

ORIGINAL

IN THE UNITED STATES DISTRICT COURT

Civil Action No. 17-cv-01362-RM- NRN

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

OCT 22 2018

JEFFREY P. COLWELL
CLERK

1. JOHN STOOPS,
Plaintiff,

v.

FOR THE DISTRICT OF COLORADO

2. CHARLENE LARSON (S.C.F. medical), in her individual and/or, personal and/or official capacities;

3. BRITTANY DOWIS (S.C.F. medical), in her individual and/or, personal and/or official capacities;

4. GRACE L. KIER (S.C.F. medical), in her individual and/or, personal and/or official capacities;(Med-line nurse.)

5. LORI HOLTER (S.C.F. medical), in her individual and/or, personal and/or official capacities;(Med-line nurse)

6. CORRECTIONAL HEALTH PARTNERS, In their individual capacities;

7. MARY MARGARET, in her individual capacities, physical therapists working at Denver Health Medical Care;

8. D. TOWNE, in her individual capacities; physical therapists working at Denver Health Medical Care;

PRISONER COMPLAINT

AMENDED COMPLAINT 10-17-18

ORIGINAL

A. PARTIES

John F. Stoops CDOC Number 96719, P.O. Box 6000, Sterling, Colo., 80751

(Plaintiff's name, prisoner identification number, and complete mailing address)

2. Charlene Larson, S.C.F. Medical, P.O. Box 6000, Sterling, Colo., 80751

(Name, title, and address of first defendant)

At the time the claim(s) alleged in this complaint arose, was this defendant acting under color of state law? Yes No (CHECK ONE). Briefly explain your answer:

Defendant was working for the Colo. Dept. of Corr. at the time of the incident.

3. Brittany Dowis, S.C.F. Medical, P.O. Box 6000, Sterling, Colo., 80751

(Name, title, and address of second defendant)

At the time the claim(s) alleged in this complaint arose, was this defendant acting under color of state law? Yes No (CHECK ONE). Briefly explain your answer:

Defendant was working for the Colo. Dept. of Corr. at the time of the incident

4. Grace L. Kier, S.C.F. Medical, P.O. Box 6000, Sterling, Colo., 80751

(Name, title, and address of third defendant)

At the time the claim(s) alleged in this complaint arose, was this defendant acting under color of state law? Yes No (CHECK ONE). Briefly explain your answer:

Defendant was working for the Colo. Dept. of Corr. At the time of the incident.

(If you are suing more than three defendants, use extra paper to provide the information requested above for each additional defendant. The information about additional defendants should be labeled "A. PARTIES.")

A. PARTIES

5. Lori Holter, S.C.F. Medical, P.O. Box 6000, Sterling, Colo., 80751

(Name, title, and address of third defendant)

At the time the claim(s) alleged in this complaint arose, was this defendant acting under color of state law? Yes No (CHECK ONE). Briefly explain your answer:

Defendant was working for the Colo. Dept. of Corr. At the time of the incident.

6. Correctional Health Partners, 1515 Arapahoe, Tower 1, Denver, Colorado
All employees' who were aware of how bad the conditions were in S.C.F. medical and did nothing to change them

At the time the claim(s) alleged in this complaint arose, was this defendant acting under color of state law? Yes No (CHECK ONE). Briefly explain your answer:

Defendants' were contracted by the C.D.O.C. to work in the prison system, and were obligated to provide adequate medical care to the inmates. Defendants' have been aware of lack of proper medical care for several years, and have nothing to correct the problem, they have hid behind Qualified Immunity.

7. Mary Margaret, Denver Health Medical Center, 777 Bannock St. Denver, Colo.

At the time the claim(s) alleged in this complaint arose, was this defendant acting under color of state law? Yes No (CHECK ONE). Briefly explain your answer:

The defendant was a physical therapists working for Denver Health Medical Center at the time of incident. Denver Health Medical Center is one of several hospitals under contract with Defendant Correctional Health Partners to treat inmates from C.D.O.C.

8. D. Towne, Denver Health Medical Center, 777 Bannock St. Denver, Colo.

At the time the claim(s) alleged in this complaint arose, was this defendant acting under color of state law? Yes No (CHECK ONE). Briefly explain your answer:

The defendant was a physical therapists working for Denver Health Medical Center at the time of incident. Denver Health Medical Center is one of several hospitals under contract with Defendant Correctional Health Partners to treat inmates from C.D.O.C.

B. JURISDICTION

1. I assert jurisdiction over my civil rights claim(s) pursuant to: (check one if applicable)

 X 28 U.S.C. § 1343 and 42 U.S.C. § 1983 (state prisoners)

 28 U.S.C. § 1331 and *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971) (federal prisoners)

2. I assert jurisdiction pursuant to the following additional or alternative statutes (if any):

42 U.S.C. 12101 et seq.

C. NATURE OF THE CASE

BRIEFLY state the background of your case. If more space is needed to describe the nature of the case, use extra paper to complete this section. The additional allegations regarding the nature of the case should be labeled “C. NATURE OF THE CASE.”

On 6-9-15 while pushing food carts back from unit 4, I had a gran-mal epileptic seizure which resulted in a fractured hip. I was taken to medical in a wheelchair by security “first responders”, who are officers that respond to emergencies in an emergency situation that are called for by other officers when needed. After I got to medical and told the nurse who was examining me that my hip hurt, she stopped the examination on me (that is required by C.D.O.C. policy) sent me back to my living unit telling me that I would be called back over for a follow up.

Medical refused to examine me even though I had declared an emergency at least six times by putting in emergency medical kites, and telling med-line nurses who worked on 6-11-15 and 6-12-15 P.M. on the units’ 3-4 sides’ shifts handing out medication what had happened and I was in severe pain and having trouble walking. I was told that I would be put on the “call list” for the following day. I had also told several C.D.O.C. employees’ what had happened to no avail. I was not called back to medical until the morning of 6-13-2017, when I could no longer walk, where I was given a wheelchair, until that night at count time when I was unable to stand for count. Because of their grossly and wantonly negligent acts, I was forced to walk on a broken hip from 6-9-2017 until 6-13-15, turning a hairline fracture into a major break requiring a hip replacement.

The first hospital could not perform such an extensive surgery, so they transported me to

C.NATURE OF THE CASE

Denver Health Care on the morning of 6-14-15 by ambulance, the physical therapists who work at Denver Health Care broke my hip worse by yanking ~~me~~^{me} in the air, using belts they had attached to the my waist and having me hold on to a walker, out of instinct and reflex I had put down the leg that had the broken hip. When I landed on my broken hip I screamed in pain, and continued to scream for more than 30 seconds because the physical therapists were pushing and pulling me in an attempt to get me to stand on his broken hip. During this time Sgt. Sherwood, the escorting officer did nothing but laugh. I finally rose my hand in ass self-defense stance which ended the assault. Even though my hip was severely broken Denver Health Care refused to operate until 6-16-15, they even attempted to send me back to prison until they could operate. When they finally operated they had to do a hip replacement because the break was so severe, from the initial fall and the actions of the physical therapists.

D. CAUSE OF ACTION

State concisely every claim that you wish to assert in this action. For each claim, specify the right that allegedly has been violated and state all supporting facts that you consider important, including the date(s) on which the incident(s) occurred, the name(s) of the specific person(s) involved in each claim, and the specific facts that show how each person was involved in each claim. You do not need to cite specific cases to support your claim(s). If additional space is needed to describe any claim or to assert more than three claims, use extra paper to continue that claim or to assert the additional claim(s). The additional pages regarding the cause of action should be labeled "D. CAUSE OF ACTION."

1. **Claim One: Eighth Admendment violation/ Cruel and Unusual Punishment Plaintiff was forced to walk on broken hip for 4 days before receiving medical attention.**

Charlene Larson; Medical Dept. at Sterling Corr. Facility,

Brittany Dowis; Medical Dept. at Sterling Corr. Facility,

Lori Holter; Medical Dept. at Sterling Corr. Facility,

Grace L. Kier; Medical Dept. at Sterling Corr. Facility.

Supporting Facts:

1. On 6-9-2015 I was pushing food carts back from unit 4 in the Sterling Correctional Facility (SCF) when I had a gran-mal epileptic seizure that lasted about 20 seconds. During the seizure I fell and was injured. I skinned my elbow, cut my hand, and broke my right hip. I was placed in a wheelchair by emergency responders, officers who respond to an emergency situation, and wheeled to SCF Clinical Services.
2. SCF Clinical Services is an on-site medical clinic located inside the Sterling Correctional Facility. Once I arrived at the Clinic I was seen by Charlene Larson. Ms. Larson informed me that she had to do a full anatomical, which means a head to toe examination, and all injuries must be noted on a chart. Ms. Larson cleaned out the all the gravel from my hand and elbow, she then asked me if there was anything that else that hurt. I told her my right hip was hurting. She then verified what I had just told her, and then she told me, "Okay I'm done, you can leave now." I asked "What about my hip?". Ms. Larson replied "You'll be called back over for a follow-up". When I looked at the security officer (name unknown) he told me there was nothing he could do, if she (Ms. Larson) said I have to go then I have to leave.
3. When I attempted to get up I had an intense pain shoot up my leg, I informed Ms. Larson of this and was told to "walk it off". I limped back to unit 3, where I'm housed, and informed the unit staff as to what had happened and then went and laid down. Ms Larson violated both C.D.O.C. policy, and professional ethics by making me walk (limp) out of medical without examining my hip, and because of her refusal to examine me and/or sending me to a hospital for an x-ray as a precaution caused me to walk on a broken hip,

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leaving me in severe and intense pain.

4. The following events would take place over the next 4 days; I was forced to walk to and back from the recreation dept. where I was assigned to work, (I let my boss officer Bolton know that I was unable to work because of what had happened and was able to sit down and only do paperwork), I was also forced to walk back and forth to the chow hall, (approx. 1/5 of a mile roundtrip) and to the med-line to get my epileptic medication. While I was in med-line I would tell the nurse that "I was in severe pain, had trouble walking, and needed to be seen". I told the nurses handing out medicine that I was in severe pain and that I could hardly walk. I was told that I would be put on the "on call" list for the following day and would be charged \$5.00 for an emergency. The med-line nurses should have called me over and examined me the night that I told them of how much pain I was in. Failure to do so resulted in me having to walk on a broken hip for 4 days. Every night I would put an "emergency kite" in the medical box explaining what had happened, and that I was in severe pain. (Usually when you declare an "emergency" you are seen within 24 hrs. and charged \$5.00 per D.O.C. policy.)
5. On Thursday when they called for work, the officer working "control" in my unit, control is the officers in charge of opening and closing all doors as well making sure the inmates are not doing anything that their not supposed to as well as several other duties, seen how badly I was walking and when I explained what was going on she sent me back to my cell telling me she would call my boss, and medical, after about 10 minutes she came over the speaker in my cell to let me know that my boss had been notified, and that medical said "they were aware, and that I was on a list". Thursday night when I went to med-line to get my epileptic medication, I let the nurse handing out medicine what had happened and that I was in severe pain, and needed to be seen. The nurse told me that she would put me on the next day's "on-call" list and that I would be charged \$5.00 for an emergency call. The nurse as well as the security officer that works the med-line window (he checks to make sure inmates swallowed their meds) both of them seen how bad I was limping as well as being told verbally about the pain , and did nothing about it making me walk on a broken hip thereby making the break worse.
6. Friday, 6-12-15, I explained my situation to unit officer C/O Clark and asked him if I could use a "wheelchair" that was sitting in the hallway to go to med line, C/O Clark would refer me to the unit Sgt., I would then go into the unit office and explain my situation to her telling both officers how much pain I was in and I could barely walk. She would then call a Lt. in another unit and explain my situation. Sgt. Dolley would then explain that D.O.C. says that I couldn't use a wheelchair unless medical authorized it.
7. Because of the D.O.C. policy as well as unit staff failing to give me a wheel chair, I was forced to walk on a broken hip that was fractured even worse. After being told that, I put in another emergency kite telling medical that I could barely walk and needed either "crutches or a wheelchair". Friday night when I went to get my medication I was forced

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to walk behind a wheelchair holding on to the grips with two offender care assistants (O.C.A.'s) one on each side of me to make sure that I didn't fall. When I got to med-line both the security officer and the nurse were made aware of situation. (I'm not allowed to use a wheelchair for the purpose that I was using it for.) When I told the nurse of how much pain I was in, I received the same speech as the night before.

8. Saturday 6-13-15 at approx. 9:00 A.M., I was notified that I was to go to medical at 9:30, on my way over there my hip locked up requiring me to be taken to medical in a wheelchair. Upon arriving at medical I was seen by Brittany Dowis, she told me that I was on the list to be x-rayed on Monday, and that the x-ray technician only worked Monday thru Thursday. When I informed Ms. Dowis that I had fallen on Tuesday, asked "why wasn't I called over sooner?" She couldn't answer me. She also told me that the medical department located in Sterling Corr. Fac., was all out of wheelchairs and I would have to use crutches.
9. She issued me crutches at that time, and I attempted to walk on them. However, I was unable to support my weight on them because my broken hip didn't permit me to balance in any way. Upon taking a step with the crutches I immediately fell forward into the Correctional Officer who'd escorted me to the Clinic. The officer caught me and helped me into the wheelchair he'd taken me over to the Clinic in. Defendant Dowis was standing right there when this happened and observed the whole ordeal.
10. After that Ms. Dowis said "let me see if I can find a wheelchair", a few minutes later Ms. Dowis would return with a wheelchair without footrest on it and tell me that "they had no footrest". The C/O would try to push me back to the unit only to have my right foot catch on the ground, and almost flip me out of the wheelchair, Ms. Dowis would disappear and return with a footrest for my right leg. *All of this happened without Ms. Dowis ever looking at my hip, or taking any kind of vitals.* Ms. Dowis and the security officer both were told of how much pain I was in as well as observed the difficulty I had walking and did nothing but issue me a wheelchair, leaving me in severe pain.
11. Because of the limited amount of space in my cell I was unable to take the wheelchair all of the way into my cell, forcing me walk the distance of the cell whenever I had to enter or leave it, which was several times each day. After taking my medication that night and returning to my unit, I was hardly able to walk, even the distance of my cell. It took me over an hour to make to my bed using the toilet, and two stools that are attached to the wall for inmates to use while writing letters.
12. During the 9-15 P.M. count I declared an "emergency" telling Sgt. Ladd that I was in too much pain to stand up, and that I needed to go to medical. Once I arrived at medical I was seen by Lynn Kier who would offer to decontaminate me for the OC, I refused, and stripped of my pants and shirt Ms. Kier would examine me and leave. Sgt. William Sherwood was the security officer assigned to medical, and to watch over me. More than a hour would pass before I asked Sgt. Sherwood "when was I going to go to the hospital?" He replied 'That I wasn't going to the hospital, the nurse said there was

nothing wrong with you. They were simply waiting for my cell to clear out of OC and then they were taking me back to my cell.”

13. When I explained to Sgt. Sherwood that “I couldn’t bend my leg around the ladder in my cell”, he would respond “I guess that you will just have to stay here”, and he would walk out of the examination room. Ms. Kier would come back in and a small argument would incur basically going “that I had a broken hip and needed medical attention Ms. Kier would respond that “I’m sick and tired of you inmates self-diagnosing yourselves”. I would explain that I have had more than 20 different broken bones and I know what they feel like, and the last time I broke my hip, (left hip in Aug. 2000”, the nurse that examined me didn’t think that I had a broken hip either but had me sent to the hospital as a precaution, this time I have had to walk on a broken hip for four days. I would sit for more than an hour before finally being transferred to Sterling Regional Medical Center. Because of Ms. Kiers’ hostile attitude, and her hurried examination of me, I was forced to sit on an examination table for more than an hour in severe pain without anything for pain.
14. In less than an hour I was transported to the Sterling Regional Medical Center by Sergeant Sherwood. Sterling Regional Medical Center is the sole hospital in Sterling, Colorado. Medical staff at the hospital had me x-rayed, and I was then seen by Dr. Clark. Dr. Clark told me that “Because of you being forced to walk on it, what started as a hairline fracture has turned into a major break, it’s going to require a multi-day operation, one that cannot be performed at Sterling.” Dr. Clark told me I would have to be transferred to Denver Health, a hospital in Denver. He told me an ambulance was on its way, and the nurse was going to give me a shot of morphine for the pain.
15. Sgt. Sherwood then asked Dr. Clark “Can he walk?” Dr. Clark responded “No he can’t walk. He can’t apply any pressure to his leg without causing severe, and intense pain.” Sgt. Sherwood then told the Dr. that SCF Clinical Services said that there was nothing wrong with me. Dr. Clark then looked at the x-ray and said, “Have you ever cracked your wind shield and drove it until it spider-webbed?” Sherwood replied, “Yes”, and the Dr. explained, “That’s what happened to his hip.” It would take approx. 2 hr. for the ambulance to arrive, at which time I was given another shot of morphine for pain for the ride to Denver Health Care.

**2. Claim Two Eighth Amendment Violations/Cruel and Unusual Punishment/
Grossly and Wantonly Negligent acts
Mary Margaret, D. Towne (Physical Therapists', Denver Health
Medical Center)**

Supporting Facts:

I incorporate in this Claim Two by reference all of the facts in my Claim One. Additionally, I state the following.

16. I would arrive in Denver after the sun had come up, and shortly after arrival a doctor who identifying himself as "Jessie, and telling me that he would be the one operating on me." After looking at the x-ray Dr. "Jessie" would reply "you really did a number on your hip"
17. Dr. Jessie would then walk over to Sgt. Sherwood and say "I wish you would have called before you brought him down here, I could have saved you the trip. I can't operate on him until Tuesday, so take him back to prison." Sgt. Sherwood said "okay", and started reaching for the restraints while Dr. Jessie started to walk away.
18. Before he could exit I said "wait a minute, what do you mean take back to prison?" Dr. Jessie would walk over to me and say "I can't operate on you till Tuesday, (it was now Sunday morning), and you're not staying here."
19. I would then explain about the ladder in my cell and how I couldn't bend my leg around it, Dr. Jessie would respond "the prison is simply going to have to accommodate you", I would reply "I have a medical emergency, they bought me to the hospital, which is there accommodation". Dr. Jessie would lean real close to me and say "have you ever heard the adage about not pissing off the cook before you eat?" I would reply "have you ever heard about cruel and unusual punishment being both criminal as well as civil?" Dr. Jessie would reply "we'll just let physical therapy decide," and turned and walked away.
20. At this time Sgt. Sherwood would attempt to put restraints on me and the nurse (name unknown) who was in the room the whole time would get between us and repeat to Sgt. Sherwood what the Dr. had said about letting physical therapy examine me and decide.(Before Sgt. Sherwood attempted to restrain me again, he was on my left almost behind me now he was almost directly in front of me just glaring at me.)
21. The hospital staff would come in approx. 5 minutes later and give me another shot of Morphine, about 5 minutes later they would give me 2 Oxycodone About 20 minutes later 2 women identifying themselves as physical therapists would come with a walker in one hand and 2 weight belts, after unfolding the walker and putting the weight belts on me. They would then tell me that they were going to have me ease myself down on the walker. I would grab the handles and slowly inch myself toward the walker.

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22. When I was at the edge of the bed, both of therapists would jerk me in an upward motion lifting me and the walker into the air and release me. Out of instinct and reflex I would straighten out my leg with the broken hip, and scream very loudly in pain. Every time I would try to take the pressure off of my broken hip, the therapists would do a push/pull on me keeping me on my broken hip, during this time I would look at Sgt. Sherwood and he had his hand over his mouth, bent over, and laughing so hard that his face and head “skin head” were turning red.
23. After about 30 seconds of this Sgt. Sherwood would start to cry he thought it was so funny, (during this time several people would come to see what was happening because of my constant screaming, someone on the other side of the curtain was telling them they had to leave) When I saw the tears start to run down Sgt. Sherwood’s face, and I realized that he wasn’t going to do anything to stop the therapists from further injuring me, I rose my hand in self-defense posture so I could defend myself from further injury.
24. When I did that several things would happen; the therapists would throw me on the bed, one of them would inject me with more Morphine while the other shouted above my screams that I was staying, Sgt. Sherwood would stop laughing, draw his weapon and attempt to get to me but the nurse who was in the room stepped in between us and shouted several times **“HE’S STAYING.”** The nurse would then stand between me and Sgt. Sherwood and tell someone unknown to me to take me down to C.C.U.
25. I’d be transferred down to the Correctional Care Unit and they put me on Morphine every 2 hrs. and Oxycodone every 4 hrs. I would have to wait more than 48 hrs. Before surgery, although I was only supposed to have pins inserted in my hip Denver Health Care would replace my hip with a titanium hip costing more than \$100,000.00. Supposedly because my hip was so badly broken that it was going to take more than a dozen pins to put my hip back together, and that would have weakened my hip.
26. I believe that the real reason was to cover up the fact that my hip was more severely broken by the Physical Therapists, and the x-rays they took just before surgery will prove this. I would later have a bone density scan that would show that I had Osteoporosis and that my bone density is -2, to have Osteoporosis you’re bone density has to be 2.5 or below, a severe case is considered to be 0.1 to 0.4. To date I haven’t been allowed to get records from medical to file with the court. I have sent in many medical kites as well as filed a grievance to get records.

D. CAUSE OF ACTION

3. Claim Three Eighth Amendment Violations

Correctional Health Partners

27. **Supporting Facts:** I incorporate into this claim four; all of the facts in claim one, and claim 2 by reference numbers 17-25. Additionally I state the following facts;
28. My constitutional rights were violated as a result of a policy of biased investigations and C.D.O.C. policy's, which leaves staff members free to break the law, as well as not having to follow policy knowing that they will not be held accountable. Above named defendants knew that there was a problem with the medical department at Sterling Corr. Facility prior to plaintiffs' injuries and have done nothing to correct it.
29. Because of their negligence they are responsible for mine as well as several other inmates' lack of medical attention (most after a Dr. at the hospital in Sterling has told Sterling Corr. Facility that the inmate needed surgery, but had to wait because the Provider (Correctional Health Partners) has not Okayed it.) The following is a list of some of inmates' names, and the information associated with their cases. Because of the defendants' failure to take care of the problems and make changes that exist in S.C.F. medical dept., I was forced to suffer and have to live with the repercussions of that incident for the rest of my life.
30. **Hal Herbert** fell down putting a hole in the cartilage that separates the hips apart, Mr. Herbert was taken to the Sterling Regional Medical Facility in Sterling, Colo. And the examining Dr. said that Mr. Herbert needed immediate surgery Mr. Herbert was returned to Sterling Corr. Facility where he would have to wait more than a year to receive an operation. During this time Mr. Herbert was in constant pain, and he had to stop several times a day and push his insides back into him using his pinky finger
31. **George White** diagnosed with a massive growth on the brain requiring immediate surgery. Mr. White had to go into a wheelchair, and was still waiting for the provider to Okay his surgery More than eight months later. Mr. White was transferred to another part of the prison where inmates couldn't communicate with each other.
32. **Gregory Ewing** declared 3 emergencies in 6 days, each time he was told that he had a bad flu and refused medication for the symptoms because medications could be bought on canteen. It takes 7-14 days to receive canteen. A couple of hours later Mr. Ewing would pass out in the restroom and would wake up in the isolation ward in Denver Health Care 10 days later diagnosed with a staph infection that went septic because of lack of medical attention.
33. **Melvin Fischer** started having several Gran-mal seizures a week, and his right leg was seizing at least 15 percent of the time, putting him in a wheelchair. The reason this

happened was because the Medical Dept. at Sterling Corr. Facility was giving Mr. Fischer 3 times the legal limit set by Government. There are several more cases that have happened in Sterling Corr. Facility where the inmate needed medical attention and was denied, or delayed treatment because of the Provider not authorizing the medical expenses.

34. Each of the above named defendants is in position of power and/ or authority to make changes in this facility's way of doing things when it comes to medical care, but do nothing about it. Thereby leaving the medical staff in a state of mind that they can break the law because we are prisoners, so they have nothing to fear. Even though the incidents named above took place, some of them prompting investigations by above named defendants, one by the Governors office, they still refuse to make changes in policy or the staff that continually break the law.
35. All above named defendants that work for the C.D.O.C, have the power and authority to change policy as well as fire the individual's that continue to violate the law, for some of the employee's it would amount to nothing more than corrupt or malicious motives, but the above named defendants have done nothing.
36. Correctional Health Partners has the authority to choose who they insure, and though there have been several complaints involving the above named defendants C.H.P. continues to insure them. Without their insurance they could not work here.
37. All evidence involving this incident is either in my medical files (which are being kept from me even though I filed a grievance in this matter, and was granted by medical, but I was never called over to view them. According to medical they scheduled me on March 8, 2017, but I never showed up. That is a lie, and can be proved by looking at my inmate account statement for the month of March. C.D.O.C. has a policy that if you fail to show up for a scheduled appointment you will be charged a "no show" fee. I was never charged.) Since finding out about my alleged "no show" I have sent in numerous medical kites without a response. As far as evidence concerning C.H.P. I am incarcerated without an attorney, and have no way of getting records, as well as policy concerning protocol for the treatment of inmates in medical, both inside and outside of prisons.

D. CAUSE OF ACTION

4. Claim Four: Eighth Amendment Violations

Brittany Dowis; Medical Dept. at Sterling Corr. Facility

Charlene Larson; Medical Dept. at Sterling Corr. Facility

Grace L. Kier; Medical Dept. at Sterling Corr. Facility (Med-line nurse)
~~JANE DOE'S X 2, S.C.F. medical~~

Lori Hatter; Med-line nurse for the Medical Dept at Sterling Corr. Facility

Mary Margaret; Physical Therapists', Denver Health Medical Center

D. Towne; Physical Therapists', Denver Health Medical Center

**Supporting Facts: I incorporate into this claim five; all of the facts in claims 1-4.
Additionally I state the following facts;**

This incident started when I had a grand-mal seizure, and Defendant Larson refused to examine me once she found out that my hip hurt, which started a chain reaction of grossly and wantonly neglect acts by the above named defendants that led to my suffering and pain for four days, before I was finally taken to the hospital. Once there I suffered a physical assault by hospital employees and had to wait another 48+ hrs. in severe pain before they would operate. Because of the treatment I received at Denver Health Care by Dr. Jessie (LNU) and the two physical therapists, I had to have to have a hip replacement instead of just having to have pins in my hip. Because of my osteoporosis, failure to operate hip fractures, in particular, usually requires prompt surgery, as serious risks are associated with it, such as deep vein thrombosis, pulmonary embolism, and increased mortality.

Supporting Case Law

The following are just some of the case law supporting my case, because there are several different case laws that apply to more than one claim, I put them into one area;

Estelle v. Gamble, 429 U.S. 97,104, 106, 97 S.Ct.285 ; The Supreme Court has stated that “deliberate indifference to serious medical needs of prisoners constitutes the “unnecessary and wanton infliction of pain”...(the Eighth Amendment proscription of “cruel and unusual punishment “is violated by “deliberate indifference to serious medical needs of prisoners.”

Estelle v. Gamble, 429 U.S. 97, 104, 106, 97 S.Ct.285, Farmer v. Brennan, 511U.S .825, 834, 842-43, Deliberate indifference involves both an objective and subjective component. Meets both prongs as established in above cases.

Farmer v. Brennan, 511 U.S. 825,842-43,114 S.Ct. 1970; Mata v. Saiz, 427 F3. 745, 749, 755; Alsina-Ortiz v. LaBoy; 400 F.3. 77, 83; Mc Elliott v. Foley, 182 F.3d. 1248, 1256. Estelle v. Gamble, 429 U.S. 97,104, As with other Eight Amendment claims, the deliberate indifferent standard requires a plaintiff to show that the defendants had actual knowledge of an objectively cruel condition, (in medical cases, a serious medical need) and did not respond reasonably to the risk. The fact that the risk was obvious can support a finding that the defendants knew about it. Courts have defined “serious” in two different ways. The first definition states that a medical need is serious when it “has been diagnosed by a physician mandating treatment or... is so obvious that even a layperson would easily recognize the necessity for a doctor’s attention. The second definition states that a serious medical need exist when “the failure to treat a prisoner’s condition could result in further significant injury or the unnecessary and wanton infliction of pain.”

Estelle v. Gamble 429 U.S. 97,106, 97 S.Ct. 285 (prison personnel may be held liable for their failure to act if it results in constitutional violation),(“medical care claims may be based on (acts or omissions”)

West v. Adkins, 487 U.S. 42, (ruling a private Dr. can be sued)

Vance v. Peters 97 F.3d. 987, Courts will also consider any complaints, or grievances you, or other inmates have filed, as well as records. Prison officials cannot ignore the problem once it has been brought to their attention.

Kikumura v. Osagie, 461 F.3. 1269, 1291, 1296, (holding delay must have caused “substantial harm”, including pain suffered while awaiting treatment)

West v. Key, 571 F. 2d. 158, 161-62; Inactions on dates 6-9-2015 thru.6-16-2015 demonstrate deliberate indifference to plaintiffs’ medical needs. Pain while awaiting delayed operation; two to three and a half hours stated a claim.

Mc Raven v. Sanders, 577 F.3. 974, Prison officials can be held liable even for following the advice of prison medical officials if it is obvious, even to a layperson that the person is in need of

hospitalization or critical medical care.

Supporting Case Law

Sealock v. Colo., 218 F. 3d. 1205, 1210; (a showing of “substantial harm” is necessary for delay in treatment to be considered serious, but pain and suffering resulting from the delay can satisfy the requirement.

Vaughn v. Gray, 557 F.3d. 904, 909; Scicuna v. Wells, 345 F.3d. 441, 446; The court does not have to accept medical staffs statements that they did not know you had a serious need if there is evidence (direct or indirect) to the contrary. The same is true where non-medical personal fail to act but there is evidence that they did know ill or at risk.

Davis v. Rennie 264 F.3d.86, 114; Alexander v. Perrill, 916 F.2d.1392, 1395 (prison officials “can’t just sit on their duff and not do anything” to prevent violations of rights)

Lewis v. Mitchell, 416 F. Supp. 935, 945; (a person may be liable under a 1983 if he “omits to perform as act which he is legally required to do that causes the deprivation of which [the plaintiff complains]. Quoting Johnson v. Duffy, 588 F.2d. 740,743

Merritt v. Hawk, 153 F.Supp.1216, 1227, 1228; (plaintiffs’ allegations that he had informed various supervisory officials about his problems sufficiently pled their personal involvement)

Novitsky v. City of Aurora, 491 F.3d. 1244,1255-56; (finding law is clearly established if plaintiff presents law from other circuits that is on point)

Eastwood v. Department of Corrections of the State of Oklahoma; 846 F.2d. 627,630; (“some but not precise factual correspondence” to previous case law is required to defeat qualified immunity)

Nelson v. Prison Health Services Inc., 991 F. Supp.1452, 1465; (court monitors reports finding “pervasive and deep seated failures” including staff’s “unwillingness to respond to inmates request for treatment” could support liability of county as well as medical provider)

Sealock v. Colorado, 218 F.3d.1205, 1210; (some courts have held that delay is only actionable when it results in substantial harm)

Brown v. Hughes, 894 F.2d.1533, 1538; (one court has stated that an unexplained delay of hours is a prima facie case of deliberate indifference)
Accord, Reed v. Dunham; (four delay in treating a broken foot)

U.S. v. Georgia, 546 U.S. 151,159-60, 126 S.Ct. 877; ([I]n so far as Title II creates a private cause of action for damages against the States for conduct that actually violates the Fourteenth Amendment. Title II abrogates state sovereign immunity.

Lavender v. Lampert, 242 F. 2d. 821, 845; (“the existence of chronic and substantial pain demonstrates a serious medical risk”)

Hartman v. Correctional Medical Services, 960 F.Supp. 1577, 1582-83; Nelson v. Prison Health **Supporting Case Law**

Services Inc., 991 F. Supp. 1452,1465; (court monitors reports finding “pervasive and deep seated failures”, including staffs “unwillingness to respond to inmates request for treatment” could support liability of county, as well as medical provider)

Segler v. Clark county; 142 F. Supp. 1264,1269; Holding private provided is not a municipality, and should not be treated as one. Plaintiff need not show a corporate policy and may recover punitive damages, which are not available against municipalities.

Mata v. Saiz, 427 F. 3d, 745,756; Defendants violate published professional standards of care or the prisons own procedures for medical care- though these by themselves do not a constitutional violation- they may also be found to have had actual knowledge. The standards or procedures may “provide circumstantial evidence that a prison health care gatekeeper knew of a substantial risk or serious harm” in the situations for which they give instructions.

Alisna-Ortiz v. LaBoy, 400 F.3. 77,81-82; Bass v. Wallenstein, 769 F.2d. 1173, 1184-86; You don’t always have to show that the defendants had any knowledge of your medical condition. Deliberate indifference can be found if they had actual knowledge that there were deficiencies in the medical care system that created a risk of the kind of harm that happened to the plaintiff. High level officials could be held liable for line staffs failure to get medical care for an obviously sick prisoner if they “knew of a continuing pattern of culpable failures”, and made no reasonable attempt to remedy the problem.

Anderson v. Creighton, 483 U.S. 635, 640,107 S. Ct. 3034, Hope v. Pelzer, 536 U.S. 730, 739-40, 122 S. Ct. 2508; (officials can be on notice that their conduct violates established law even in “novel circumstances”; courts need not have held that “fundamentally similar” conduct was unlawful to defeat qualified immunity.

Lawrence v. Reed, 406 F.3.1224,1232; (...[T]he overarching inquiry is whether, in spite of the existence of a statute, a reasonable officer should have known that his conduct was unlawful.)

E. PREVIOUS LAWSUITS

Have you ever filed a lawsuit, other than this lawsuit, in any federal or state court while you were incarcerated? Yes No (CHECK ONE). If your answer is "Yes," complete this section of the form. If you have filed more than one lawsuit in the past, use extra paper to provide the necessary information for each additional lawsuit. The information about additional lawsuits should be labeled "E. PREVIOUS LAWSUITS."

1. Name(s) of defendant(s) in prior lawsuit: N/A

2. Docket number and court name: _____
N/A

3. Claims raised in prior lawsuit: _____
N/A

4. Disposition of prior lawsuit (for example, is the prior lawsuit still pending? Was it dismissed?): _____
N/A

5. If the prior lawsuit was dismissed, when was it dismissed and why? _____
N/A

6. Result(s) of any appeal in the prior lawsuit: _____
N/A

F. ADMINISTRATIVE RELIEF

1. Is there a formal grievance procedure at the institution in which you are confined?

 x Yes No (CHECK ONE).

2. Did you exhaust available administrative remedies? x Yes No (CHECK ONE).

G. REQUEST FOR RELIEF

State the relief you are requesting. If you need more space to complete this section, use extra paper. The additional requests for relief should be labeled "G. REQUEST FOR RELIEF."

Nominal damages; to be decided by court/jury

Compensatory damages; to be decided by court/jury

Punitive damages to be decided by court/jury

Change in policy to make medical staff to respond to medical problems in an appropriate time and manner.

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I am the plaintiff in this action, that I have read this complaint, and that the information in this complaint is true and correct. *See* 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Executed on 10-17-18
(Date)

 John Stoops
(Prisoner's Original Signature)