance, including the counselor's response, if applicable, and any pertinent documents.)	
 Committed Person's Signature	B-74054 7-8-08 ID# Date

EXH. 1

Exhibit H

Case 1:10-cv-04603 Document 1 Filed 07/23/10 Page 12 of 19
 RESPONSE TO COMMITTED PERSON'S GRIEVANCE

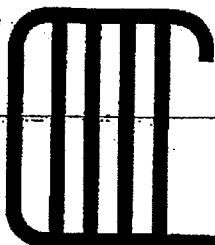
Grievance Officer's Report		
Date Received: April 22, 2008	Date of Review: June 6, 2008	Grievance # 0848
Committed Person: Don Lippert	Inmate #: B74054	
Nature of Grievance: Medical Tx		
Facts Reviewed: Grievant alleges he should be on a special diet because of his diabetes Relief Requested: diabetic diet Grievance written: 4-20-08 Sent to HCU: 4-21-08 Medical response received: 6-5-08 Per RN Supervisor, Joseph Ssenfuma: (summarized) According to the memo that Dr. Ghosh dated on 10-17-07, in reference to the Agency Medical Director, Stateville Correctional Center was giving a regular diet that was already low in cholesterol, fat, and concentrated carbohydrates as such it is already a therapeutic diet. I strongly believe offender Lippert diet is very appropriate for his medical condition we have not had any problems with other diabetic patients It appears that this grievance issue has been resolved. This Grievance Officer has no medical expertise or authority to contradict the doctor's recommendation/diagnosis. Recommendation: No further action necessary at this time.		
<u>Tammy Garcia</u> Print Grievance Officer's Name		 Grievance Officer's Signature
(Attach a copy of Committed Person's Grievance, including counselor's response if applicable)		

Chief Administrative Officer's Response		
Date Received: <u>6-18-08</u>	☒ I concur ☐ I do not concur ☐ Remand	
Comments:		
<u>T. McCann Jr</u> Chief Administrative Officer's Signature		<u>6/18/08</u> Date

Committed Person's Appeal To The Director		
I am appealing the Chief Administrative Officer's decision to the Director. I understand this appeal must be submitted within 30 days after the date of the Chief Administrative Officer's decision to the Administrative Review Board, P.O. Box 19277, Springfield, IL 62794-9277. (Attach a complete copy of the original grievance, including the counselor's response, if applicable, and any pertinent documents.)		
<u>Don Lippert</u> Committed Person's Signature	<u>B-74054</u> ID#	<u>7-8-08</u> Date

EXH. 1

Exhibit I



Illinois
Department of
Corrections

Rod R. Blagojevich
Governor

Roger E. Walker Jr.
Director

1301 Concordia Court / P.O. Box 19277 / Springfield IL 62794-9277 / Telephone: (217) 558-2200 / TDD: (800) 526-0844

November 17, 2008

Don Lippert
Register No. B74054
Stateville Correctional Center

Dear Mr. Lippert:

This is in response to your grievance received on July 14, 2008, regarding medical treatment (requests special diet due to diabetes), which was alleged to have occurred at Stateville Correctional Center. This office has determined the issue will be addressed without a formal hearing.

The Grievance Officer's report, 0848, and subsequent recommendation dated June 6, 2008 and approval by the Chief Administrative Officer on June 18, 2008 have been reviewed.

Based on a total review of all available information, it is the opinion of this office that the issue was appropriately addressed by the institutional administration. It is, therefore, recommended the grievance be denied.

FOR THE BOARD:

Melody J. Ford
Administrative Review Board
Office of Inmate Issues

CONCURRED:

Roger E. Walker Jr.
Director

PH
12/3/08

cc: Warden Terry McCann, Stateville Correctional Center
Don Lippert, Register No. B74054

EXH. 2