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RE: IN THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF ILLINOIS
PEORIA DIVISION

ASHOOR RASHO, Plaintiff,

-vs- No. 11-cv-1308

DIRECTOR ROGER E. WALKER, JR.,
DR. WILLARD ELYEA,
DR. WENDY NAVARRO,
EDDIE JONES,
DR. JOHN GARLICK,
and DR. MICHAEL F. MASSA,

Defendants.

Dear Mr. Kadish:

I have been asked by you to render an expert opinion in the case of Rasho v. Walker et al. At your request, I am submitting the following report.

Medical Records and Materials Reviewed and Considered

In order to provide an expert opinion in this case, I performed a four and one-half hour forensic psychiatric evaluation on Ashoor Rasho (Mr. Rasho), did a one-hour collateral interview with psychiatrist Dr. Jose Matthews and reviewed the following medical and correctional records, and materials provided by you:

Mental Health Evaluations Records (Box 1 of 3. Fedex July 17, 2012)
--Volume 1: 1996 – 2000
--Volume 2: 2001 - 2004

Disciplinary Records (Box 2 of 3. Fedex July 17, 2012)
-- Volume 1: 1996 and 1997
--Volume 2: 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2007, 2008, 2009, 2010, 2011, 2012

Grievance and Miscellaneous Correctional, Court and Legal Records {Box 3 of 3. Fedex July 17, 2012}
-- Volume 1: 2000, 2001, 2002, 2003, 2004, 2005
-- Volume 2: 2006, 2007, 2008, 2009, 2010, 2011, 2012
- Volume 1 of "Miscellaneous Records": Correctional, Court and Legal

Medical and Mental Records {Box 1 of 3. Fedex September 7, 2012}
-- 1995 to 2000 {AR012447- AR012877}
-- 2001 {AR10945 – AR011379; and AR011821- AR012446; and AR06619-AR06643; and AR011381-AR011398}
--2002 {AR011399-AR011818}
--2003 {AR00664 – AR006790; AR006023 – AR006230}
--2008 {AR004520 – AR004658}
--2009 {AR004659 – AR004779}
--2010 {AR004780 – AR004888}
--2011 {AR004889 – AR005036}

Tamms {Box 2 of 3. Fedex September 7, 2012}
--Tamms 4/11/95 to 7/29/98 {AR008805 – AR009265}
--Tamms 7/30/98 to 5/2/99 {AR009266 – AR009871}
--Tamms 5/2/99 to 5/25/00 {AR009872 – AR010445}
--Tamms 5/25/00 to 12/15/00 {AR10446 – AR10940}
--Tamms 1995 to 2000 Medication Administration Record, Prescription Orders, Laboratory Reports
--Tamms 1995 to 2000 Dental and Vision Records
--Tamms 1995 to 2000 weekly M.D. Rounds

Miscellaneous {Box 3 of 3. Fedex September 7, 2012}
--Miscellaneous Records 1995 to 1999 {AR007663 – AR008099}
--Miscellaneous Records 2000 to 2001 {AR008100 – AR008408; and AR12883 - AR13028}
--Miscellaneous Records 2002 {AR13029 – AR13186}
--Miscellaneous Records 2003 {AR0013187-AR0013272; and AR006231-AR006836; and AR008553 – AR008804; and AR006508-AR006618; and AR006242- 006507; and AR006863 – AR007032
--Miscellaneous Records 2007 {AR004516-AR004517}
--Miscellaneous Records 2010 {AR004518- AR004519}

Medical Progress notes {Box 1 of 2. Fedex September 13, 2012}
--Progress notes 2004 and 2005

Medical Progress notes {Box 2 of 2. Fedex September 13, 2012}
--Progress notes 2006, 2007, and 2008

Deposition Transcripts and Exhibits
--Ashhoor Rasho {No Exhibits}. April 26, 2012
--Michael F. Massa, M.D. {No Exhibits}. April 29, 2012
--Willard, Elyea, M.D. {Exhibits 1 – 8}. June 25, 2012
--John M. Garlick, Psy. D. {Exhibits 1 – 8}. June 26, 2012
--Wendy Blank (Navarro), Psy. D. {Exhibits 1 – 4}. June 26, 2012
--Eddie Jones {Exhibits 1 – 6}. August 30, 2012

Pontiac Administrative Directives

Psychiatric Evaluation of Mr. Rasho by Robert E. Chapman, M.D. SC, November 7, 2005 (AR000569 – AR000572).

Preliminary Evaluation of Mr. Rasho by Kathryn A. Burns, M.D., 1999

Portion of an Expert Report by Kathryn A. Burns, M.D. {pages 18 and 19 pertaining to Mr. Rasho} which was completed for plaintiffs' counsel in a class action concerning Tamms Correctional Center. Mr. Rasho was the first named plaintiff. This evaluation was done in 2004 based on his then up to date medical records. She did not interview him.

A six-page settlement demand letter dated August 4, 2011 with Exhibits A through F

Severed Complaint filed on August 9, 2011

Illinois Department of Corrections, Annual Report FY2010: http://www2.illinois.gov/idoc/reportsandstatistics/Pages/AnnualReports.aspx. According to the IDOC 2010 annual report, the average daily population in the IDOC in 2010 was 45,981.

Illinoisprobono.org: "Prisoner's Rights."

National Alliance on Mental Illness, Matters of Fact – Illinois, April 2005: "The Illinois Department of Corrections conservatively estimates that 16 percent of inmates suffer from mental illness, four or five times higher than rates of mental illness among the general population. Experts agree that these estimates are routinely low as correctional facilities do not have the capacity for assessment and diagnosis."

John Howard Association Monitoring Tour of Pontiac Correctional Center - February 16, 2010

Cases during the Past Four Years that I Testified in as an Expert at Trial or Deposition

Depositions

1. Colleen Schroinor v. Stephen A. Reiter, M.D.
   Circuit Court for the County of Ablemarle, Virginia
   No. CL07001304 - 00
   1/15/ 09
2. Curtis Mason v. City of Chicago, et al,
   United States District Court for the Northern District of Illinois, Eastern Division
   No. 07 C 4763
   4/15/09
3. Suzanne Valerie, as Personal Representative for the Estate of Anthony McManus, deceased, Plaintiff, v. Valerie Ansell, et al.
   United states District Court for the Western District of Michigan, Northern Division
   No. 2:07-cv-5
   05/15/09
4. John Richardson and Deborah Richardson, Individually and as Administrators of the Estate of John Wesley Richardson, deceased, v. Tonya S. Anderson, A. R. N. P., and Trimark Physicians Group, Inc., d/b/a "Pocahontas Family Practice".
   Law No. LACV125911
   11/23/09
5. Larry Scott v. City of Chicago, et al.
   United States District Court for the Northern District of Illinois, Eastern Division
   No. 07 C 3684
   12/10/09
6. Kathleen Baudino, Individually and as Special Administrator of the Estate of Robert Frank Baudino, Deceased v. Joseph Corvallis, M.D.
   Circuit Court, Third Judicial Circuit, Madison County, Illinois
   Case No. 08 L 1224
   12/15/09

7. Joe Hannon, Guardian of the Estate of Thomas Hannon, a Disabled Adult, v. Dr. U. Nalla Durai.
   Circuit Court of Lee County, Illinois, for the 15th Judicial Circuit
   No. 05 L 14
   08/3/10
8. Carlock v. Sangamon County Sheriiff, et al.
   United States District Court – Springfield Division
   No. 3:08-cv-03075
   01/24/11
9. Alexander Mendez and Claire Mendez, Plaintiffs, v. Village of Tinley Park; a Municipal Corporation, et al., Defendants.
   Circuit Court of Cook County, Illinois County Department, Law Division
   No. 08 L 2477
   04/28/11
10. Jill C. Valenti, Petitioner, v. Thomas P. Valenti, Respondent,
    Circuit Court of Cook County, County Department – Domestic Relations Division
    No. 07 D 1549
    07/14/11
11. Sandy Parfait, Individually and as Independent Administrator of the Estate of Claire Parfait, deceased, Plaintiff, v. Flora Baetiong, M.D., Defendant.
    Circuit Court of Cook County, Illinois County Department, Law Division
    No. 07 L 2093
    08/9/11
12. Cynthia Fraula-Hahn, Executor of the Estate of John O. Hahn, deceased, Plaintiff, v. Amherst Family Practice, P.C. and Jefferson F. Livermon, JR., M.D., Defendants.
    Circuit Court for the City of Winchester, Manassas, Virginia
    Law Number CL10 - 207
    10/12/11
13. Rosemary Johnson, Plaintiff, v. Heartland Regional Medical Center, and Paul R. Epp. M.D., Defendants.
    Circuit Court of Buchanan County, Missouri
    Case No. 10BU – CV04475; Div. 3
    01/16/12
14. The Estate of Linda Sanders, by the Personal Representatives James F. Sanders and Shelly Sanders, Plaintiff, v. Moulton's Pharmacy, Inc.; Fred Aubert, M.D.; White-Wilson Medical Center, P.A.; and Diana Melazzo, D.O., Defendants.
    Circuit Court in and for Okaloosa County, Florida
    Case No. 2010 CA 005369C
    04/23/12
15. George Bromley, Individually, and as next friend of Rebecca Bromley, a Minor, Plaintiffs, v. Melvin Cohen, M.D. and ZA and Associates, Defendants.
    District Court of Bexar County, Texas. 45th Judicial District
    Case No. 2011 – CI - 09386
    04/30/12

Trial Testimony

1. None in last four years

Compensation Paid for my Study (and Future Testimony)

My fee for forensic services was and currently is $350 per hour for record review, preparation of report(s) and telephone conferences to discuss substantive issues about the case.

For forensic interview, collateral interviews, research, deposition, and court testimony my daily rate was and currently is $2,800 per day or $350 per hour including travel time (if this is less than $2,800 per day).

Relevant Publications

1. Kravitz, H.K., Davis, J.M., Silberberg, J.M. Reducing Recidivism Among Mentally Ill Offenders: The Role of Psychotropic Medication in Correctional Psychiatry. Psychiatric Annals, 31: No 7: 409-418, July 2001

2. Contributor, "Correctional Mental Health Care: Standards and Guidelines for Delivering Services." A National Commission on Correctional Health Care Publication, November 2003

Qualifications

I have knowledge of accepted standards of medical care for the diagnosis, care, and treatment of psychiatric disorders including but not limited to psychosis, depression, mania, anxiety, substance abuse/dependence and organic mental disorders; the standards for the evaluation of and monitoring of treatment with psychotropic medications; and for the assessment and reduction of risk to self or others in all levels of care in correctional settings and in the community. I am a physician, who is board certified in the field of psychiatry with added qualifications in forensic psychiatry. I have been practicing medicine continuously since I completed my residency in psychiatry in July 1984. I have been a practicing and academic psychiatrist since July 1984.

I have treated many of those seriously mentally ill offenders/patients in all levels of correctional settings, and in the community in inpatient, consultation liaison, and emergency room and outpatient settings since 1984. As a practicing and academic psychiatrist responsible for teaching medical students, residents and fellows, I have been responsible, as Medical Director for four years, for the supervision of clinical staff in a two hundred bed state hospital in Illinois. I have been responsible, as Director of Mental Health Services for three years, for the supervision of clinical staff at Cermak Health Services of Cook Correctional, the largest public health facility in the state of Illinois. From 2002 until 2006 I treated patients, and supervised and taught residents and fellows who treat patients, at The University of Texas Health Science Center in San Antonio, Texas in inpatient, consultation liaison, emergency room and outpatient settings. From 2007 to 2011, I have been Division Director of Forensic Psychiatry at Northwestern University Feinberg School of Medicine where I treated patients, and supervised residents and medical students who treat patients, and consulted with faculty who treat patients. I transitioned over to private practice of psychiatry and forensic psychiatry although I remained affiliated with the Feinberg School of Medicine of Northwestern University as an Associate Professor of Psychiatry until August 2012. I am currently a Professor of Psychiatry at the University of Nevada School of Medicine, Las Vegas campus where I practice consultation liaison and emergency psychiatry, and telepsychiatry. I maintain a nation-wide private practice of forensic psychiatry.

I have been a Physician Surveyor, National Commission on Correctional Health Care since December 2000. I have served as a Reviewer for the Journal of Correctional Health Care since April 2007. I taught correctional officers at South Suburban College about mental health issues and mental health emergencies in corrections from 2000 until 2002. I have knowledge and experience about acceptable standards for the governance, leadership, supervision and administration of a large correctional facility. I know the standards for governance and care of detainees/offenders in correctional settings, the role of medical autonomy in such settings, the right to access to care and the right to mental health treatment for the seriously mentally ill offender.

Pertinent Summary of the Facts from the Materials Reviewed and Considered

Mr. Rasho was incarcerated for his current sentence in the IDOC in1996. For his current sentence he has been incarcerated at Statesville Correctional Center (Statesville) and Tamms Correctional Center (TAMMS). He was transferred to Pontiac Correctional Center (Pontiac) on November 7, 2003 until March 22, 2011 when he was transferred to Statesville. He was transferred back to Pontiac, and is currently incarcerated at Pontiac.

On 7/22/98 Frank W. Hayes, M.D. at TAMMS gave him an Axis I diagnosis of Dysthymic Disorder with an Intermittent Explosive Element and Dissociative Disorder, and an Axis III diagnosis of suspected brain damage from a 1988 gunshot wound to the head and/or brain damage secondary to rabies. Like most inmates with behavior problems he also was given an Axis II diagnosis of Antisocial Personality Disorder. On 7/28/98 Frank W. Hayes, M.D. at TAMMS gave him an Axis I diagnosis of diagnoses of Dysthymic Disorder with an Intermittent Explosive Element and Dissociative Disorder, Provisional. At this time Dr. Hayes added Axis II diagnosis of Antisocial Personality Disorder and Personality Disorder secondary to trauma; and added an Axis III diagnosis of Psychomotor Epilepsy, Provisional. Subsequent Axis I diagnoses were Psychosis NOS, Atypical Psychosis, and Psychosis NOS vs Brief Psychotic Episodes, controlled with medication. Due to medication noncompliance secondary to his psychosis, Mr. Rasho was placed on enforced medication.

On 9/16/98 Frank W. Hayes at TAMMS writes: "The patient was told of my desire for him to be on enforced medication" and "Transfer all medical (including psychiatric) responsibility and authority over this case to the Medical Director, Dr. Powers STAT." Since this time Mr. Rasho had

- Axis I diagnosis of No Diagnosis (On 9/18/98, Kelly A. Rhodes, Ph. D) with documentation of "Inmate stated he had the 'urge' to cut. Later stated that he was hearing voices at the time"
- Substance Abuse Disorder by history (On 10/26/98 James E. Adams, M.D., Psychiatrist) with documentation ""Decrease Haldol to 2 mg bid x 1 month. Decrease Cogentin to 1 mg bid x 1 month. Continue Haldol 5 mg IM q 6 hrs PRN for observable agitation and chart response. Continue Valproic acid 1000 mg bid x I month. Obtain serum level of Valproic Acid. Continue Prozac 20 mg q am x I month. Current decrease in Haldol and Cogentin aimed at resolution of induced side effects. He needs to develop better means of coping which is apt to require some time and limit setting"
- No diagnosis (On 2/5/98 Bonnie Ekstrom, M.A., Mental Health Professional)
- Psychotic Disorder, NOS (On 10/26/98 James E. Adams, M.D., Psychiatrist) with documentation "No abnormal cognitions or perceptions. He's previously alluded to hearing a voice but is by report only recalling what is said in his head and is not thought to be hallucinated as such. Change to Valproic Acid 750 mg at 11:00 (am) and qhs x 2 months. Increase Doxepin to 150 mg qhs x 1 month."
- Dementia Secondary to a General Medical Condition (On 7/15/99 E. Weiner, Psy. D. in a neuropsychological screening) with documentation: "Inmate suffers from significant neurobehavioral impairment showing deficits in language processing, memory, reasoning, as well as attention."
- Dementia secondary to a General Medical Condition (On 7/2/00 Jill Stevens, M.A.) with documentation "Inmate Rasho was present in the group treatment room for the video, 'Ferris Bueller's Day Off.' He smiled and laughed throughout most of the movie. Affect was generally bright. Demeanor was basically cooperative and pleasant."
- "Deferred" (On 9/15/00 R. Chandra, M.D., Psychiatrist) with documentation "He continues on his current medication with no change. This includes Risperdal 0.5 mg bid, Serzone 200 mg tid, Prozac 20 mg once a day, and Benadryl, which has been increased from 50 mg that he was getting before to 100mg. He is doing well with no specific difficulties or problems at this time. I plan to see him at his next regularly scheduled appointment."

In a report dated 04/03/99 Katherine Burns, M.D., M.P.H. narrowed down her differential diagnosis on Mr. Rasho on Axis I to Major Depressive Disorder, Recurrent, with Psychotic Features or Schizophrenia, Undifferentiated Type. She narrowed down her differential diagnosis on Mr. Rasho on Axis II to Borderline Personality Disorder or Schizotypal Personality Disorder. She states: "All the diagnoses listed for Mr. Rasho are serious mental illnesses based on their duration and degree of disability (impairment) they cause." Dr. Burns described serious mental illness is one that is a diagnosable condition of substantial duration causing some degree of disability or impaired functioning. She added that Mental Health Staff at TAMMS failed to acknowledge appropriate mental health diagnoses, and attributed behaviors symptomatic of serious mental illness to willful misconduct,

denying treatment to inmates with serious mental illness and needlessly prolonging pain and suffering.

In a report for a fitness hearing on November 7, 2005, Robert E. Chapman, M.D., S.C. makes an Axis I Diagnosis of Bipolar Disorder Type I – with childhood onset; Obsessive Compulsive Disorder; Adult Attention Deficit Disorder – Acquired Type secondary to rabies encephalitis; and Dementia – due to General Medical Condition. Robert E. Chapman, M.D., S.C. makes an Axis II Diagnosis of Antisocial Personality Disordor and Borderline Personality Disorder. He reported: "He suffers a sense of impending doom, mood swings, depression, and has a tendency toward addictive behavior and inaccurate self-observation."

Mr. Rasho was transferred to Pontiac on November 7, 2003 with a well-documented history of serious mental illness of hallucinations, psychosis, psychotic agitation, poor impulse control and depressive symptoms which when not controlled by medication and a structured therapeutic environment manifested acutely through self-mutilation and suicide attempts. Prior to transfer to Pontiac, Mr. Rasho had been treated with a wide variety of psychotropic medications, including Haldol (haloperidol), risperdal (risperidone), depakote (valproic acid), Sinequan (doxepin), Wellbutrin (bupropion), Prozac (fluoxetine), Remeran (mirtazapine), Serzone (Nefazodone) and BuSpar (buspirone). Mr. Rasho had relapsed off his medications and at times and became so seriously ill necessitating enforced medications to get back him back to a safe clinical condition.

Mr. Rasho's mental health was reasonably stable for several months after his transfer from TAMMS to Pontiac, but as seriously mentally ill patients do, he began to refuse medications in April 2004 and to self-mutilate. At this time Dr. Kowalkowski (Pontiac psychiatrist) transferred Mr. Rasho to the Mental Health Unit.

After being transferred to Pontiac's Mental Health Unit by Dr. Kowalkowski, Mr. Rasho resumed medication and stabilized. However, as seriously mentally ill patients do, he subsequently refused his medication, and began again to self-mutilate and during November 2004 and October 2005 he cut himself five to six times, requiring several stitches every time. In 2005 Dr. Garlick did a placement review and recommended that Mr. Rasho should remain in the Mental Health Unit. In 2005 Dr. Christine Fletcher added Schizophrenia to Mr. Rasho's diagnosis on Axis I and made a notation about his past suicide attempts. On June 28, 2005 Dr. Fletcher was prescribing Mr. Rasho Geodon 80 mg po bid (twice daily), Buspar 5 mg tid (three times per day) and Benadryl 75 mg po hs (at night). This self-destructive behavior secondary to his serious mental illness and episodic medication non-compliance continued into 2006. Yet, despite his well-documented serious mental illness and ongoing self-destructive conduct secondary to psychosis, Dr. Massa (Psychiatrist) and Dr. Garlick (Supervising Clinical Psychologist), as the leaders of the treatment team, transferred Mr. Rasho into the North Segregation Unit (North Seg).

According to Mr. Rasho he was transferred out of the Mental Health Unit because he complained about staff in the Mental Health Unit, and his mental condition subsequently deteriorated further with repeated self-injurious behavior. He was even returned, via determination of Dr. Garlick and Dr. Massa, to North Segregation after the incident when he cut himself with a sprinkler head requiring fifteen stitches. While on North Segregation Unit Dr. Massa continued to prescribe high doses of antipsychotics and antidepressants even though Mr. Rasho had recently cut his right arm deeply and had a longstanding history of serious mental illness on Axis I.

Despite the harsh and counter therapeutic conditions on North Segregation Unit, there were periods of time when Mr. Rasho's Axis I serious mental illness responded to treatment:

- On May 16, 2008 Melvin Koko, M.D., Psychiatrist, notes an Axis I diagnosis of Impulse Control Disorder and rules out Antisocial Personality disorder on Axis II. Dr. Koko notes a previous good response to Depakene, and recommends to titrate the Depakene up to 750mg to 1000mg per day

- On September 9, 2008 Jose Matthews, M.D., Psychiatrist, notes a diagnosis of Bipolar Disorder, NOS and that Mr. Rasho was stable on Depakene (Valproic acid) for mood stabilization, and he suggested the addition of Celexa (Citalopram) to treat his residual depression.

Sentencing Information from IDOC shows that Mr. Rasho should only have been incarcerated for thirteen years. Mr. Rasho now has a projected discharge date of September 30, 2024. Mr. Rasho accumulated much segregation time for disciplinary infractions most likely caused by his undertreated and often untreated serious mental illness (Axis I) but not considered as such by the Adjustment Committee. From January 17, 2003 until July 12, 2010 Mr. Rasho had forty Tickets, many with multiple offenses and disciplinary action, for which he was only found "not guilty" on two occasions. For example, the Adjustment Committee Report for offenses 202, 403, 304 and 102, signed by Warden E. Jones, did not take serious mental illness into account in the final recommendations. Mr. Rasho's serious Axis I mental illness was not mentioned in most of the disciplinary hearings. Mr. Rasho will actually spend much more time in prison due to discipline secondary to his serious Axis I mental illness than for his original time sentenced.

Review of depositions revealed that IDOC has only four adult correctional facilities that provide any sort of specialized mental health services at all and contain a specialized mental health unit: Pontiac, Dixon Correctional Center ("Dixon"), TAMMS and Dwight Correctional Center. In addition there is even inadequate access to available beds in these mental health units for treatment of inmates with serious mental illness.

In his deposition Eddie Jones described the harsh conditions at Pontiac. He said that any housing unit in Pontiac is kind of gloomy. He mentioned that he had never accompanied mental health professionals on their rounds. He reported that there were (prior to his retirement) one hundred plus cells in North Segregation and around sixty plus cells in Mental Health Unit where most cells are open bar cells. The Mental Health Unit is the South Half (Unit), and the noise level in the Mental Health Unit is "very mellow and quiet at times and sometimes can be a little rowdy but most of the time the noise level is low". He stated that North segregation is for some of the higher aggressive offenders (not by written policy, just by practice) and most of the cells have perforated doors, not open bars, and that cells do not have windows. He described that North Segregation can be noisy. He said that on North Segregation generally mental health would be talking to the mentally ill offender from the other side of the perforated door. He stated that either the offender or porters (other offenders) cleaned the North Segregation cells.

Review of IDOC and Pontiac policies, practices, protocols, and/or customs enacted, implemented, and/or carried out by Walker, Elyea, Navarro, Jones, Garlick and Massa demonstrated the nexus to the failure to provide constitutionally-required mental health care to Mr. Rasho for his serious mental illness, and to his punitive housing on the North Segregation Unit.

Monitoring Tour of Pontiac Correctional Center by six John Howard Association personnel on February 16, 2010

On Feb. 16 a group of six John Howard Association personnel and volunteers conducted a monitoring tour of Pontiac Correctional Center. Pontiac consists primarily of a maximum security unit which includes prisoners in disciplinary-related segregation or protective custody and "Death Row". There is an adjoining medium security unit.

Summary

No vocational and little educational opportunity for many inmates, but prison management is attempting to improve opportunities for other prisoners.

Issues Relevant to the case of Mr. Rasho

General Description: Pontiac's maximum security segregation inmates, most serving long or life-term sentences, include some of the most disruptive individuals in the custody of the Illinois Department of Corrections. Among them are inmates believed to present a serious threat to staff and other inmates.

They typically come from other prisons where they committed serious offenses and are held for months or years in segregation at Pontiac. Of the approximately 1,200 maximum security inmates, 580 are held in disciplinary- related segregation status. They receive virtually nothing in the way of education, vocational training or other rehabilitative programs. Most of the remaining maximum security inmates are in Protective Custody and they, like the approximately 490 medium security inmates, have some access to education and other programs but no vocational training. The inmates segregated for disciplinary reasons are treated to a more restrictive regime than inmates in general population at other prisons. For example, they are not allowed to purchase food from the commissary and must subsist exclusively on the soy-based diet fed to state inmates.

Segregated inmates' time out of cell is more limited than general population inmates and they may be allowed to shower only three times a week. Other than a small GED program which can accommodate about 30 inmates at a time, there are no educational programs for segregated inmates. For example, Pontiac's segregated inmates include many with a history of violence. Despite this, there is no anger management program for them. Inmates are instead given a booklet which offers tips on anger management. Prison management said lack of staff and money prevent them from offering programs to segregated inmates. Many of Pontiac's inmates are deeply problematic and access to programs would require extensive security staffing.

Mental Health: A consistent complaint among maximum security inmates was the absence of educational and rehabilitative programs. As might be expected, Pontiac inmates require more mental health services than that of an ordinary prison population. Despite that need, Pontiac has for a year and a half had an unfilled position for a clinical psychologist. Dr. John Garlick oversees care for the approximately 50 inmates currently housed in Pontiac's mental health unit, which has 98 cells. Garlick said he expects the unit will be fully occupied once he has the assistance of the clinical psychologist, an indication there is an unmet need for more mental health care.

Infrastructure: The maximum security cellblocks at Pontiac are utterly obsolete. Some of the prison's buildings date to 1871. Most inmates are housed in long, linear galleries with multiple tiers of cells. Such design makes supervision of inmates more difficult than current prison architecture, which calls for smaller units of inmates who can be observed from a central position. The medium security housing units at Pontiac, built in the mid-1970s, are of the more contemporary X house design. In winter, Pontiac's maximum security segregation inmates cellblocks derive their warmth from a central heating plant. This and the archaic design of the prison lead to wide variations in temperature which are difficult or impossible to control. One cellblock might be cool but tolerable at floor level, for example, but too hot on a top tier near the ceiling. Buildings in the maximum security prison are spread out over a wide area. Transporting inmates between them can be time consuming for staff.

CLINICAL INTERVIEW

Mr. Rasho was interviewed on Sunday, August 26, 2012, for four and one- half hours in the visiting area of Pontiac Correctional Center.

Mr. Rasho is a thirty-eight year old, right-handed, white male born in Iraq on June 6, 1975. He reported that his mother, father and younger brother moved to Midland, Texas when he was four years old, and they moved to Chicago when he was eight years old. Mr. Rasho has been incarcerated for his current sentence in the Illinois Department of Corrections (IDOC) since 1996. He was transferred to Pontiac on November 7, 2003 and remained there until March 22, 2011, and this forensic psychiatric evaluation focuses on Mr. Rasho's mental condition, level of function, treatment and custodial care during this time period.

Complaint

Mr. Rasho reported he was housed in North Segregation Unit from 2006 to 2011 with a short time in "East and West." Mr. Rasho reported he was transferred in 2006 to North Segregation Unit from the Mental

Health Unit because he complained about staff in the Mental Health Unit. He reported that he has been in solitary confinement since 2006. He reported that corrections often punished him when he was distracted by "the voices" and "because of this punishment I came here (Pontiac) with eight years and now I have thirty years. Sometimes I would be irritable and get into a fight and I deliberately got locked up because of fear of loosing control or being afraid of hurting others. I have hurt others in the past with sex mutilation and eating blood. There is something wrong with me but medications help to calm me down. This (modications calming me down) has been true all my life specially Haldol and Geodon. Haldol has been the best thing for me since 'Juvy". The TAMMS or Mental Health Unit help to calm me down and not feel so worried about germs and poisoning and I feel more comfortable to speak about my issues. The rats and smelly cells are much worse on North Segregation Unit. No one cleans up the smell on North Segregation Unit. I need Mental Health Unit because I do not want to catch more cases."

History of Complaint

Mr. Rasho responded in detail to questioning in regard to his time in Pontiac's North Segregation Unit. Mr. Rasho reported that he was very seldom allowed out of his cell or to have interaction with other prisoners, and he had little access to mental health professionals except for very quick visits, monthly, at the most, by psychiatry and social work/mental health workers. He reported that he had many grievances in regard to his request to transfer to the Mental Health Unit due to his worsening depression, voices and "hurting myself" on North Segregation Unit, and was often told by Warden Eddie Jones: "Nature of your grievance could not be determined".

Mr. Rasho reported that in North Segregation Unit he had no "treatment privacy" and was forced to have talks with mental health staff that could be heard by correctional staff and by some other prisoners. He reported denying/minimizing voices, depression and suicidal thoughts to keep his "prison mask of toughness". This gave Garlick a reason not to provide treatment to him "as if he needed a reason." Sometimes this public embarrassment would "make me mad and I would refuse meds and that would be it. They would not try to change my mind."

Mr. Rasho reported: "Dr. Matthews has saved me by seeing me in North Segregation Unit for the past few months. He listens to me and gives me Risperdal, and Cogentin and Ativan for side effects. I am afraid I will get sick again when he leaves."

Review of Current symptoms

"I am doing much better at present due to Dr. Matthews but I still have problems. My mood is sad, and I feel anxiety and agitated at times and I have periods when I am very anxious and I can feel my heart pound and I get restless and fear losing control. I threatened Garlick and his family because sometimes the voices tell me my food is being poisoned and cameras have been put in my cell. I 'doze up' but do not sleep well. I have nightmares about self-mutilation and cannibalism. I pace and clean but at the same time feel tired with no energy. My concentration is better but still not good. At times I search for microphones and wash the cell to get rid of chemicals that 'they' put in the vent of my cell. Angus and Garlick are putting stuff in my medication. I am fighting the urge not to cut myself or hurt myself almost every day. I do not have that urge today maybe because I am busy. The best way to fight the voices or the urge to hurt myself is to stay busy. Thinking about my case or about a grievance keeps my mind busy and helps to decrease the voices or to decrease the effect they have on me because of the bad things they say."

He attributed doing better to seeing Dr. Matthews two hours per week since he was back at Pontiac. "Under Dr. Matthews my symptoms are still there but I can at least manage not to act on them [voices], or have violent outbursts or a strong drive to cut my arms deep. I think his medications help me and it helps to have someone to talk to. I don't trust anybody after he leaves. I don't trust the rest. I think they work in a secret society. Prior to Dr. Matthews, I was lucky if I was seen one time per month by the psychiatrist for ten to fifteen minutes at the best, and by a social worker or mental health worker. I am now on Risperdal, Ativan and Cogentin. Dr. Matthews takes me serious and treats me like a person. Dr. Garlick

thinks I am bullshitting [malingering] even though he has hardly spent time with me. Dr. Matthews just resigned. Dr. Blank [Navarro] just resigned too. This is all because of Dr. Garlick, and I am fearful what he will do to me now."

Medical History

Mr. Rasho reported that he contracted rabies encephalitis at age seven or eight years old from the bite on his right ring and index finger from a "rat that looked like a rabbit". He got a lot of shots, was in a coma, had seizures and spent a long time in the hospital.

He reported decreased hearing in his right ear since 2010. He reported chest pains most likely due to pneumonia. He takes medication for back pain.

Psychiatric History

He recalled his first incarceration in "Adult" at age seventeen years old (burglary) and then at nineteen years old (robbery). He reported that both times he was placed on Haldol and other medications. He reported that he received Haldol and other medications when he was incarcerated at age twenty-one years old in 1996 for burglary. He reported "a good" response in 2003 at TAMMS to the combination of Geodon 60 to 80 mg per day and Doxepin 100 to 150 mg per day because "this combination decreases my urge to be violent against myself, my anxiety, my depression and my voices. The voices mock me and talk bad about me, sometimes bad sex things, sometimes laugh at me. When I was younger the voices use to tell me to kill my family, and I thought they were not human. I recognize now that the voice is a man's voice." He reported that when he was off these medications in 2004 at Pontiac he began to cut himself again and "one time I threw feces in the face of a nurse because I thought she was ignoring my request for pain medication for my cuts."

He reported a long history "of being paranoid around people. I get too nervous out there. As an adolescent I did not like crowded places such as Kiddie Land or Great America. I would get panicky."

He reported that his obsession with germs and being poisoned "were made worse on North Segregation Unit with rats, stinking cells, always noisy, aggressive officers [much worse than on Mental Health Unit] and nobody to talk to for days on end. At least in Mental Health Unit I could sometimes get some mental health care by their programming, and going to the yard for a short time each day. The nurses were more attentive and even bothered to ask me about side effects, sleep, sadness and voices. The officers were not looking to make a fight over there [Mental Health Unit]."

He reported that North Segregation Unit had more rats and was much more smelly than Mental Health Unit, and he would have periods of time when he would become "obsessed with germs and being poisoned by others. At this time cutting or washing or throwing feces helped me to calm down. Does not make sense but that did calm me down."

He reported that the noise in North Segregation Unit would make the voices louder, and with the "louder voices" he reported a "need to cut myself because they [voices] would not go away. The voices come and go. They get better [less] when I take my medication or when I try to distract myself by doing stuff such as reading the Bible."

He reported periods of time when he would "out of the blue feel sad and doomed and on a mood rollercoaster ride even when not angry with the nurses or Garlick. Garlick [I feel] diagnosed me with a five-minute session. He thinks I am just antisocial and do not need mental health [treatment]."

Mr. Rasho reported a psychiatric history consistent with the extensive records reviewed by me in regard to the derogatory voices, obsessions and self-mutilation that have consistently responded to various antipsychotics, mood stabilizers and antidepressants. His description of symptoms and response to medications was consistent over time and throughout this four and one-half hour interview. He reported that at times he stopped medication due to "feeling like I was jumping out of my skin [akathisia]. With the

Cogentin and Ativan I no longer get that. Sometimes I would also stop medications when I thought Pontiac staff was trying to poison me. The medication that has helped me best is Haldol or Geodon for the voices, and Doxepin for anxiety and sleep. I have been on Haldol and other 'psych meds' since I was twelve or thirteen years old. I will remain on medications because I do not want to catch more cases. I do not remember mental health speaking up for me on any of my disciplinary hearings. Garlick speaks as if he knows me but he just judges me as 'bullshitting' and often says about me 'that's a security issue.' I shut down, don't talk, don't comunicate when I feel mistreated or misjudged by mental health or correctional staff."

In regard to response to specific psychotropic medication, Mr. Rasho reported: "Sinequan [Doxepin] decreased my anxiety and decreased my heart pounding. Wellbutrin made me 'snap', cut myself, feel high and not feel right. Remeron was the same as Wellbutrin and it also gave me a rash. Buspar was good to decrease my anxiety. Prozac helped to stabilize my mood, improve my concentration, slow my worry down and slow my urge to hurt myself. I hated forced medication, because I do have pride, but they did help me. Risperdal decreased my agitation, paranoia [about Angus] and made it easier for me to get along with others."

He reported that Dr. Kowalkoski transferred him to the Mental Health Unit in spring 2004 because he stopped taking his medication and began to cut himself. At first he took medications and then needed forced medications and was "doing ok and benefitting from groups and treatment". He reported: "I had problems from November 2004 until October 2005 with cutting myself badly five to seven times. In regard to the voices and depression I was benefitting from treatment. One time when a staff member told me 'call me when you hit an artery' I thought poison gas was coming out of the sprinkler head.

Soon after this incident in 2006 I think I was transferred out to North Segregation Unit due to my grievances. I was disappointed in myself but I did complain about mental staff in grievances. I should have not blamed them. Dr. Massa agreed with Dr. Garlick even though I know I told him about the voices, fear of being poisoned, depression and the urge to hurt myself. I have caught about thirteen years for assaulting officers/nurses since 2006 because of the voices and agitation and thinking some staff are poisoning me or watching me [hidden cameras in my cell]."

Substance Use History

He reported that as an adolescent and young adult he used street drugs to stop the pain in my head. When asked further about the pain in his head he stated "the voices and noise like a thousand bees trying to sting you." He reported use of cocaine, "weed", PCP (Phencyclidine), carburetor cleaner and glue.

He answered "yes" to questions about his drinking as an adolescent and young adult in regard to cutting down, being annoyed when confronted about his drinking, feeling guilty about it or needing an eye opener drink in the morning.

He admitted use of illicit drugs and alcohol since incarcerated: "It is hard to get and maybe three to four times for each."

Familial Medical, Psychiatric, and Substance Use History

He reported that his mother had diabetes, a heart condition and was on disability, and that his father was an electrician. He is the fifth of five boys and he denies a psychiatric history in any of his brothers or immediate family. He reported that he was raised mainly by his mother and said "she did her best to help me".

He reported that he had no information about Familial Psychiatric and Substance Use History.

Developmental/Educational History/Vocational/Military History

He described a prolonged vaginal delivery of three days duration in Iraq and the usual childhood diseases. He reported that when he was seven years old and living in Texas he was bitten by a rat and became very ill and needed to be hospitalized for a "long time" for "a brain infection". He reported that he was told by his mother that he was a quiet kid prior to the rabies, but his behavior became violent towards animals after he recovered from the rabies, and that by age eight years old he had been detained at Illinois Youth Center in Joliet.

He reported that he was told that he was diagnosed with Bipolar Disorder as a child.

He reported that his parents divorced when he was eight years old. He did not report a history of any sexual abuse, but "my father teased and mocked me, and beat my ass". He reported a history of learning difficultics, ropoated grades and special classes. He was kicked out of Montefiore High School when in fourth or fifth grade at age thirteen. He never did a day of homework in his life, because "I was running around the streets with gangs and friends". He actually only learned to write at age twenty, and he does need a dictionary to assist him when he writes.

Vocational History

He reported that his father was an electrician and his father took him to work a couple of times. Mr. Rasho has never had a job.

Military History

Mr. Rasho reported no history of military service.

Social History/Current Daily Functioning

Mr. Rasho reported that he was divorced in 1999. He stated that he has an eighteen-year-old daughtor. He reported that he writes his family but his mail has been held in July and August 2012 by the mailroom because he "owes a lot of money."

He stated that he is in his cell seven days per week, twenty-four hours per day except for rare visits for medical reasons or other visits "such as talking with you today." He receives three meals per day in his cell, which he takes out of a box.

He reported that since about February 2012 he has been seen by Dr. Matthews on Mondays and Thursdays for forty-five minutes to an hour. He tries to occupy his time by doing artwork and playing chess with himself.

He complained that he is totally isolated because he is not allowed to write to anyone, including his ex-wife.

Adult Legal/Financial History

He did receive SSI when in the community.

He reported that as an adolescent he was always in trouble for stealing and burglary, and as a young adult was incarcerated in Sheridan Correctional Center from 1992 to 1993, and from 1995 to 1996. He was again incarcerated in IDOC in 1996 until present.

He reported that he has an extensive disciplinary and grievance history.

MENTAL STATUS EXAMINATION/BEHAVIORAL OBSERVATIONS

Mr. Rasho is a thirty-eight-year-old divorced, right-handed, white male who was fully alert and oriented upon evaluation. He was dressed in an orange jumpsuit and wearing reading glasses. He appeared well groomed. Per Pontiac policy I was only allowed to interview him through a glass partition as both his arms were shackled to a chair. He was remarkably calm and cooperative. Upon request Corrections allowed me to observe that his gait was normal and that he ambulated normally. Sitting posture was symmetric.

He was alert, responsive, and oriented to time, place and person. His eye contact was appropriate, and he responded appropriately to humor.

Dominant right-handed graphomotor functions were intact for paper-pencil tasks such as drawing a clock at 3:30 and a cat. Speech was normal in rate and rhythm, without signs of pressure, coherent and goal directed. No word finding or paraphasic errors were noted in conversational speech.

His mood was both sad and anxious, but appropriate for the situation. He did have an exaggerated startle response when I pounded on the desk when he was looking away, and he was hyperresponsive to external stimuli such as a correctional officer shouting to another correctional officer. Affect was responsive and he revealed full affective range. For example, he became appropriately emotional when discussing his fear of what his treatment at Pontiac will be like after Dr. Matthews leaves.

Frustration tolerance was preserved, based on his engagement and perseverance with a four and one half hour evaluation. Frustration tolerance was also preserved cognitively, based on his engagement and perseverance on a series of questions in regards to memory and attention. Recent, remote and intermediate memory was intact. He repeated "stadium, deer and table" and remembered such five minutes later. He was embarrassed when asked to spell "world" and "cobalt" forwards and backwards correctly and asked: "can I write the words down first." Subsequent to doing so and inspecting the words on the notepad, he spelled the words without looking at the notepad correctly forward, and backwards correctly on the second attempt. He could not perform "serial sevens" from a hundred and from ninety rapidly and accurately, but he did manage to do "serial threes". He demonstrated effort to do well on all these memory/attention tasks. He is a man of average intelligence based on his general vocabulary and general knowledge. His listed the last three Presidents of the USA correctly in backwards-chronological order.

Mr. Rasho has been called a malingerer particularly by Dr. Garlick. Mr. Rasho, however, did not attempt to take control of the interview, did not attempt to intimidate the interviewer (Dr. Silberberg) and did not attempt to feign impaired memory or "being stupid." Mr. Rasho's symptoms were consistent with documents reviewed. When given the opportunity he did elaborate more about hallucinations, obsessions, akathisia, etc. than in the once monthly correctional interview often done in ten minutes in a noisy and smelly environment, with documentation sometimes limited to a brief entry in a segregation visit log. Mr. Rasho's symptoms were consistent with known disease entities. For example he desribed the voices as male, outside his head and decreased by activities such as writing/reading. He described the symptoms of clinical depression that he still currently suffers from. He described the response to medications such as Haldol and Geodon to decrease the voices.

There was some evidence of current delusional thinking and auditory hallucinations: "At times I search for microphones and wash the cell to get rid of chemicals that 'they' put in the vent of my cell. Angus and Garlick are putting stuff in my medication. At times I am fighting the urge not to cut myself. The best way to fight the voices or the urge to hurt myself is to stay busy. Thinking about my case or about a grievance keeps my mind busy and helps to decrease the voices or to decrease the effect they have on me because of the bad things they say." He also reported that he thinks some of the nurses "are not human" and "they are allowed to experiment on us. It is in their rules." There was no current evidence of any manic or impulsive behavior. He reported no current experience of suicidal ideation: "not at this moment."

He reported no current experience of homicidal ideation. He reported past experience of homicidal ideation. He has a history of past violent behavior. He reported past experience of suicidal ideation and multiple attempts and self-mutilation.

Judgment and abstraction were intact by standard testing such as questions about "baby at the doorstep" or "fire in a theatre", and about similarities and differences. At this time he demonstrated limited judgment, and interpersonal and psychological insight into his share of the problem with the multiple disciplinary issues: "They usually happen when I am off my meds" and "I don't do nothing. I try to get help and they deny me and I just lose it."

In regard to insight into his future plans Rasho reported: "I want to avoid more time added to my time in prison. I want to feel better like Dr. Matthews has helped me to feel. I want to do even better than Dr. Matthews has helped me to feel and ask to be in the six-month mental health program in Dixon. Even TAMMS has better programming than North Segregation Unit and helped me much more. They (TAMMS) let me out two hours per day seven days per week if you earn it. North Segregation Unit is a big dark hole with nothing (treatment) and no way to earn anything. North Segregation noise is deafening, and together with the foul smell I get agitated and the voices get worse. Reading helps to decrease the voices but the noise makes it difficult to concentrate."

In regard to insight into his future plans Mr. Rasho added: "I hope I help for all mentally ill prisoners to get better treatment. I hope I can get treatment in the Mental Health Unit before I get released into the community. I hope someone can review my file and see that some of the fights were due to my mental illness not being treated properly." In this regard Mr. Rasho reported: "I do not remember having a mental health examination before most of my disciplinary problems. I have not been in major trouble since 2010 when I assaulted a medical technician because I was hearing voices."

COLLATERAL INTERVIEW WITH JOSE MATTHEWS, M.D., PSYCHIATRIST

Mr. Rasho signed authorization for me to talk with Dr. Matthews in regard to his care at Pontiac. I performed a one-hour collateral interview with Dr. Matthews on September 24, 2012.

Dr. Matthews reported that he has worked at Pontiac for the past four years. He reported that his last day of work at Pontiac was September 19, 2012.

Dr. Matthews reported that Mr. Rasho has an Axis I diagnosis of Bipolar Disorder, Depressed, and a history of Substance Abuse, and an Axis II diagnosis of Borderline Personality Disorder. "He has severe Axis I psychopathology and some Axis II issues. He has some psychopathic tendencies. He does not have observable organic sequelae of the rabies encephalitis or head injury."

Dr. Matthews stated: "About two weeks ago [two Thursdays back] Dr. Hinton, Dr. Garlick and Dr. Tinwalla came to my office and asked me questions about Rasho. Over the objections of Dr. Garlick and Dr. Hinton, Dr. Tinwalla asked me for my recommendations. I recommended transfer to the Mental Health Unit for supportive psychotherapy and medication management because he does benefit from supportive psychotherapy and medication management. I know this because for the past five to six months I have been treating him weekly with two hours psychotherapy and medication management. He did well and was not disruptive in the time I treated him. He had no cutting or suicide attempt or self-injurious behavior. Dr. Tinwalla listened to me and then he suggested Dixon because 'there is more psychotherapy there and he can get psychological testing'. I stressed that either transfer to the Mental Health Unit at Pontiac or to Dixon needed to be done before my last day at work because I knew that Rasho would not get weekly two hours psychotherapy and medication management after I left Pontiac. I again emphasized that he clearly had benefitted from weekly two hours psychotherapy and medication management with me. With reasonable treatment Rasho is amenable to change, clinical stabilization in regard to marked decrease of severity and frequency of psychosis and self-injury. The ball is now in the court of Dr. Hinton, but I think there is nobody to take on weekly two hour psychotherapy and medication management for Rasho and I do not think he will be transferred to Dixon. They do not have a

replacement for me and Rasho will just be left out in the dark. There are only three psychiatrists left at Pontiac at present. "

Dr. Matthews said: "Rasho would definitely benefit and improve with supportive psychotherapy and proper medication treatment. Under my care he had trouble tolerating Depakote because of stomach upset. Most of the time he has been compliant with Risperdal which stabilizes his mood and controls his psychotic symptoms. When psychotic, he hears voices that laugh and mock him, and tell him he will be deported to Iraq and executed. He is fearful and paranoid when he hears these voices."

Dr. Matthews continued: "To give you some background, in 2006 Rasho was treated in the Mental Health Unit by Dr. Kowalkalski. Dr. Garlick [and Angus] vigorously opposed this and wrote to Dr. Eli [sic] [Director of Mental Health] that Rasho was disruptive and needed to be sent out of the Mental Health Unit. I think Rasho felt the tension of not being wanted on the Unit and he therefore also requested the transfer."

When I asked Dr. Matthews: "What was the quality of mental health care for Mr. Rasho in North Segregation Unit?" he responded: "Rasho was placed into North Segregation Unit for assaultive behavior. There is no meaningful mental treatment there. Rasho was told by Garlick to write to him if he wanted psychotherapy in North Segregation Unit, and that it [psychotherapy] would be provided if it was available, but if it is not available you will need to wait. After I arrived in August 2008 I did not find him disruptive in a manner that would prevent transfer to Mental Health Unit."

Dr. Matthews reported: "Rasho returned late last year from Statesville. Dr. Garlick again said 'No transfer to the Mental Health Unit'. Dr. Masse joined the side of Dr. Garlick who said 'Rasho is not suitable for the Mental Health Unit.' Everyone knew that Rasho would get very sick again if nothing was done, and I therefore offered to do two hours per week supportive psychotherapy and medication management, and Rasho accepted this plan. When Rasho learned of my plans to leave Pontiac, he renewed his request for transfer to the Mental Health Unit.

In early June 2012, Assistant Warden Reed asked me to stay longer for a couple of months. He saw how well Rasho was doing and he wanted to change things at Pontiac in general. Warden Reed organized a meeting to discuss Rasho's care and issues related to his care. Dr. Blank and Dr. Garlick presided at this meeting. Among things discussed was the request by me to transfer Rasho to Mental Health Unit [I was not told a final decision], and that a mental health professional can discontinue restraints ordered by a physician, and they can even order it. Subsequently Dr. Blank and Dr. Garlick met with Salvador Godinez and were able to make an Administrative Directive that any mental health professional [such as a licensed social worker] can order and discontinue restraints."

DSM IV DIAGNOSIS

Axis I Major Depressive Disorder with Psychotic Features, Recurrent
Rule out Bipolar Disorder

Axis II Mixed Personality Disorder with strong antisocial and borderline characteristics secondary to chronic untreated serious mental illness (Axis I) and rabies encephalitis/history of gunshot wound to head

Axis III Rabies Encephalitis at age 8
History of gunshot wound to the head

Axis IV Stress of inhumane living conditions and denial of access to minimum acceptable treatment for serious mental illness (Axis I)

Axis V GAF last year 45 – 50 (Suicidal ideation, severe obsessional rituals and compulsions, intense urge to self-mutilate, refractory auditory hallucinations)

Opinion

I can provide the following opinions and conclusions, expressed to a reasonable degree of medical certainty, with the understanding that they are based on the interview with Mr. Rasho, the collateral interview with Dr. Matthews and the information available to me at this time. If I receive additional information, I may have additional opinions. My current Curriculum Vitae is attached.

1. **Mr. Rasho has a long history of Axis I serious mental illness.**

2. **Mr. Rasho has a long history of Axis II psychiatric disorder.**

3. **Mr. Rasho's serious mental illness (Axis I) is treatable when he has been given psychotropic medication and proper supportive individual and group psychotherapy.**

4. **Mr. Rasho should have been kept in the Mental Health Unit at Pontiac Correctional Center and not transferred out because there is a nexus between Mr. Rasho's refractory Axis I serious mental illness and multiple allegations of willful misconduct leading to years and years of extra incarceration secondary to bogus disciplinary hearings based on "periodic psychotic episodes of Borderline Personality Disorder."**

5. **The need to keep him in the mental health unit for humane and medical reasons should have been so obvious that it reaches the level of reckless indifference by Director Roger E. Walker, Jr., Dr. Willard Elyea, Dr. Wendy Navarro, Eddie Jones, Dr. John Garlick, and Dr. Michael F. Massa.**

Basis for Opinion

1. **Mr. Rasho has a long history of Axis I serious mental illness.**

Serious mental illness is a mental illness that is a diagnosable condition of substantial duration causing some degree of disability or impaired functioning. Mr. Rasho has a long history of Axis I serious mental illness causing significant disability and impairment of functioning based on review of documents including mental health screenings and records, information about personal, social, occupational, family, criminal justice, mental health, and medical history obtained by record review and a four and one half hour face-to-face interview that included direct observation of his behavior. Over time Mr. Rasho has been diagnosed with many illnesses that meet this criteria including psychotic disorders not otherwise specified, major affective disorders (bipolar disorder I and recurrent major depression) and dementia.

Mr. Rasho reported that he was told that he was diagnosed with Bipolar Disorder as a child.

In a report for a fitness hearing on November 7, 2005, Robert E. Chapman, M.D., S.C. makes an Axis I Diagnosis of Bipolar Disorder Type I – with childhood onset; Obsessive Compulsive Disorder; Adult Attention Deficit Disorder – Acquired Type secondary to rabies encephalitis; and Dementia – due to General Medical Condition. Robert E. Chapman, M.D., S.C. makes an Axis II Diagnosis of Antisocial Personality Disorder and Borderline Personality Disorder. He reported: "He suffers a sense of impending doom, mood swings, depression, and has a tendency toward addictive behavior and inaccurate self-observation."

Mr. Rasho was transferred to Pontiac on November 7, 2003 with a well-documented history of serious mental illness of hallucinations, psychosis, psychotic agitation, poor impulse control and depressive symptoms which when not controlled by medication and a structured therapeutic environment manifested acutely through self-mutilation and suicide attempts.

Mr. Rasho has been given a diagnosis of dementia secondary to a general medical condition in the past based on neuropsychological screening by E. Weiner, Psy. D. on July 15, 1999: "Inmate suffers from significant neurobehavioral impairment showing deficits in language processing, memory, reasoning, as well as attention." This diagnosis (screening diagnosis) is related to the manner in which Rasho deals with stress: "I shut down, don't talk, don't communicate when I feel mistreated by mental health or correctional staff." This diagnosis is also related to his history of rabies encephalitis as a child and gunshot wound to the head. Mr. Rasho has, however, responded favorably to medications for sustained periods of time. This is not consistent with a diagnosis of dementia. He currently does not exhibit symptoms of dementia.

Mr. Rasho has been called a malingerer particularly by Dr. Garlick. This argument does not hold water because as noted in the mental staus examination on August 26, 2012:

- *Mr. Rasho did not attempt to take control of the interview.*
- *Mr. Rasho did not attempt to intimidate the interviewer.*
- *Mr. Rasho did not attempt to feign impaired memory or "being stupid."*
- *Mr. Rasho's symptoms were consistent with documents reviewed. When given the opportunity he did elaborate more about hallucinations, obsessions, akathisia, etc. than in the once monthly correctional interview often done in ten minutes in a noisy and smelly environment with documentation sometimes limited to a brief entry in a segregation visit log.*
- *Mr. Rasho's symptoms were consistent with known disease entities. For example he described the voices as male, outside his head and decreased by activities such as writing/reading. He described the classical symptoms of clinical depression. He described the response to medications such as Haldol and Goodon to decrease the voices.*

This opinion is further based upon materials reviewed.

2. Mr. Rasho has a long history of Axis II psychiatric disorder.

Mr. Rasho had symptoms that have been maladaptive and inconsistent with his functioning in society and while incarcerated.

The diagnosis of personality disorder may be related to his history of rabies encephalitis as a child and gunshot wound to the head. Personality change may occur after an insult to the brain.

Serious mental illness is a mental illness that is a diagnosable condition of substantial duration causing some degree of disability or impaired functioning. Mr. Rasho has a long history of Axis II serious mental illness causing some disability and impairment of functioning based on review of documents including mental health screenings and records, information about personal, social, occupational, family, criminal justice, mental health, and medical history obtained by record review and a four and one half hour face-to-face interview that included direct observation of his behavior. Over time Mr. Rasho has been diagnosed with Mixed Personality Disorder, Personality Disorder secondary to trauma, Borderline Personality Disorder and Antisocial Personality Disorder. Many times Pontiac staff blamed behavior secondary to untreated refractory Axis I serious mental illness on personality disorder and/or malingering. Mr. Rasho's psychosis has however responded favorably to medications for sustained periods of time. This clearly makes his psychosis primarily due to his diagnosis of serious mental illness on Axis I.

This opinion is further based upon materials reviewed.

3. Mr. Rasho's serious mental illness (Axis I) is treatable when he has been given psychotropic medication and proper supportive individual and group psychotherapy.

"I am doing much better at present due to Dr. Matthews but I still have problems. My mood is sad, and I feel anxiety and agitated at times. I threatened Garlick and his family because at times the voices tell me my food is being poisoned and cameras put in my cell. I doze up but do not sleep well. I pace and clean but at the same time feel tired with no energy. At times I search for microphones and wash the cell to get rid of chemicals that 'they' put in the vent of my cell. At times I am fighting the urge not to cut myself.

The best way to fight the voices or the urge to hurt myself is to stay busy. Thinking about my case or about a grievance keeps my mind busy and helps to decrease the voices or to decrease the effect they have on me because of the bad things they say."

Mr. Rasho demonstrated adequate frustration tolerance and patience during a four and one half hour forensic psychiatry evaluation. This is not congruent with history of severe disciplinary action taken against him at Pontiac being mainly secondary to personality disorder. In addition Mr. Rasho was not defensive or angry throughout the four and one half hour forensic psychiatry evaluation. This too is not congruent with history of severe disciplinary action taken against him at Pontiac being mainly secondary to personality disorder. Untreated Axis I serious mental illness can lead to multiple problems with the law or disciplinary infractions in prison. Indeed, Mr. Rasho reported that he was told that he was diagnosed with Bipolar Disorder as a child.

Mr. Rasho was undertreated at Pontiac, but he did respond when provided with appropriate care on the Mental Health Unit or more recently on North Segregation Unit by Dr. Matthews who provided him with two hours psychotherapy per week and medication management. Prior to Dr. Matthews, Mr. Rasho was unfortunately provided on North Segregation Unit with erratic care chiefly by medication, brief sessions and cell door checks via segregation rounds. In these circumstances, his serious mental illness was undertreated and this led to medication noncompliance; severe pain, suffering and humiliation; and the racking up of disciplinary charges and unnecessary jail time.

Despite the harsh and counter-therapeutic conditions on North Segregation Unit, there were periods of time when Mr. Rasho's Axis I serious mental illness responded to treatment:

- "On May 16, 2008, Melvin Koko, M.D., Psychiatrist, notes an Axis I diagnosis of Impulse Control Disorder and rules out Antisocial Personality disorder on Axis II. Dr. Koko notes a previous good response to Depakene, and recommends to titrate the Depakene up to 750mg to 1000mg per day.
- On September 9, 2008, Jose Matthews, M.D., Psychiatrist, notes a diagnosis of Bipolar Disorder, NOS and that Mr. Rasho was stable on Depakene (Valproic acid) for mood stabilization, and he suggested the addition of Celexa (Citalopram) to treat his residual depression.

This opinion is further based upon materials reviewed.

4. Mr. Rasho should have been kept in the Mental Health Unit at Pontiac Correctional Center and not transferred out because there is a nexus between Mr. Rasho's refractory Axis I serious mental illness and multiple allegations of willful misconduct leading to years and years of extra incarceration secondary to bogus disciplinary hearings based on "periodic psychotic episodes of Borderline Personality Disorder."

It is an insult to any competent psychiatrist to suggest that Mr. Rasho's symptoms such as auditory hallucinations, severe depression, suicide attempts, self-mutilation and agitation were only due to Borderline Personality Disorder and/or Malingering. Mr. Rasho did at times significantly benefit from treatment in the Mental Health Unit. Rather, Drs. Massa and Garlick decided to move Mr. Rasho out of the Mental Health Unit and into the North Segregation Unit not because he would no longer benefit from treatment in that unit, but because Mr. Rasho complained about staff behavior in the Mental Health Unit. As clearly articulated in the *Severed Complaint* filed on August 9, 2011: "Dr. Garlick and Dr. Massa failed to acknowledge appropriate mental health diagnoses and attributed behaviors of Mr. Rasho symptomatic of serious mental illness to willful misconduct, denying treatment to Mr. Rasho's serious mental illness and needlessly prolonging pain and suffering" and "Drs. Massa and Garlick did not determine to transfer Mr. Rasho out of the Mental Health Unit and into the North Segregation Unit for any legitimate medical or therapeutic reason." These multiple allegations of willful misconduct led to many years of extra incarceration secondary to untreated, blatantly obvious and well-known serious Axis I mental illness symptoms that were often dealt with by bogus disciplinary hearings based on "periodic psychotic episodes of Borderline Personality Disorder."

Dr. Massa and Dr. Garlick transferred Mr. Rasho out of the Pontiac Mental Health Unit although they were well aware of Mr. Rasho's history of serious mental health problems and the fact that he still had serious mental illness and repeatedly harmed himself by cutting large, deep wounds on his arms.

Dr. Burns states in her report: "It is well-known that even without mental illness, many prisoners in isolation experience mental deterioration; isolation is especially dangerous to those who are already mentally ill. Studies have found that the effects of isolation include: paranoid psychosis and uncontrolled rage, including increased homicidal and suicidal impulses; frequent schizophrenia; and impairment of the ability to socially reconnect with others once released. Yet mentally ill prisoners still accumulate years upon years of 'seg' time in the IDOC." It is remarkable, that despite these well-known facts about serious mental illness and isolation, that Mr. Rasho was housed in segregation and given minimal mental health care.

Confidentiality is the critical element in the effective delivery of healthcare in a similar manner that a surgeon needs an aseptic operating room. Mr. Rasho was denied his right to confidentiality in the treatment of his serious mental illness and this impeded his response to treatment on North Segregation Unit.

- *Mr. Rasho reported that in North Segregation Unit he had no "treatment privacy" and was forced to have talks with mental health staff that could be heard by correctional staff and by some other prisoners. He reported denying/minimizing voices, depression and suicidal thoughts to keep his "prison mask of toughness."*

Dr. Massa and Dr. Garlick transferred Mr. Rasho out of the Pontiac Mental Health Unit although they were well aware of Mr. Rasho's history of serious mental illness. In fact, prior to this punitive transfer, Mr. Rasho still had serious mental illness and a recent and repeated history of self-mutilation.

This opinion is further based upon materials reviewed.

5. The need to keep him in the mental health unit for humane and medical reasons should have been so obvious that it reaches the level of reckless indifference by Director Roger E. Walker, Jr., Dr. Willard Elyea, Dr. Wendy Navarro, Eddie Jones, Dr. John Garlick, and Dr. Michael F. Massa.

As written in the First Severed Complaint at all times relevant to this Complaint (about Mr. Rasho's treatment at Pontiac from 2003 to 2011), Defendant Roger E. Walker, Jr. was the Director of the IDOC. As such, he had overall responsibility for IDOC's policies and procedures and the administration of all correctional facilities within the State, as well as personal, first-hand knowledge of the operations of Pontiac; Defendant Eddie Jones was the Warden of Pontiac Correctional Center. As such, he had ultimate responsibility for the entire operation of the institution, including implementing all state laws and the IDOC's policies, practices, and procedures affecting prisoners confined at Pontiac, its mental health unit, and its segregation units; Defendant Dr. Willard Elyea was the Medical Director of the IDOC. As such, he had overall responsibility for providing health care, including mental health care, to inmates in the custody of the IDOC, including inmates at Pontiac; and Defendant Dr. Wendy Navarro was the Chief of Mental Health and Psychiatric Services for the IDOC. As such, she had immediate and overall responsibility for the mental health and psychiatric care of inmates in the custody of the IDOC, including inmates at Pontiac.

As stated in the First Severed Complaint and based on all the documents reviewed by me and the interview of Mr. Rasho and the collateral interview of Dr. Matthews, the protocols developed or approved by Drs. Elyea and Navarro for the treatment of mentally ill prisoners did not provide for placement of such prisoners in specialized mental health treatment units, and instead allowed them to be placed in highly restrictive environments such as Pontiac's North Segregation Unit. Drs. Elyea and Navarro developed or approved these protocols with actual knowledge that environments such as

Pontiac's North Segregation Unit were toxic to the mental health of prisoners suffering from serious mental illness such as Mr. Rasho.

As clearly articulated in the *Severed Complaint* filed on August 9, 2011: "Dr. Garlick and Dr. Massa failed to acknowledge appropriate mental health diagnoses and attributed behaviors of Mr. Rasho symptomatic of serious mental illness to willful misconduct, denying treatment to Mr. Rasho's serious mental illness and needlessly prolonging pain and suffering" and "Drs. Massa and Garlick did not determine to transfer Mr. Rasho out of the Mental Health Unit and into the North Segregation Unit for any legitimate medical or therapeutic reason." These multiple allegations of willful misconduct led to many years of extra incarceration secondary to untreated, blatantly obvious and well-known serious Axis I mental illness symptoms clearly manifested by Rasho that were often dealt with by bogus disciplinary hearings based on "periodic psychotic episodes of Borderline Personality Disorder."

Dr. Kathryn Byrnes wrote in her report on March 31, 2004, "He [Mr. Rasho] is considered mentally ill by virtue of his diagnoses, their duration and the degree of functional impairment experienced. Mr. Rasho must be excluded from returning to TAMMS in the future." The degree of lack of treatment for his longstanding serious mental illness is self-evident in view of Mr. Rasho's wish to even return to TAMMS instead of his continued stay in the North Segregation Unit.

Illinois Department of Corrections Director, Roger E. Walker, was responsible for all correctional, medical and mental health staff, to ensure education and training about these policies and procedures, and compliance and documentation of such compliance with these policies and procedures. He ignored policies and procedures in regard to Non-Emergency Mental Health Services and Emergency Mental Health Services particularly in the areas of access to care and segregation of mentally disordered offenders. He also failed to effectively implement policies and procedures in regard to Non-Emergency Mental Health Services and Emergency Mental Health Services particularly in the areas of access to care and segregation of mentally disordered offenders. He failed to provide the necessary leadership to prevent denial of access to mental health care for the serious mental illness of Mr. Rasho for the duration of his treatment at Pontiac. He ignored his duty to "ensure that inmates receive adequate food, clothing, shelter and medical care," as cited in *Farmer v. Brennan*, 511 U.S. 825, 832 (1994). Prisoners have a Constitutional right to be protected from self-destructive tendencies, self-mutilation and suicide attempts. Mr. Rasho demonstrated a serious medical need, but his pleas for help were ignored. Roger E. Walker allowed Mr. Rasho to be placed in an environment toxic to his health despite his serious mental illness and the associated risks. This is not rocket science. Given the facts available to Pontiac leadership, even a layperson would have transferred Mr. Rasho to Mental Health Unit and persisted to treat him there because of the unreasonable and foreseeable risk of exacerbating his serious mental health problems in the rat-infested cell and cell areas periodically filled with human waste and constant echoing/deafening noise. These were the very factors that aggravated Mr. Rasho's voices and drove his obsessions and compulsions to the level of delusional thinking and self-mutilation/suicidal behavior. Mr. Rasho was abandoned in this toxic environment like a helpless child in an isolated location with consequent avoidable mental pain and suffering due to deterioration of his Axis I serious mental illness. It is well-known by anyone working with seriously mentally ill Axis I patients that untreated Axis I serious mental illness over time leads to the development of or severe aggravation of a Personality Disorder. It is also well-known by anyone working with seriously mentally ill Axis I patients that untreated Axis I serious mental illness, particularly severe depression or psychosis, significantly worsens in intensity and frequency of recurrence each time an acute episode is not treated, or ignored, as in Mr. Rasho's case at Pontiac.

This pattern of disregarding the need for treatment of Mr. Rasho's Axis I serious mental illness arose from the failure of Illinois Department of Corrections Director, Roger E. Walker, to provide the necessary leadership to prevent the occurrence of reckless indifference to the serious mental illness of Mr. Rasho during for the duration of his treatment at Pontiac Correctional Center from 2003 to 2011. Roger E. Walker operated the facility under a series of customs and practices that allow a culture of reckless indifference to occur. He lacked policies and procedures to provide a safe, secure and humane environment with access to care for serious mental health needs, or lacked providing education of staff about adherence to such policies. This led to IDOC Defendants, who also knew about Mr. Rasho's

serious Axis I mental illness and associated risks, such as middle managers Dr. Navarro and Dr. Elyea and staff such as Dr. Garlick and Dr. Massa, to be emboldened not to comply with these policies and procedures including, but not limited to, the right to confidentiality, access to safe and humane care as per community standards and placement of Axis I driven seriously mentally ill patients in specialized treatment units.

Dr. Massa and Dr. Garlick ignored the need for psychiatric treatment of the serious mental illness of Mr. Rasho in the Mental Health Unit that could provide him appropriate, effective and safe treatment for his serious mental health illness. Pontiac Correctional Center Correctional Officers and Mental Health Staff doing segregation rounds ignored Mr. Rasho's pleas for treatment in the Mental Health Unit and failed to take necessary steps to initiate transfer of Mr. Rasho to a level of care that could provide him appropriate, effective and safe treatment for his serious mental illness.

This opinion is further based upon materials reviewed.

Conclusion

Without access to care for his serious mental health needs, Mr. Rasho was abandoned like a helpless child in an isolated location. Mr. Rasho was denied the basic civil right of access to care for his serious mental health needs in the Mental Health Unit. There was a lack of training and education about policies, and a lack of monitoring of compliance with such policies to ensure the safety of a helpless and severely mentally disordered offender that fostered and enabled the culture of and behavior of reckless indifference to his special needs and safety.

The tragic aspect of Mr. Rasho's situation is that the reckless indifference of Director Roger E. Walker, Jr., Dr. Willard Elyea, Dr. Wendy Navarro, Eddie Jones, Dr. John Garlick, and Dr. Michael F. Massa has caused Mr. Rasho needless pain and suffering secondary to serious mental illness that could have been effectively treated or managed with modern psychotropic medications, monitoring and therapy available in the Mental Health Unit. Their reckless indifference now forces Mr. Rasho to have thirteen plus years needlessly added to his sentence by punitive action for behavior secondary to his treatable, or at least manageable, serious mental illness.

Respectfully submitted, October 11, 2012

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Cc: Curriculum Vitae