

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

DEC 14 2023

JEFFREY P. COLWELL
CLERK

Civil Action No. _____
(To be supplied by the court)

Joseph Vaneck , Plaintiff

v.

Jury Trial requested:
(please check one)

X Yes No

Core Civic of America ,

Tejinder Singh ,

Christianna Cappellucci ,

, Defendant(s).

(List each named defendant on a separate line. If you cannot fit the names of all defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Section B. Do not include addresses here.)

PRISONER COMPLAINT

NOTICE

Federal Rule of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should not contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include only: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Plaintiff need not send exhibits, affidavits, grievances, witness statements, or any other materials to the Clerk's Office with this complaint.

A. PLAINTIFF INFORMATION

You must notify the court of any changes to your address where case-related papers may be served by filing a notice of change of address. Failure to keep a current address on file with the court may result in dismissal of your case.

Joseph Vaneck, DOC# 194534, Crowley County Correctional Facility P.O. Box 100 Olney Springs, CO 81062

(Name, prisoner identification number, and complete mailing address)

(Other names by which you have been known)

Indicate whether you are a prisoner or other confined person as follows: (check one)

☐ Pretrial detainee

☐ Civilly committed detainee

☐ Immigration detainee

☒ Convicted and sentenced state prisoner

☐ Convicted and sentenced federal prisoner

☐ Other: (Please explain) _____

B. DEFENDANT(S) INFORMATION

Please list the following information for each defendant listed in the caption of the complaint. If more space is needed, use extra paper to provide the information requested. The additional pages regarding defendants should be labeled "B. DEFENDANT(S) INFORMATION."

Defendant 1: Core Civic of America, Employer
(Name, job title, and complete mailing address)

5501 Virginia Way Suite 110 Brentwood, TN 37027

At the time the claim(s) in this complaint arose, was this defendant acting under color of state or federal law? ☒ Yes ☐ No (check one). Briefly explain:

Core Civic of America is under contract with the Colorado Department of Corrections and is the employer of the other defendants.

Defendant 1 is being sued in his/her ☐ individual and/or ☒ official capacity.

Defendant 2: Tejinder Singh, Physician Assistant
(Name, job title, and complete mailing address)

Crowley County Correctional Facility, P.O. Box 100 Olney Springs CO, 81062

At the time the claim(s) in this complaint arose, was this defendant acting under color of state or federal law? X Yes ___ No (*check one*). Briefly explain:

Tejinder Singh, employed by Core Civic of America which is under contract by the Colorado Department of Corrections. Mr. T Singh, a Physician Assistant for Crowley County Correctional Facility, ran/managed by Core Civic of America, resulting in this defendant acting under the color of state and federal law.

Defendant 2 is being sued in his/her X individual and/or X official capacity.

Defendant 3: Christianna Cappellucci, HSA
(Name, job title, and complete mailing address)

Crowley County Correctional Facility P.O. Box 100 Olney Springs, CO 81062

At the time the claim(s) in this complaint arose, was this defendant acting under color of state or federal law? X Yes ___ No (*check one*). Briefly explain:

Christianna Cappellucci, employed by Core Civic of America which is under contract by the Colorado Department of Corrections. Ms. C Cappellucci, the HSA for Crowley County Correctional Facility, ran/managed by Core Civic of America, resulting in this defendant acting under the color of state and federal law.

Defendant 3 is being sued in his/her X individual and/or X official capacity.

C. JURISDICTION

Indicate the federal legal basis for your claim(s): (check all that apply)

X State/Local Official (42 U.S.C. § 1983)

___ Federal Official

As to the federal official, are you seeking:

___ Money damages pursuant to *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971)

___ Declaratory/Injunctive relief pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1361, or 28 U.S.C. § 2201

___ Other: (*please identify*) _____

D. STATEMENT OF CLAIM(S)

State clearly and concisely every claim that you are asserting in this action. For each claim, specify the right that allegedly has been violated and state all facts that support your claim, 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 legal cases to support your claim(s). If additional space is needed to describe any claim or to assert additional claims, use extra paper to continue that claim or to assert the additional claim(s). Please indicate that additional paper is attached and label the additional pages regarding the statement of claims as "D. STATEMENT OF CLAIMS."

CLAIM ONE: Deliberate Indifference Medical Claim

Claim one is asserted against these Defendant(s):

Supporting facts: The Surgeon, Charles A. Hanson, MD, did the reconstructive surgery for the Plaintiff's severely broken left leg. On 07-10-2023, Charles A. Hanson, MD, made the treatment plan for the Plaintiff's recovery which he clearly indicates in his own words, "He can still use a wheelchair" He's implying the Plaintiff. The Plaintiff's medical records with a TimeStamp: 12 July, 2023, reflects, "Crutches #16 issued with gradual introduction" and "Continue wheelchair with gradual introduction of crutches," VORB Dr. Cabiling. During the month of July, 2023, two different medical doctors from two different encounters with the Plaintiff had both medically diagnosed the Plaintiff's possible and immediate need of a wheelchair. Both MD's mandated the availability and use in their ordered treatment plans for the Plaintiff. The necessity of the wheel chair was placed in the Plaintiff's treatment plan from both Doctor's attention/medical assessment. Both medical Doctor's, medical recognised the substantial risk of the Plaintiff falling which is why they ordered the wheelchair use for the Plaintiff. Doctors, Hanson and Cabiling, both made reasonable efforts to avoid or alleviate any possible risk of harm from falling by putting wheelchair use in the Plaintiff's treatment plan. The Plaintiff met standards required for the use of a wheelchair.

On 07-28-2023, Physician Assistant Tijinder Singh, who is employed by Core Civic of America which is under contract by the Colorado Department of Corrections, through his own negligence by deliberate indifference went against the treatment plans prescribed by both Dr. Cabiling and Dr. Hanson and took the Plaintiff's wheelchair despite the Doctors treatment orders and the Plaintiff not being physically ready, forcing him to now move about the whole facility with a walker. Physician Assistant Tijinder Singh, never did a strength test to evaluate if the Plaintiff's legs were even strong enough for this drastic change of treatment course that was not mandated from a Doctor. The medical staff members and correctional officers employed by Core Civic of America gave no concern to the lack of the Plaintiff's physical capability/condition and the doctor's orders. They all deliberately went against sound reason and caution placing the Plaintiff in a continuous risk of self harm from falling when ever and where ever the plaintiff needs to go. It is several hundred yards for the Plaintiff to be traveling round trips from his unit to the chow hall, med line, and medical. The Crowley County Correctional Facility, where the Plaintiff resides, has NO ADA compliant benches for individuals in the Plaintiff's condition to be able to rest upon during movements. Complete disregard of the Plaintiff's safety and the Medical Doctor's treatment plans/orders. The Plaintiff was deliberately placed in harm's way with the continuance risk of physical harm from falling. The Plaintiff was forced to go from wheelchair to walker in one day with no gradual introduction, no Doctor's approval, and no physical therapy.

While leaving medical, the medical Correctional Officer, Tebow, boldly told/ordered the Plaintiff, "You need to hurry up", while the Plaintiff was physically struggling to maneuver with the walker as he was leaving. The steps taken by the Plaintiff in this moment were his fist in several months with no gradual introduction. Correctional Officer, Tebow, is an employee of Core Civic of America and acted under the color of Core Civic of America.

See additional pages regarding the statement of claims as "D. STATEMENT OF CLAIMS."

"D. STATEMENT OF CLAIMS."

Three hours later, on the way to lunch, while the defendant was struggling to get to the chow hall from his unit without the wheel chair, his legs gave out as the medical assistance walking appliance/aid slipped in movement resulting in the Plaintiff falling and hitting the concrete hard. Correctional Officer, Vidro Rodriguez, while watching, witnessed the Plaintiff's physical struggle to get to the chow hall with no ADA compliant bench to rest upon. Correctional officers on scene called a medical response. The Plaintiff was placed on stretcher and sent back to medical. Physician Assistant Tijinder Singh yelled at the defendant for falling stating, "I'm not liable for this, this is your fault, you're playing games, and I'm charging you for this." Physician Assistant Tijinder Singh and medical staff ridiculed, degraded, and made fun of the Plaintiff. Correctional Officer, Vidro Rodriguez, spoke up to Physician Assistant Tijinder Singh, telling him that, "I saw Mr. Vaneck struggling to get to the chow hall, fall, and hit the concrete, he's not playing games." Physician Assistant Tijinder Singh, could not handle being told the truth of the situation and had Correctional Officer, Vidro Rodriguez, removed from the scene of the medical bay. Medical staff never physically evaluated the Plaintiff's condition/injuries from his fall on the concrete. Physician Assistant Tijinder Singh and medical staff gave no treatment for the Plaintiff's bruised and bleeding knees from his fall on the concrete. No treatment/assessment was done. Physician Assistant Tijinder Singh also ordered the correctional officers to go to the Plaintiff's cell and take all the medical assistance appliances that the Plaintiff still needed. There was Four Incident Statement Reports (5-1C) filled out and submitted by different observing inmates of the the fall.

Later that day, the Plaintiff went back to medical because the walker was ripping the palms of his hands open to the point of bleeding. Medical staff (employed by Core Civic of America) once again berated the Plaintiff, gave him no treatment for his bleeding palms despite his continual requests (not even a bandage was given). Medical staff just switched out the walker with a different one and threatened the Plaintiff stating, "If you come back down here again or try to get the wheel chair back, we will lock you in a medical cell until you can walk on your own again." All the actions by medical staff members and correctional officers employed by Core Civic of America were clear neglect, medical malpractice, and negligence. The plaintiff went to shift command several times that day for help to no avail. There was no concern given for the safety and condition the plaintiff was in. Christianna Cappellucci, the facility HSA, employed by Core Civic of America, aided and abetted in the continuance of the deliberate inifference against the Plaintiff.

On 07-29-2023, early morning, Correctional Officers, Vidro Rodriguez and Alejandro Rodriguez, both saw the Plaintiff physically struggling to return to Unit 1 from the chow hall. They witnessed the Plaintiff having to struggle to the ground and lay there because he could not physically go any further. Correctional Officers, Vidro Rodriguez and Alejandro Rodriguez, told the Plaintiff to stay where he was at as they took it upon themselves to go to unit 6 and retrieve a wheelchair that had been sitting in a closet for several months unused. They returned with the wheelchair and placed the Plaintiff in it. 30 minutes later, medical and shift command heard about this and ordered for the wheelchair to once again be taken from the Plaintiff despite what the doctor's orders state and the evaluation of these two Correctional Officers telling them, "This is a huge safety issue, we are watching him struggle, and he needs the wheelchair back."

Ms. Christianna Cappellucci, the facility HSA, from that point on followed suite with the rest of the the medical staff in going against the Doctor's orders and kept the wheelchair from being returned to the Plaintiff despite being well aware of the safety risk of the defendant falling and hurting himself. She was continually made aware of the situation by/through the numerous grievances the Plaintiff filed on his struggles, the doctors actual orders, and what he physically/medically needs as a handicap individual which were disregarded by Ms. Christianna Cappellucci, the facility HSA.

The Defendant, Tejinder Singh, Physician Assistant, is liable on the bases of his own knowledge of the Doctor's orders, but chose to go against the MD's orders. The Plaintiff even told the defendant what the Doctor's orders were and he responded in front of everyone in the room, "I don't care what their orders say, what I say supercedes what they say." A Physician Assistant does not over ride a medical Doctor's orders. He knew of the risks of physical harm to the defendant from falling if the Plaintiff fell. The Plaintiff, did fall hurting himself as a result of the defendant's deliberate indifference of the situation and the first words out of the the defendant's mouth as the Plaintiff arrived to medical on a stretcher was, "I'm not liable for this." There was no concern given to the Plaintiff's injuries and his weakened state. The defendant sent the Plaintiff on his way with no physical evaluation and without the safety of the wheelchair which was prescribed in the treatment plans from the doctors despite the situation of the Plaintiff falling on concrete. After the Plaintiff had fallen, the defendant, Tejinder Singh, ordered the correctional officers to go to the Plaintiff's cell and take all of the medical assistance appliances assigned to him. They took the Plaintiff's crutches and shower chair from his cell which aided in his safety of moving about and showering. The defendant, Tejinder Singh, punished the Plaintiff for falling by taking away the rest of his safety medical assistant appliances. The Defendant, Tejinder Singh is being sued in both his official and individual capacities because he made his decisions on that day in both his official and individual capacities

The defendant, Christianna Cappellucci, HSA for the facility (CCCF), is liable on the bases/claim of Supervisory Liability. Based on her continual willful violation of the Plaintiff's Eighth Amendment Rights. Through her own acts of deliberate indifference in the creation and continence of the toxic environment with a substantial risk of serious harm to the Plaintiff. She continually ignored the Plaintiff's physical weakened condition by disregarding the Doctor's orders in the treatment plan for the Plaintiff's recovery and safety. In the Informal Resolution dated 08-13-2023, the Plaintiff clearly states that PA Singh, who is not a Doctor, took the wheelchair assigned to the Plaintiff by doctors for his safety and medical needs, how he had fallen on the concrete, received no care/treatment for his injuries from his fall through staffs negligence, and the safety risk of the situation as a whole. On 08-17-2023, Cristianna Cappallucci, the HSA of the facility, responded with, "Please continue to follow your current treatment plan." The treatment plan that she is encouraging the Plaintiff to follow goes against the treatment plan set by two different medical doctor's. She refused to have the wheelchair prescribed by the medical doctor's returned to the Plaintiff despite having the knowledge of his fall on the concrete without it. She chose to continually place the Plaintiff at risk and harm each time he moved about the facility without the doctor prescribed wheelchair. This defendant is in a

"D. STATEMENT OF CLAIMS."

supervisory position at medical as the HSA but refused to have those below her follow the Doctor's treatment which indicated wheelchair use putting the Plaintiff in continual risk of physical harm. The Defendant, Christianna Cappellucci is being sued in both her official and individual capacities because she made her decisions with withholding the Doctor prescribed wheelchair being well aware of the safety risk, risk of physical harm to the Plaintiff in both her official and individual capacities.

Each employee of Core Civic of America was well aware of the Doctor's treatment plans involving the Plaintiff but through deliberate indifference of the situation as a whole acted under the color of Core Civic of America their employer, continually places the Plaintiff's safety at risk each and every day from that point on which implicates Core Civic of America as a whole. Core Civic of America is liable for the conduct, disregard, and blatant deliberate indifference of its employees. The employees of Core Civic of America are the representation of the company as a whole, which is bases of their liability as a whole.

The Eighth Amendment is violated when a prison official acts with deliberate indifference to a substantial risk of serious harm to an inmate. Farmer, 511 U.S. At 825, 828. Under the Eighth Amendment, "prison officials must ensure that inmates receive adequate food, clothing, shelter, and medical care, and must 'take reasonable measures to guarantee the safety of the inmates.'" The defendant's in this case violated the Plaintiff's Eighth Amendment Rights to adequate medical care and did not take reasonable measures to ensure the safety of the Plaintiff when they went against tow Doctor's orders on the use of the wheelchair by taking it from the Plaintiff removing the safety net set in place by the Doctor's to ensure his safety from falling while traveling several hundred yards back and forth throughout the facility several times a day with no ADA compliant benches available to him. The Plaintiff fell on the concrete hurting himself, but the defendant's still refused to follow the Doctor's treatment plans keeping the wheelchair from the Plaintiff, but also punishing him for falling by taking his much needed medical shower chair and crutches removing all safety measures for his daily routines.

Exhibits 1-5 placed in the back of the packet.

E. PREVIOUS LAWSUITS

Have you ever filed a lawsuit, other than this lawsuit, in any federal or state court while you were incarcerated? ___ Yes X No (*check one*).

If your answer is "Yes," complete this section of the form. If you have filed more than one previous lawsuit, use additional paper to provide the requested information for each previous lawsuit. Please indicate that additional paper is attached and label the additional pages regarding previous lawsuits as "E. PREVIOUS LAWSUITS."

Name(s) of defendant(s): _____

Docket number and court: _____

Claims raised: _____

Disposition: (is the case still pending?
has it been dismissed?; was relief granted?) _____

Reasons for dismissal, if dismissed: _____

Result on appeal, if appealed: _____

F. ADMINISTRATIVE REMEDIES

WARNING: Prisoners must exhaust administrative remedies before filing an action in federal court regarding prison conditions. See 42 U.S.C. § 1997e(a). Your case may be dismissed or judgment entered against you if you have not exhausted administrative remedies.

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

X Yes ___ No (*check one*)

Did you exhaust administrative remedies?

X Yes ___ No (*check one*)

G. REQUEST FOR RELIEF

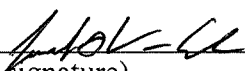
State the relief you are requesting or what you want the court to do. If additional space is needed to identify the relief you are requesting, use extra paper to request relief. Please indicate that additional paper is attached and label the additional pages regarding relief as "G. REQUEST FOR RELIEF."

The Plaintiff, Joseph Vaneck, is requesting/seeking from the defendants Tejinder Singh and Christianna Cappellucci, \$100,000 each in their individual and \$500,000 each in their official capacities. In regards to the defendant Core Civic of America, the Plaintiff is requesting/seeking \$1,000,000 in their official capacity. The Plaintiff is seeking the accumulative amount of \$2,200,000 from the defendant's in damages for PTSD, hardship, discrimination, willful negligence, ineptitude, and intent/Deliberate Indifference. The Plaintiff now suffers from life-long physical, mental, and emotional scars inflicted by the employees of Core Civic of America and those contracted by them. The Plaintiff is now afraid of medical staff members, afraid to get help for new medical issues, and seek help/treatment for his pre-existing disabilities sustained during active military duty in a combat zone. The Plaintiff is also legally requesting to be immediately moved to a Department of Corrections facility that is ADA Compliant and ADA accessible (DRDC or Territorial) permanently.

H. PLAINTIFF'S SIGNATURE

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.

Under Federal Rule of Civil Procedure 11, by signing below, I also certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending or modifying existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.



(Plaintiff's signature)

12-09-2023

(Date)

(Revised November 2022)

Patient Name : Vaneck, Joseph

DOB: 08/14/1988

Date of Service: 07/10/23

Chart#: 434524

ASSESSMENT AND PLAN

DISPOSITION: The situation is reviewed in detail with the patient. He is told that all appears to be progressing satisfactorily with regards to his left foreleg. In particular, today's x-rays reveal early callus formation in the distal tibial diaphysis (proximal portion of the distal third) fracture. He is then sent on his way with the following instructions:

- Continue to ambulate per walker with approximately 50 pounds of weightbearing on the left leg for 2 weeks. At that time, if all is going well, he will progress to an 100 pounds of weight on the leg for another 2 weeks. At that time, if all is going well, he will gradually progress to an 150 pounds of weight on the leg. On the appropriate occasions, he can use a wheelchair.*
- Continue doing left knee and ankle active range of motion exercises 15 repetitions every 2 hours throughout the day.
- Continue to wear left below knee elastic stocking regularly.
- Discontinue taking Coumadin and begin taking aspirin one tablet daily for DVT prophylaxis.
- Continue taking Tylenol as needed for pain.
- Continue to gradually escalate activities.
- Return to clinic in 2 weeks for progress check. At that time, left tibia and fibula x-rays should be done.

- - Medications reviewed with patient.
- - Allergies reviewed with patient.
- - History reviewed with patient.
- Problem 1: M79.662 Pain in left lower leg was assessed
- Problem 2: S82.242D Displ spiral fx shaft of l tibia, routine followup was assessed
- Problem 3: S82.432D Displ oblique fx shaft of l fibula, routine followup was assessed

FOLLOW UP

Return to clinic in 2 weeks for progress check. At that time, left tibia and fibula x-rays should be done.

Charles A. Hanson, MD/KHALVERSON - 07/10/2023 02:28 PM

*** End of Systemedx document # 2170394 ***

Exhibit #1

Condensed Health Services Encounter

07/22/2023 02:52:56 PM

DOC #: 194534 Inmate Name: VANECK, JOSEPH G.

ENCOUNTER DATE: 07/12/2023 TIME: 13:58:10 DURATION: minutes TYPE: HCA Issued

LOCATION: Crowley County Correctional Facility SETTING: Health Services Clinic

S NOTES:
Crutches issued

O SCANNED DOCUMENT/PHOTO TYPE: Medical Records TITLE: HCA Crutches 7/12/23

NOTES:
#16 Crutches issued

* Continues with wheelchair with gradual introduction of crutches

A NOTES: None

P NOTES:
TimeStamp: 12 July 2023 13:59:23 --- User: BrittanyGuerrero
Crutches #16 issued with gradual introduction
Continue wheelchair with gradual introduction of crutches

* VORB Dr. Cabiling

E NOTES: None

Health Scores:	M:	D:	P:	S:	SA:	ID:	SOA-R:
	3(P)	3(P)	3(M)	5(I)	2	1	

STAFF: GUERRERO, BRITTANY E Nurse

NURSE SIGNATURE: _____

Exhibit # 2


 COLORADO Department of Corrections		AR Form 300-06A (01/15/17) Contraband List Facility: <u>CCCF</u>
Offender Name: <u>Strickland / Vanek</u>	DOC Number: <u>119851 / 194534</u>	
Officer: <u>Fridant</u>	Date: <u>07/25/2023</u>	
<u>Walker</u>		
<u>Shower chair</u>		
<u>Foot attachment to a wheelchair</u>		
<div style="border: 1px solid black; height: 200px; width: 100%; position: relative;"><div style="position: absolute; top: 0; right: 0; width: 100%; height: 100%; border-left: 2px solid black; border-bottom: 2px solid black;"></div></div>		
20002	3110	Attachment A

Exhibit #3

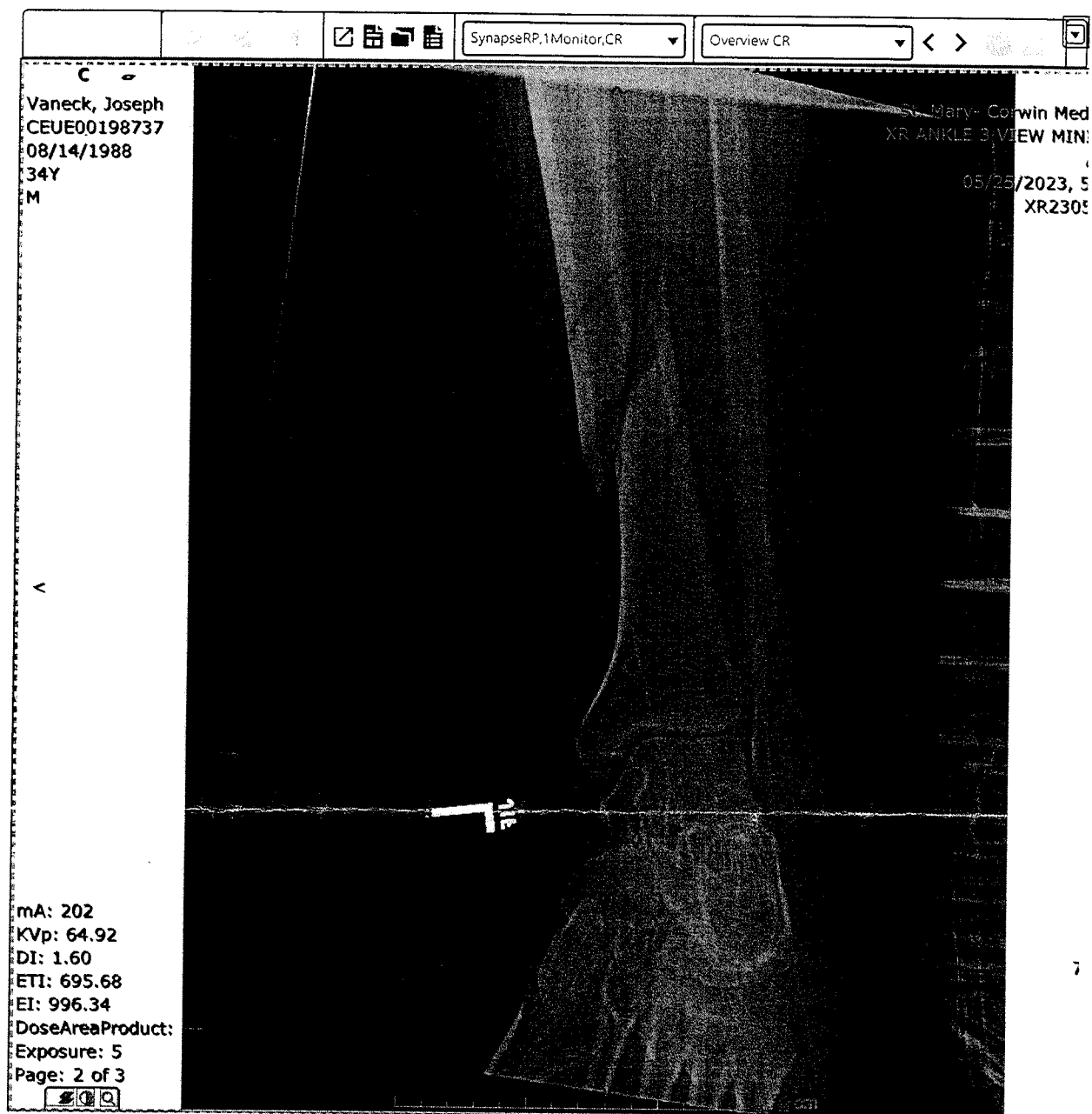


Exhibit #4



Exhibit #5

CERTIFICATE OF SERVICE

A copy of this motion, on the below signed date, was deposited in the US mail to be delivered to the following party(s):

1. Core Civic of America

5501 Virginia Way, Suite 110

Brentwood, TN 37027

2. Tejinder Singh

Crowley County Correctional Facility

P.O. Box 100

Olney Springs, CO 81062

3. Christianna Cappellucci

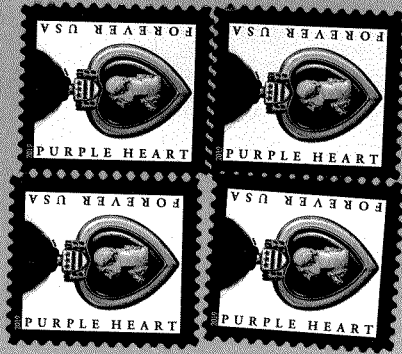
Crowley County Correctional Facility

P.O. Box 100

Olney Springs, CO 81062

 s/

d/ December 9th, 2023



United States Magistrate Judge
United States District Court
Alfred A. Arroyo United States Courthouse
901 19th Street
Denver, Colorado 80294

Vaneck, Joseph Doc # 194534
Crowley County Correctional Facility
CCCF Facility
P.O. Box 100
Olney Springs, CO 81062-8700
LEGAL USE ONLY

LEGAL MAIL

CCCF

FACILITY

12-9-23

DATE REC'D

HARRISON

STAFF LAST NAME

Harrison T

INT

194534

DOC#

Vaneck

OFFENDER LAST NAME

5

INT