

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

ANTHONY P. HEARD JR.

Plaintiff,

v.

Case No. 20-cv-548-jdp

MD James Patterson, Jolinda Waterman HSUM

Defendants,

CIVIL RIGHTS COMPLAINT

Plaintiff, Anthony P. Heard Jr., a state prisoner, *pro se*, for his complaint complains and alleges the following

JURISDICTION AND VENUE

1. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1343 for the matters in controversy that arise under 42 U.S.C. §§ 1983, 12131, et seq.; 29 U.S.C. § 794; and 28 U.S.C. § 2202 for further relief.

(a) Venue properly lies in this District pursuant to 28 U.S.C. § 1391(b)(2), because the events giving rise to this cause of action occurred at the Wisconsin Secure Program facility, which is located within the Western District of Wisconsin.

I. PLACE OF CONFINEMENT

Plaintiff is currently confined at:

Wisconsin Secure Program Facility

1100 Morrison Dr.

P.O. Box 1000

Boscobel, WI 53805

2. Plaintiff has filed no other lawsuits dealing with the same facts involved in this action.

II. PARTIES

3. The Plaintiff, Anthony P. Heard Jr. (hereinafter "Heard") is a citizen of the Wisconsin DOC, and was incarcerated at the Wisconsin Secure Program Facility (hereinafter "W.S.P.F") at all times relevant to this complaint. Wisconsin Secure Program Facility, 1101 Morrison Drive, PO BOX 1000, Boscobel, Wisconsin 53805.

4. Defendant James Patterson (hereinafter "Patterson") is a citizen of Wisconsin and was a State employee of the Wisconsin Department of Corrections (hereinafter "W.D.O.C.") Defendant Patterson was the Medical Doctor at the Wisconsin secure program Facility during all times involving the case. Defendant Patterson is being sued in his individual and official capacity, jointly and severally with the other Defendants named herein.

5. Defendant Jolinda Waterman (hereinafter "Waterman") is a citizen of Wisconsin and was a state employee of the Wisconsin Department of Corrections (hereinafter "W.D.O.C") Defendant Waterman was the health service manager at the Wisconsin Secure Program facility during all times involving this case. Defendant Waterman is being sued in his individual and official capacity jointly and severally with the other defendant named herein.

III. STATEMENT OF THE CLAIM

6. This claim is based on the mistreatment of Mr. Heard Leg conditions, and refusal to see Mr. Heard within a timely manner. Mr. Heard has a history of chronic leg issues including knee, and leg swelling, and chronic pain along with being diagnosed with Degenerative Joint Disease. All which is stated in Mr. Heard medical file at the prison, and are serious medical issues. The lack of attention paid to Mr. Heard file cause Dr. James Patterson to make the false statements "Mr. Heard has no previous history of right leg swelling" which this in fact is false because if Mr. Patterson would've look in Mr. Heard file he would've seen that in fact Mr. Heard does have a history of right leg swelling. Dr. James Patterson caused Mr. Heard harm by not making sure he was seen in a timely manner. This forced Mr. Heard to be in daily pain, and on bed rest missing out on recreation, and other activities, and work. Mr. Heard leg issues are serious medical needs, and should've been the Doctors main focus. Mr. Heard legs at the time of this incident were so bad that the institution on call medical doctor had to be call to see how to deal with Mr. Heard swollen legs, and the Institution on call Doctor informed the nurses that if Mr. Heard legs become worse or began to open to send him out to the local hospital. Health Service Manager (*herein "H.S.U.M"*) Jolinda Waterman was inform of Mr. Heard pain, and suffering as well as the amount of time that had pass before Mr. Heard was seen by the doctor, and was in fact spoken to by unit manager Brian Kool by email, and H.S.U.M Waterman inform Mr. Kool that Mr. Heard would been seen on 4/12/14, and when that day came Mr. Heard still wasn't seen. As the Health Service Manager it's Ms. Waterman's job to make sure that the rules are followed as well as to address concerns when they arise. It was her job to make sure that Doctor Patterson schedule was free so that Mr. Heard could be seen because the leg condition was serious, and Mr. Heard must express that Dr. Patterson didn't leave the Institution until 4:35pm the day of my

first appointment 4/9/18. H.S.U.M Waterman knew of my swollen legs as well as my pain by not doing her job making sure Mr. Heard was seen it cause him further pain, and at that point Ms. Waterman became Deliberate Indifference to Mr. Heard Serious Medical Need.

Heard's leg Issues

Mr. Heard has a long history with chronic knee, and leg pain, and deformity as well as swelling which causing daily pain which dates back to Mr. Heard youth, and is well documented inside Mr. Heard Medical file. The history of Mr. Heard legs swelling is also inside of the medical file, and is a chronic ongoing issue Mr. Heard deals with daily. The lack of attention paid to Mr. Heard medical file cause Dr. James Patterson to not notice that this isn't the first time Mr. Heard legs have swollen up, and in fact has happen in the past unlike Dr. Patterson statement placed in Mr. Heard medical chart which notes: "*That Mr. Heard has no history of Right leg swelling.*" Which in fact this is a false statement, because Mr. Heard medical file will show that on 4/10/16 both knees were swollen, and on 5/9/16 no improvement in lower extremity, and on 1/26/18 examined bilateral legs, and feet both with edema, and +2 pitting this last appointment was only a couple months before the incident, and due to this belief Dr. Patterson chose to prolong Mr. Heard treatment, and push off his appointments causing Mr. Heard to live daily in pain, and agony with Permanent discoloration to both of his legs with swelling still as of 2019.

8. On 4/7/18 Mr. Heard Legs Began swelling up, and he was seen by the Health Service Department, and the swelling was +3 pitting on left leg with edema, and some color discoloration and +2 pitting on right leg with edema no discoloration. Nurse West, and Nurse Kimberling call the on call doctor, and was given instructions on how to treat Mr. Heard legs with dressings to cover just in case of leakage, some medication which included Amlodipine, and the doctor told the nurses if Mr. Heard legs start to open to send him to the local hospital. Mr. Heard was informed that he would be seen on 4/9/18 by the Institution doctor Mr. James Patterson.

9. On 4/8/18 Mr. Heard was seen again by the Institution Nursing staff, and his legs were still swollen +2 pitting to lower extremity with edema. Mr. Heard was still in a pain but feeling better with no further discoloration. Note Mr. Heard was given a card of the "AMLODIPINE" which is one of the causes of "Edema".

10. On 4/9/18 Mr. Patterson rescheduled Mr. Heard appointment "*Staten that he'll be seen the next day if possible which means that he was inside the institution, and not sick like the Nurse stated in my Health Service request response, and I note: Dr. Patterson didn't leave the Institution until 4:35*".

11. On 4/11/18 Mr. Heard ask Unit Manager Brain Kool to call, or Email the HSU Manager. HSU Manager Waterman emailed Mr. Kool, and told him Mr. Heard would be seen on 4/12/18.

12. On 4/12/18 Mr. Heard still wasn't seen.

13. On 4/14/18 Mr. Heard wrote HSU, and ask them what was taking so long for them to see him, and when the Request slip was return it was said *"that the doctor was out ill all last week"*. That would've meant he was out the Institution the week of 4/9/18-4/13/18. However, that's not what The HSU manager told Mr. Brain Kool, and if he was ill how was he able to signed in Mr. Heard chart, and reschedule the appointment.

14. On 4/17/18 Mr. Heard again wasn't seen by the Doctor, and again it was rescheduled until 4/18/18.

15. On 4/18/18 Mr. Heard was finally seen by Doctor James Patterson, and during this appointment Mr. Heard legs were again examined, and it was noticed (L) leg swollen down to heel, and quite large. (R) Leg was obviously swollen from knee down Edema firm on the internal aspect, and warm still +2 Pitting. Instead of Dr. Patterson reviewing Mr. Heard file before the appointment so that he would be prepared to assess Mr. Heard Leg condition properly he came into the appointment not knowing that Mr. Heard has a history of both legs swelling he stated: "*in Mr. Heard file that there is no history of swelling to (R) Leg.*" This Statement is false, and Mr. Heard's health service file will show that.

16. On 4/18/18 Mr. Heard wrote an inmate complaint.

17. On 4/23/18 Mr. Heard was seen again legs still swollen, and in pain.

18. On 5/7/18 ICE responded "Complaint is affirmed noting the delay in follow-up appointment.

19. On 5/18/18 The Reviewing Authority wrote "complaint is affirmed because patient was not seen in a timely manner. HSU Manager is reviewing the providers scheduling.

20. Upon information, and belief the HSU department is still continuously delaying appointments causing inmates harm.

21. On 3/18/2019 Mr. Heard was seen by the WSPF Health service department, and still his bilateral ankle Edema was +3 (6mm) pitting, and Bilateral pedal Edema 1+ (2mm) pitting.

22. On 10/7/19 a year, and 6 months later while inmate Heard was sitting in his assign cell watching TV he felt something dripping on his foot, and turn on the light, and notice blood coming out of his left ankle, and a pool of blood surrounding his foot. Upon information, and belief this come from Mr. Heard leg swelling from 4/7/18 this belief is because Mr. Heard never had any sores or wounds at that area. Mr. Heard was then seen by the HSU department who just put a covering over it to stop the bleeding, and even the nursing staff couldn't find a hole but did see the area where the blood was coming from.

23. Then on 10/8/19 between 12am, and 12:30am Mr. Heard woke up to find himself laying in a pool of blood covering him, his sheets, and blankets. Again Mr. Heard was given another set of covering to place over area to stop the bleeding. This time Mr. Heard wasn't seen by the nursing staff but instead Lt. Hulce along with CO11 Berger came, and gave Mr. Heard the coving.

COUNT 1: 42 U.S.C. § 1983,

**EIGHTH AMENDMENT CRUEL AND UNUSUAL
PUNISHMENT**

24. Plaintiff re-alleges, and incorporates by reference paragraphs 7-20

25. A "serious medical need" means that the illness or injury is sufficiently serious or painful to make the refusal of assistance uncivilized, and it should not be of the type for which people who are not in prison do not seek medical attention. See *Cooper v. Casey*, 97 F.3d 914, 916 (7th Cir. 1996). "Deliberate indifference" implies "an act so dangerous that the defendant's knowledge of the risk of harm resulting from the act can be [*181] inferred." *Duckworth v. Franzen*, 780 F.2d 645, 652 (7th Cir. 1985) Deliberate indifference

[T]he Eighth Amendment requires the government "to provide medical care for those whom it is punishing by incarceration." *Snipes v. DeTella*, 95 F.3d 586, 590 (7th Cir.1996) (quoting *Estelle v. Gamble*, 429 U.S. 97, 103, 97, S.Ct. 285, 50 L.Ed.2d 251 (1976)). In order to succeed on a claim of deliberate indifference, a plaintiff must establish facts from which it can be inferred that he had a serious medical need (objective component) and that prison officials were deliberately indifferent to this need (subjective component). *Id.* at 104, 97 S.Ct. 285; see also *Gutierrez v. Peters*, 111 F.3d 1364, 1369 (7th Cir.1997). The Court of Appeals for the Seventh Circuit has held that "serious medical needs" are not only conditions that are life threatening or that carry risks of permanent, serious impairment if left untreated, but also those in which the withholding of medical care results in needless pain and suffering. *Gutierrez*, 111 F.3d at 1371.

Due To Mr. Heard's Chronic painful leg & Knee condition, bone deformity, Degenerative Joint Disease, Weight and the time that Doctor Patterson, took to see Mr. Heard, as well as the lack of scheduling by H.S.U.M Waterman, and not doing what she needed as the supervisor to make sure Mr. Heard was seen by the doctor on 4/9/18 when Dr. Patterson was inside the institution until 4:35pm that day. Mr. Heard not seeing the Doctor after his first interaction with WSPF HSU Nurses cause Mr. Heard to be in constant pain and suffered for week's further discoloration to Mr. Heard legs which has become permanent, and Mr. Heard was forced to not work or attend daily recreation, and other daily activities because of the pain, and his swollen legs. On information and belief, the violation of the Eighth Amendment, as asserted herein, was willful, oppressive, and malicious and deserves an award of punitive damages in order to punish and deter further wrongdoing.

JURY TRIAL DEMAND

26. Mr. Heard demands trial by jury of all issues thus tribal herein.

IV. RELIEF SOUGHT

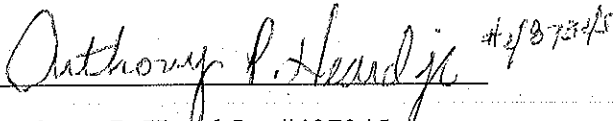
27. As a direct and proximate result of each of the causes of action asserted herein referred as to "COUNT(S)" Mr. Heard has suffered harm and has been damaged, which entitles him to the following relief:

- (I) Nominal damages of \$7,000.00 or an amount the Court shall establish is just, from the Defendant, jointly and severally for each cause of action asserted herein;
- (II) Presumed damages in the amount the Court shall establish is just, from each of the defendants, for each cause of action asserted herein;
- (III) Compensatory damages in the amount the Court shall establish is just, from each of the Defendants, for each cause of action asserted herein;
- (IV) Punitive damages in the amount of \$5000.00 the Court shall establish is just to punish the Defendants and deter further violent behavior, jointly and severally against said Defendants, for each cause of action asserted herein;
- (V) Attorney fees, pursuant to 42 U.S.C. § 1988, should one appear, along with all fees and costs incurred as a result of this action; and
- (VI) All other relief this Honorable Court deems appropriate.

VERIFICATION

Pursuant to 28 U.S.C. § 1746, I, Anthony Heard, being of sound mind and body, free of threat or coercion, and having reached the age of majority do hereby attest that the above averments are true and correct to the best of my personal knowledge and attest to the same under penalty of perjury and will testify to the same in court.

Respectfully submitted this _____ day of _____ 2020



Anthony P. Heard Jr. #487345