

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO
FEB 14 2025
JEFFREY P. COLWELL
CLERK

Civil Action No.

OFFENDERLAMAR113997, *f.k.a.*, ANDREW MARK LAMAR,

Plaintiff, *in propria persona*,

v.

DR. RANDOLPH MAUL, M.D., Chief Medical Officer, MICHELLE BRODUER, Director of
Clinical Services, and PAMELA DANG, Health Services Administrator,

Defendant(s).

**PRISONER'S PRO SE CIVIL RIGHTS COMPLAINT PURSUANT TO 42 U.S.C. § 1983
AND JURY DEMAND SEEKING MONETARY, DECLARATORY AND INJUNCTIVE
RELIEF AGAINST STATE MEDICAL PERSONNEL IN BOTH THEIR
INDIVIDUAL AND OFFICIAL CAPACITIES**

A. PLAINTIFF INFORMATION

Plaintiff: OFFENDERLAMAR113997 *f.k.a.*, Andrew Mark Lamar
Colorado Department of Corrections (CDOC)
Convicted and sentenced state prisoner confined at
Sterling Correctional Facility (SCF) ¹
Located at P.O. Box 6000
12101 CO-Hwy. 61,
Sterling, CO 80751

B. DEFENDANT(S) INFORMATION

Defendant 1: Dr. Randolph Maul, M.D., Chief Medical Officer
Colorado Department of Corrections Clinical Services
1250 Academy Park Loop
Colorado Springs, CO 80910

At the time the claim in this complaint arose, the defendant was acting under color of state law as an employee for the CDOC. The CDOC is a state agency which was created pursuant to Colo. Rev. Stat. §§ 24-1-128.5 and 17-1-101, *et seq.*

Briefly explain: As the Chief Medical Officer who by statute, Colo. Rev. Stat. §17-1-101 are CDOC “Medical Personnel” subject to control thereof. Hence acting under color of state law.

Dr. Randolph Maul is being sued in his official and individual capacity.

Defendant 2: Dir. Michelle Brodeur, Director of Clinical Correctional Services
Colorado Department of Corrections Clinical Services
1250 Academy Park Loop
Colorado Springs, CO 80910

At the time the claim in this complaint arose, the defendant was acting under color of state law as an employee for the CDOC. The CDOC is a state agency which was created pursuant to Colo. Rev. Stat. §§ 24-1-128.5 and 17-1-101, *et seq.*

Briefly explain: As the Chief Medical Officer who by statute, Colo. Rev. Stat. §17-1-101 are CDOC “Medical Personnel” subject to control thereof.

¹ It should be noted that plaintiff was housed at Fremont Correctional Facility (FCF) during the course of the events that transpired by Clinical Services, up to the December 2, 2024 date in which plaintiff was transferred per the FCF Warden Sean Stucker, which is the subject of a separate complaint alleging retaliation.

Dir. Michelle Brodeur is being sued in her official capacity.

Defendant 3: Pamela Dang, Health Services Administrator
Colorado Department of Corrections Clinical Services
1250 Academy Park Loop
Colorado Springs, CO 80910

At the time the claim in this complaint arose, the defendant was acting under color of state law as an employee for the CDOC. The CDOC is a state agency which was created pursuant to Colo. Rev. Stat. §§ 24-1-128.5 and 17-1-101, *et seq.*

Briefly explain: As the Health Services Administrator (HSA) at Fremont Correctional Facility (FCF), who by statute, Colo. Rev. Stat. §17-1-101 are CDOC “Medical Personnel” subject to control thereof.

Pamela Dang is being sued in her individual and official capacity.

C. SUBJECT-MATTER JURISDICTION

Pursuant to 42 U.S.C. § 1983, subject-matter jurisdiction may be conferred, to which this tribunal may properly hear the case before it as a federal court of limited jurisdiction. Assuming that the factual allegations underlying the complaint, as required by Fed. R. Civ. P. 8, are sufficiently true, and are within “the four corners of the complaint,” *Mobley v. McCormick*, 40 F.3d 337, 340 (10th Cir. 1994), any dispute regarding jurisdictional facts may, however, implicate Eleventh Amendment sovereign immunity. “Neither the state nor its officials acting in their official capacities are ‘persons’ under § 1983.” *Will v. Michigan Department of State Police*, 491 U.S. 58, 71 (1989).

As delineated below, conduct by the defendants acting under color of state law whose actions were wrongful under 42 U.S.C.S. § 1983 must not be immunized.

- ***Eleventh Amendment Immunity***

As such, the defendants are not shielded by Eleventh Amendment immunity to the extent that Dr. Maul and Dir. Brodeur are not being sued for monetary damages while acting in their official capacities. They are in fact being sued for injunctive relief only. See *Meade v. Grubbs*, 841 F.2d 1512, 1529 (10th Cir. 1988) (“[a] judgment against a public servant in his official capacity imposes liability on the entity he represents”); *Hafer v. Melo*, 502 U. S. 21, 25 (1991) (suit against a state official in his or her official capacity is treated as a suit against the state).

However, the defendants Maul and Dang are being sued in both their individual and official capacities for monetary damages of up to \$100,000.00, and injunctive relief within their official capacity. As to the former, their actions were in a deliberately indifferent manner by

depriving it of constitutionally required medical treatment and care. She must not enjoy any such immunities our constitution may afford.

D. STATEMENT OF FACTS AND CLAIMS

The Plaintiff, as the undersigned OFFENDERLAMAR113997, *a.k.a.* Andrew mark LaMar (hereinafter referred to as “It”), hereby provides the following factual averment which underpins the allegations in support of the foregoing claims.

While confined at Fremont Correctional Facility (FCF), for approximately ten years, It was compelled to perform various tasks and labor with the benefit of nominal state pay, ² which failed to provide a recompense sufficient enough to stave off arrears, or various debts to the state and federal judiciary, It was required to wear a state issued boot.

In addition to the day-to-day rigors of this monotonous existence, It also engaged voluntarily in various physical activities to improve It’s Quality of Life (QL). However, coupled with the compelled labor and these activities, the state issued boots, which are made of leather with a hard flat sole that is never identically matched to the left and right feet, often has sizeable defects in the soles of the feet that either lift or lower the heels or toes, which naturally causes alignment issues as well as pain and discomfort.

Nevertheless, It began experiencing problems in the lower extremities, such as *plantar fasciitis*, corns, numbness, erythema or ulcerations, which had caused at various occasions severe pain and discomfort, as well as mobility and alignment issues. For approximately a year and a half this pain and discomfort persisted until there was an injury to the L-knee, likely a torn ligament or patella, of which the medical nurses and providers were reluctant to diagnose without an X-Ray or MRI. At present, It has not been diagnosed or treated for this injury, for it is not considered “emergent” enough to warrant such.

Ultimately, though, a formal consult with Clinical Services occurred on December 27, 2023, with a nurse practitioner or provider, Linda E. Doyle-Limmer, whom noted the podiatry concerns, indigence, and the recommendation to have shoes mailed in from a third-party vendor. It did not receive confirmation as to whether or not this could be approved, of which the provider indicated that CDOC Clinical Services, namely, the chief medical officer, Dr. Randolph Maul, and the director, Michelle Brodeur, will be contacted about getting this approved by them, since they were the underwriters of the existing policy and procedure which disallowed medical shoes for It’s condition or needs. This, she indicated, would be resolved soon at a follow-up consult.

A follow-up consult occurred on July 15, 2024, with a new provider, Kelly E. Grillion, whom concurred with provider Doyle-Limmer’s assessment, and did in fact receive emails from Dr. Maul that medical shoes would not be approved per policy. Provider Doyle-Limmer noted that the policy underwritten by both Dr. Maul and Dir. Brodeur was conflicting and

² The mandatory deductions from It’s state pay is 90% from all deposits. It should be noted that It does not receive any monies from the outside world. As a result, this financial onus prevented It from acquiring even the most basic hygiene items, let alone canteen clothing items including athletic shoes or insoles.

discriminatory. Despite her recommendation for medical shoes, since CDOC is mandated to reject medical shoes outright for It's podiatry needs, the recommendation would be made as a matter of course. Though the option for purchasing specialist recommended shoes from a third-party vendor, she felt, was a better and more reasonable option.

As such, It contacted an attorney-benefactor, J. Scott McComas (ret.), to purchase a pair of high performance ortho-athletic shoes with arch-support, cushioning for impact resistance and alignment. The brand of shoe was black leather "HOKA" which was a specialist recommended shoe both providers suggested, and was the brand Dr. Maul allowed for offender McGee. However, once they were sent the FCF mailroom received the shoes Sergeant, Hazelton, made the finding that the third-party vendor was an authorized vendor. However, they were never distributed because a nurse III, Pamela Dang refused to authorize them, pending approval from the FCF-Health Services Administrator (HSA), Geoffrey Calloway. As a result of the rejection at this level, It began a campaign of actively pursuing the process for approval, beginning with kites, various emails submitted by staff, the filing of multiple grievances, and actual follow-up recommendations by the providers. In fact, It was also able to receive outside advocacy from various other attorney-benefactor[s], whom emailed Dr, Maul on numerous occasions seeking approval.

Finally, the HSA Calloway granted the request just before resigning his position as HSA, whom was succeeded by Pamela Dang. However, Dang gave numerous excuses about not approving them, such as; CDOC suspended mail from all third-party vendors, Dr. Maul did not approve them. Dang even went as far as to refuse the providers' insistence that It receive the shoes, to no avail. Later, when Dang said that she would allow them if security first inspected the shoes, and once they were "notched" It would receive them. In the last weeks of November, 2024, security, Lt. Lesssar and Major Jones agreed, Dang again resisted, stating that the FCF Warden, Sean Stucker, denied the shoes, saying that It should get nothing, but a change of scenery. Within a week, It was transferred to Sterling Correctional Facility (SCF), where It was told that It would have to begin the entire grievance process anew. Hence the foregoing lawsuit.

CLAIM ONE: DEFENDANTS DR. RANDOLPH MAUL, M.D. AND DIR. MICHELLE BRODEUR AS CDOC MEDICAL PERSONNEL OVERSEEING CLINICAL SERVICES HAVE UNDERWRITTEN THE POLICY AND PROCEDURE THAT EXCLUDED MEDICAL SHOES THAT TREAT THE PARTICULAR PODIATRY NEEDS OF THE PLAINTIFF WHICH IS INHERENTLY DISCRIMINATORY AND OPERATES AS A COMPLETE DENIAL OF THE CONSTITUTIONAL REQUIREMENT TO PROVIDE ADEQUATE MEDICAL TREATMENT AND CARE IN VIOLATION OF THE EIGHTH AND FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION.

- *Claim one is asserted against Defendants Dr. Randolph Maul, M.D. and Dir. Michelle Brodeur in their official capacity, seeking declaratory and injunctive relief only.*
- *Supporting facts:*

The state issued boots and canteen shoes and insoles are inadequately cushioned or

arched, which is deficient to treat the pain and discomfort It experiences day-to-day. It has been experiencing problems in the lower extremities, such as *plantar fasciitis*, corns, numbness, erythema or ulcerations, which had been causing severe pain and discomfort, as well as mobility and alignment issues. It is painful to step-out into a lunge onto the L-Knee which has lost the ability to support weight, and the mobility or range of movement is limited. This has been ongoing for approximately a year and a half this pain and discomfort persisted until there was an injury to the L-knee patella or ligament tear.

On December 27, 2023, the nurse practitioner or provider, Linda E. Doyle-Limmer, noted the podiatry concerns, as well as indigence, and the recommendation to have shoes mailed in from aa approved third-party vendor, once approved by CDOC Clinical Services, namely, the chief medical officer, Dr. Randolph Maul, and the director, Michelle Brodeur. Doyle-Limmer had emailed them about getting this approved by them, since they were the underwriters of the existing policy and procedure.

At a follow-up consult on July 15, 2024, with a new provider, Kelly E. Grillion, whom concurred with provider Doyle-Limmer's assessment, and did in fact receive emails from Dr. Maul who denied the issuance of medical shoes based upon the existing clinical services policy and procedure, which mandates that CDOC inmates will be issued medical shoes only if they're diabetic, experiencing neuropathy, or have preexisting deformities.

Provider Doyle-Limmer noted that the policy underwritten by both Dr. Maul and Dir. Brodeur as conflicting with her recommendation for medical shoes, since CDOC is mandated to reject medical shoes outright for Its podiatry needs. But the recommendation would be made as a matter of course, and that purchasing the shoes from an authorized third-party vendor would be a reasonably available form of treatment available, per CDOC Reg. 850-06(III)(C), which permits this, subject to the approval from medical.

Nevertheless, due to the discriminatory aspect of the policy and procedure, which mandated that It be denied medical shoes for the podiatry conditions he suffers from

CLAIM TWO: DEFENDANTS DR. RANDOLPH MAUL, M.D. AND HEALTH SERVICES ADMINISTRATOR PAMELA DANG AS CDOC MEDICAL PERSONNEL OVERSEEING CLINICAL SERVICES HAVE DISREGARDED PLAINTIFF'S SERIOUS MEDICAL NEEDS BY REJECTING THE RECOMMENDED MEDICAL TREATMENT THAT IS ESSENTIAL AND THE BEST REASONABLY AVAILABLE MEDICAL TREATMENT UNDER THE CIRCUMSTANCES BY AUTHORIZING THE SPECIALIST RECOMMENDED SHOES PURCHASED AT OWN EXPENSE FROM A THIRD-PARTY VENDOR WHICH IS A COMPLETE DENIAL OF THE CONSTITUTIONAL REQUIREMENT TO PROVIDE ADEQUATE MEDICAL TREATMENT AND CARE GUARANTEED BY THE EIGHTH AMENDMENT TO THE UNITED STATES CONSTITUTION.

- ***Claim two is asserted against Defendants Dr. Randolph Maul, M.D. and HSA Pamela Dang in their personal capacity, seeking monetary relief only.***

- ***Supporting facts:***

The state issued boots and canteen shoes and insoles are inadequately cushioned or arched, which is deficient to treat the pain and discomfort It experiences day-to-day. It has been experiencing problems in the lower extremities, such as *plantar fasciitis*, corns, numbness, erythema or ulcerations, which had been causing severe pain and discomfort, as well as mobility and alignment issues. It is painful to step-out into a lunge onto the L-Knee which has lost the ability to support weight, and the mobility or range of movement is limited. This has been ongoing for approximately a year and a half this pain and discomfort persisted until there was an injury to the L-knee patella or ligament tear.

On December 27, 2023, the nurse practitioner or provider, Linda E. Doyle-Limmer, noted the podiatry concerns, as well as indigence, and the recommendation to have shoes mailed in from aa approved third-party vendor, once approved by CDOC Clinical Services, namely, the chief medical officer, Dr. Randolph Maul, and the director, Michelle Brodeur. Doyle-Limmer had emailed them about getting this approved by them, since they were the underwriters of the existing policy and procedure.

At a follow-up consult on July 15, 2024, with a new provider, Kelly E. Grillion, whom concurred with provider Doyle-Limmer's assessment, and did in fact receive emails from Dr, Maul who denied the issuance of medical shoes based upon the existing clinical services policy and procedure, which mandates that CDOC inmates will be issued medical shoes only if they're diabetic, experiencing neuropathy, or have preexisting deformities.

Provider Doyle-Limmer noted that the policy underwritten by both Dr. Maul and Dir. Brodeur as conflicting with her recommendation for medical shoes, since CDOC is mandated to reject medical shoes outright for Its podiatry needs. But the recommendation would be made as a matter of course, and that purchasing the shoes from an authorized third-party vendor would be a reasonably available form of treatment available, per CDOC Reg. 850-06(III)(C), which permits this, subject to the approval from medical. However, the nurse III, Pamela Dang refused to authorize them, pending approval from the FCF-Health Services Administrator (HSA), Geoffrey Calloway, whom subsequently granted such. However, Dang gave numerous excuses about not approving them, such as; CDOC suspended mail from all third-party vendors, Dr. Maul did not approve them. Dang even went as far as to refuse the providers' insistence that It receive the shoes.

E. PREVIOUS LAWSUITS

The Plaintiff has previously filed a federal civil rights complaint, asserting an Eighth Amendment violation against a CDOC clinical services employee. The procedural background is as follows:

Name(s) of defendant(s): Kathleen Boyd, NP (No. 12547); Joseph W. Wright, Physician (No. 14549)

Docket number and court: D. Colo. No. 1:11-CV-01566-MSK-MJW. See *Lamar v. Boyd*, 2012

U.S. Dist. LEXIS 108725 (D. Colo., Aug. 2, 2012)

Claims raised: Lamar alleged in his complaint that Defendant Wright violated his constitutional rights by failing to properly diagnose him with a spinal injury.

Disposition: Allegation amounts to a disagreement of diagnosis that does not rise to the level of a constitutional violation.

Reasons for dismissal, if dismissed: Even if Wright was negligent in failing to categorize Lamar's injury as spinal, rather than muscular, such negligence would at most amount to medical malpractice, not an Eighth Amendment violation. Nor does Wright's statement that "it's not like you broke your back" rise to the indifference required. While such a comment may be unnecessary, or even unhelpful, it does not demonstrate the "extraordinary degree of neglect" required to assert an Eighth Amendment violation.

On appeal in an unpublished opinion by Chief Judge Mary Beck Briscoe, Circuit judges McKay and Holmes, concurring, declined to reexamine the lower court's determination that a slip and fall leading to a back injury met the objective test. See *Lamar v. Boyd*, 508 F. App'x 711 (10th Cir. 2013).

F. ADMINISTRATIVE REMEDIES

The undersigned Plaintiff at bar hereby attests that the requisite exhaustion of remedies pursuant to 42 U.S.C. § 1997e(a), has been more than satisfied.

It should be noted that while CDOC utilizes a formal grievance process, it does so under the guise of a genuine attempt at resolving inmate disputes; however, the process is in and of itself a farce or sham. The process as you will see in this instance is simply a meaningless ritual intended to further obstruct, frustrate and deny the offender writ large. Despite the numerous step III grievances, as well as having had numerous step I grievances granted, It has been ping-ponged back and forth without ever actually being granted the desired relief.

G. REQUEST FOR RELIEF

Equitable relief: Nullify the existing policy, which is restricted or held *sub rosa* that authorizes clinical personnel to deny medical shoes to all non-diabetic inmates, which is underwritten by the defendants


Monetary relief: Upon a Jury verdict, damages may be assessed per their recommendation as to an amount for compensation and punishment.

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)



(Date)

COLORADO DEPARTMENT OF CORRECTIONS
NAME: OFFENDER LA MAR, LILIAN
Register Number: 113997 Unit 35
PO BOX: 6000
City, State, Zip: STEADLINE CO 80751



UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Alfred A. Arraj, U.S. Courthouse
901 19th Street
Denver, CO

80294

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EXPIRY Gonzalez		ID# INT	
LASTNAME		INT	
HB487 LAMAR		INT	