

In the United State District Court  
For The District of Arizona

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CLERK U S DISTRICT COURT DISTRICT OF ARIZONA	
BY	DEPUTY

Forrest Juan Craddock

Plaintiff

VS

Sheriff Chris Vasquez

et. AL. Defendants

No. C 007-0406-PHX-ROS (mea)

Motion to Amend

Come Now Plaintiff Forrest Juan Craddock, to Request that this honorable Court to grant this motion for the following:

- 1) Motion to Amend.
- 2) Plaintiff is entitled to "an opportunity" to Amend the Complaint to overcome the deficiency unless it clearly appears from the complaint that the deficiency cannot be overcome by Amendment.
- 3) Potter V. McCall, 433 F.2d 1087, 1088 (9th Cir. 1970)  
Armstrong V. Rushing, 352 F.2d, 836, 837 (9th Cir. 1965)
- 4) Ninth Circuit, to overcome any problem with it, unless it is absolutely clear that the problem can't be fixed.  
Potter V. McCall, 433 F.2d 1087 (9th Cir. 1970)

Respectfully submitted this Day of 21, November 2007

THIS DOCUMENT IS NOT IN PROPER FORM ACCORDING TO FEDERAL AND/OR LOCAL RULES AND PRACTICES AND IS SUBJECT TO REJECTION BY THE COURT.

REFERENCE: 5.4  
(Rule Number/Section)

Forrest Juan Craddock  
Plaintiff

In the United State District Court  
FOR the District of ARIZONA

FORREST JUAN CRADDOCK

PLAINTIFF

Vs.

Sheriff Chris Vasquez

Et. Al. Defendants

NO. CV07-0406-PHX-ROS(mea)

~~Motion for Summary Judgment~~

Motion to Amend

Comes Now Plaintiff FORREST JUAN CRADDOCK, to Request that this honorable Court to grant this motion for the following:

- 1) Plaintiff is Request that the defendant's give Motion <sup>(Dr. Lizarraga) #581</sup> to Amend ~~for Summary Judgment~~ in Plaintiff's Favor.
- 2) ~~asking~~ Plaintiff asking for "Test Case" Concerning the Pinal County Jail facility in which is following a particular Policy and would like for the Court to discuss these issues if whether that Policy is legal.
- 3) Plaintiff's Case Is Based on The Deliberate indifference to Plaintiff's serious medical need for surgery on his hand in a timely manner, And Not Aiding Medication on hourly times, Changing Bandages Dressing.
- 4) A mere difference of Medical Judgment is not actionable by the Defendant.  
Stewart V. Murphy, 174 F.3d 530, 535 (5th Cir. 1999)
- 5) But the decision of ~~Prison doctors~~ <sup>The Defendant</sup> are not perse unassailable.  
See, eg., Green V. Daley, 414 F.3d 645 (7th Cir. 2005)
- 6) ~~A Prisoner~~ <sup>The Plaintiff</sup> is not Required to show that he was Literally ignored  
Miller V. Schoenen, 75 F.3d 1305 (8th Cir. 1996)
- 7) ~~Plaintiff had a Recommendations from outside Hospitals Not Followed.~~
- 7) Plaintiff had a Recommendations from Casa Grande Regional Hospital And was Not Followed by Defendants And Nurses About Plaintiff's Surgery.

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~~Forecast from Goodbook~~

8) Plaintiff must be able to show that the actions of Medical Staff could not be supported by legitimate Medical Judgment.

9) ~~And~~ The Defendant <sup>(Dr. Lizarraga) (And Nurses)</sup> failure to inquire into facts Necessary to make a Professional Judgement.

In mates of Occoguan V. Barry, 717 F. Supp 854, 867-68 (D.D.C. 1989)

10) Defendant <sup>(And Nurses)</sup> failure to perform adequate Health screening on intake.

11) Defendant <sup>(And Nurses)</sup> failure to Carry Out Medical Orders

Estelle V. Gamble, 429 US at 105

12) Defendant <sup>(And Nurses)</sup> Intentionally interfering with treatment once prescribed

Walker V. Benjamin, 293 F. 3d 1036 (7th Cir. 2002)

13) Defendant <sup>(And Nurses)</sup> Refusal to provide prescribed Pain medication on a hourly Basic,

Boretti V. Wiscomb, 930 F. 2d 1150, 1156 (6th Cir. 1991)

14) Defendant <sup>(And Nurses)</sup> Failure to order Nursing Staff to perform Prescribed dressing Changes and having Non Reliance on Non - Medical factors in making treatment decisions.

Beswell V. Sherburne County, 849 F. 2d 1117, 1123 (8th Cir. 1988)

15) Defendant <sup>(And Nurses)</sup> Deliberately did not take Plaintiff's ~~serious~~ injuries seriously and therefore the Defendant used facilities Budgetary Restrictions.

~~3~~ Jones V. Johnson, 781 F. 2d 769, 771 (9th Cir. 1986)

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- 17) Defendants <sup>(And Nurses)</sup> Judgment so egregiously bad that it really isn't  
A Medical issue for the Plaintiff,  
Green V. Paley, 414 F.3d 645, 654 (7th Cir. 2005)
- 18) Defendant's <sup>(And Nurses)</sup> treatment "so blatantly inappropriate as to evidence intentional  
mistreatment like to seriously aggravate the Plaintiff's condition."  
Id. at 655. Defendant "doggedly persist[ing] in a course of treatment  
known to be ineffective"  
Hughes V. Joliet Correctional Ctr, 931 F.2d 425, 428 (7th Cir. 1991)
- 19) Defendant's <sup>(And Nurses)</sup> evidence that medical staff treated the Plaintiff "Not  
as a patient, But as a Nuisance".
- 20) The Plaintiff who was denied Adequate Medical Care in a timely  
manner May use 42 U.S.C § 1983 to Sue the Defendant <sup>(And Nurses)</sup> which  
works for ~~the~~ the Medical Care Providers, Including Personnel  
and Corporation who work as Contractors.
- 21) The Plaintiff may also seek Damages for Medical Malpractice  
Under State Law. 17a see § F.5 on Negligence and Malpractice  
By the Defendant <sup>(And Nurses)</sup>,
- 22) Plaintiff is asking the honorable Courts to take in account  
That One Court has held that detainees "are entitled to a greater  
degree of Medical Care than Convicted Inmates. They must provided  
with "Reasonable Medical Care Unless the failure to supply it is  
Reasonably Related to a Legitimate governmental Objection."  
Rhyne V. Henderson County, 973 F.2d 386, 391 (5th Cir. 1992)  
citation omitted.

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23) The Deliberate Indifference Standard by the Defendant And Nurses;

The Supreme Court has stated that "deliberate indifference to serious Medical Needs of Prisoners constitutes the "unnecessary and wanton Infliction of Pain",... Proscribed by the ~~Eight~~<sup>Eighth</sup> Amendment. Most Courts have Also Applied the deliberate indifference Standard to pre-trial detainees under The Due Process Clause, State Law - Statutes, Constitution, OR Case Law - may provide different Standards.

see, eg.; Jorgenson V. Schiedler, 870 R. App. 100, 741 P.2d 528, 529  
(OR, App. 1987)

24) Constitution Requires "Such Medical Care in the form of Diagnosis And treatment as is Reasonably Available Under the circumstances of the [Plaintiff's] confinement and Medical Condition"

State Law Claims of Malpractice OR Negligence May be Litigated as tort Claims in State Court; ~~not~~

25) The Defendant <sup>(And Nurses)</sup> conduct towards The Plaintiff while under the color of state Law. Defendant <sup>(And Nurses)</sup> didn't demonstrated OR act responsibly by statements by facility personnel directly showing an Indifferent OR Hostile Attitude toward Plaintiff's Medical Needs.

Mullen V. Smith, 738 F.2d 317, 318-19 (8<sup>th</sup> Cir. 1984)

Plaintiff was subjected to "Ridicule and derision" In Response to Plaintiff's pain and in ability to use his Right hand.

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26) Defendant <sup>(And Nurses)</sup> Constituted deliberate Indifference By Delaying or Denial further attempts to Plaintiff's serious Medical Attention. The Defendant's <sup>(And Nurses)</sup> showed Much delay in Plaintiff's much Seriousness and Urgency of the Plaintiff's Medical Need.

Estell V. Gamble, 429 U.S. At 104

27) Defendant <sup>(And Nurses)</sup> intentionally ~~denying~~ or delaying Access to Medical Care

Fields V. City of South Houston, Texas, 922 F.2d 1183, 1192 N.10 (5th Cir. 1991)

28) Defendant <sup>(And Nurses)</sup> denied evidence that The Casa Grande Regional Hospital had given the Police Officer's the exercised wide discretion on Summoning medical Care Providing A 30 Day schedule for The Plaintiff's serious hand surgery.

Militer V. Beorn, 896 F.2d 848, 853-54 (4th Cir. 1990)

29) Defendant's Nurses' failure to Attend infirmary ~~patient~~ <sup>patient who</sup> Lost Consciousness and Fell).

30) ~~HC~~ H.C by Hewett V. Jarrard, 786 F.2d 1080, 1083, 1087 (11th Cir. 1986)

Defendant Nurses' Isolation of Injured Plaintiff and deprivation of Medical Attention over 30 Days By making statement by "you are scheduled to have surgery At this Time." Plaintiff has in fact been In pain and suffering for over 3 months. Do to Defendant and his Nurses Not tending to Plaintiff's serious medical Needs.

31) The Plaintiff has been diagnosed by a physician as Mandating treatment or one that is so obvious that even a lay person would easily Recognized the Necessity for a doctor's Attention.

Hill V. DeKalb <sup>Reg'l</sup> ~~Reg't~~ Youth Det. CTR., 40 F.3d 1176, 1187 (11th Cir. 1994)

"one that, if left unattended, poses a Substantial Risk of Serious harm"

Taylor V. Adams, 221 F.3d 1254, 1254, 1258 (11th Cir. 2000)

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If A Doctor says you need treatment, or your need is obvious, that it is probably "serious",

32) The Eighth Amendment prohibits the "Unnecessary and wanton infliction of Pain.

Estelle V. Gamble, 429 U.S. at 104.

1. whether a reasonable doctor or patient would perceive the medical need in question as important and worthy of comment or treatment;
2. whether the medical condition significantly affects daily activities; and
3. the existence of chronic and substantial pain

Brock V. Wright, 315 F.3d 158, 162 (2<sup>nd</sup> Cir. 2003) (internal quotation marks omitted)

Additionally, Courts will be likely to find a "Serious medical need" if a condition "has been diagnosed by a physician as mandating treatment or... is so obvious that even a lay person would easily recognize the necessity of a doctor's attention"

Hill V. DeKalb Reg'l Youth Detention Ctr. 40 F.3d 1176, 1187 (11<sup>th</sup> Cir. 1994) (internal quotation marks, citation omitted).

33) Defendant <sup>(And Nurses)</sup> denied ~~the~~ Plaintiff of Doctor's further order for future surgeries;

A serious medical need is present when ever the failure to treat a prisoner's condition could result in further significant injury or the unnecessary and wanton infliction of Pain,

Clement V. Gomez, 298 F.3d 898, 904 (9<sup>th</sup> Cir 2002)

Significant injury, pain or loss of function can constitute "serious medical need" even if they are not life threatening.

Chaney V. City of Chicago, 901 F. Supp. 266, 270 (N. D. Ill. 1995) (post-surgical care of foot)

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Boucharde V. Magnusson, 715 F. Supp. 1146, 1148 (D. Me. 1989) (persistent back pain)

Ellis V. Butler, 890 F.2d 101, 103 (8th Cir. 1989) (swollen, painful knee)

34) Defendant ~~and~~ <sup>and</sup> Nursing violated Plaintiff's Constitutional Rights;

Pain can constitute a "serious medical need" even if the failure to treat it does not make the condition worse.

see Boretti V. Wiscomb, 930 F.2d 1150, 1154 (6th Cir. 1991) (denial of dressing and pain medication for wound)

Ellis V. Butler, 890 F.2d 1001, 1003 (8th Cir. 1989) (Nurse's failure to deliver pain medication)

Washington V. Dugger, 860 F.2d 1018, 1021 (11th Cir. 1988) (Denial of treatments that could "eliminate pain and suffering at least temporarily")

35) Defendant and Nursing violated Plaintiff's Constitutional Rights;

The Eighth Amendment requires that prison officials provide a system of ready access to adequate medical care. Prison officials show deliberate indifference to serious medical needs if prisoners are unable to make their medical problems known to the medical staff or if the staff is not competent to examine the prisoners, diagnose illnesses, and then treat or refer the patient. Such referrals may be to other physicians within the prison, or to physicians or facilities ~~or~~ outside the prison if reasonably speedy access exists. The prison must also provide an adequate system for responding to emergencies. If outside facilities are too remote or too inaccessible to handle emergencies promptly and adequately, then the prison must provide adequate facilities and staff to handle emergencies within the prison.

Hoptowit V. RAY, 682 F.2d 1237, 1252-53 (9th Cir. 1982)



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(And Nurses)  
36) Defendant is Obligated under the Eighth Amendment to provide ~~priso~~ Plaintiff with Adequate Medical Care. This principle Applies regardless of whether the medical Care is provided by employes or by private medical staff under contract with the Government

In Order to prevail on a constitutional Claim of inadequate Medical Care, Plaintiff must show that ~~Person~~ <sup>Defendant (And Nurses)</sup> treated ~~them~~ <sup>him</sup> with "deliberate indifference to serious medical Need

1) Estelle v. Gamble, 429 U.S. 97, 103 (1976)

2) West v. Atkins, 487 U.S. 42, 57-58 (1988) Richardson v. McKnight, 521 U.S. 399 (1997)

3) Estelle, 429 U.S. at 104

~~37) Defendant violated Plaintiff's Rights by disregarding Plaintiff's~~

37) Defendant <sup>And</sup> Nurses violated Plaintiff's Rights by ~~disreg~~ disregarding Plaintiff's first 3 month with severe pain. Then After Surgery Defendant And Nurses Disregarded Aiding Plaintiff's Bloody Bandages And properly Aides Timely given Medication to cause Plaintiff to become Infected And Damages the 4th finger to cause further ~~pain~~ ~~and~~ severe pain to the 4th and 5th finger which caused Plaintiff to be taken into A ~~an~~ Emergency ~~Hospit~~ Hospital At the Maricopa Medical Center In Phoenix, Arizona.

38) Defendant And Nurses demonstrated "deliberate indifference" if he or she Recklessly Disregards a substantial risk of ~~harm~~ harm to the prisoner. This is a Higher Standard than Negligence, and Requires that the Official Knows of and Dis Reguard an Excessive Risk of harm to the prisoner. The prison Official does Not, However need to know of A Specific Risk from a Specific Source.

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- 1) Farmer V. Brennan, 511 U.S. 825, 836 (1994)
- 2) Id. at 837
- 3) Id. at 843; Bradley V. Puckett, 157 F.3d 1022, 1025 (5th Cir. 1998)
- 39) Plaintiff Had Proven Circumstantial Evidence Which given to the Medical Staff upon Entry of Plaintiff Incarceration given by Police Department which Had Plaintiff taken out of Casa Grande Regional Hospital And Handed ~~over~~ over to Defendant's Custody which did not take a proper Intake on the Plaintiff serious Injuries.  
~~40)~~ Proven by Circumstantial evidence. It may be inferred from "the very fact that the Risk was obvious.  
Farmer, 511 U.S. at 842
- 40) Defendant and Nurses;  
A Prison Official Cannot "Escape Liability if the Evidence showed that he merely Refused to verify underlying facts that he Strongly Suspected to be true, or declined to confirm inference of Risk that he Strongly suspected to Exist.  
Id. at 843 N. 8
- 1) Both Recklessness with Respect to the standard of Medical Care see, e.g., Watson V. Caton, 984 F.2d 537, 540 (1st Cir. 1993) (per curiam) (Deliberat Indifference) because prison Nurse Refuse to treat Inmate's Serious hand Injury on Non medical ground that State was not Responsible for Injuries Caused by events occurring before Incarceration.

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- 2) Both Recklessness with Respect to the Standard of Medical Care  
Boretti V. Wiscomb, 930 F.2d 1150, 1154-55 (6<sup>th</sup> Cir. 1991) (Deliberate Indifference)  
because Nurse Interrupted prescribed Medical plan, despite fact that  
Prisoner's wound Healed Completely)
- 3) Both Recklessness with Respect to the Standard of Medical Care  
Ralston V. McGovern 167 F.3d 1160, 1162 (7<sup>th</sup> Cir. 1999) (Deliberate Indifference)  
because "to refuse to treat, at trivial cost, the pain caused by Cancer and Cancer  
treatments borders on the bar barous
- 4) Both Recklessness with Respect to the Standard of Medical Care  
McElligot V. Foley, 182 F.3d 1248, 1256 (11<sup>th</sup> Cir. 1999) (Deliberate Indifference)  
when medical staff fail to treat prisoner because doctors were aware that  
prisoner was in tremendous pain, ~~and~~ even though doctor's misdiagnosis  
of Prisoner's Cancer was Not 8th Amendment Violation.
- 5) The Ninth Circuit has Recognized that access to medical staff is meaning less  
unless the staff is Competent to Render Care.  
See Ortiz V. City of Imperial, 884 F.2d 1312, 1314 (9<sup>th</sup> Cir. 1989) (Deliberate  
indifference) when medical staff dis regards evidence of complications  
to head Injury and prescribed contraindicated Sedatives.
- 41) Defendant And Nurses should be ~~held~~ <sup>Held</sup> Reliable to the Plaintiff;  
Prison Officials may be found Liable under the deliberate Indifference test  
for denying Humane Condition of Confinement only if they know that an  
Inmate faces Substantial Risk of Serious harm and then dis regards  
that Risk by failing to take Reasonable measures to Abate it. Prison  
Officials Also have a duty to protect inmates from violent treatment  
by other guards and to Restore "Control" in tumultuous situations

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Whitley, 475 U.S. at 319 (8<sup>th</sup> Amendment violated only when authorities act with obduracy and wantonness under those circumstances)

42) The Supreme Court has rejected a purely objective test for determining liability and determined that subjective Recklessness, as used in Criminal Law, is the appropriate test for deliberate Indifference

See Farmer, 511 U.S. at 839-840.

The Court rejected an objected standard under which a prison official who was unaware of a substantial risk of ~~harm to~~ harm to an inmate would never the less be held liable under the Eighth Amendment if the risk was obvious and a reasonable prison official would have notice it.

See Id. at 841-42

see, e.g., Desrosiers v. Moran, 949 F.2d 15, 19 (1<sup>st</sup> Cir. 1991) (Deliberated indifference) because state of mind of prison officials indicated Recklessness in "Criminal Law" sense, requiring actual knowledge of impending harm, easily preventable")

Hamilton v. Leavy, 117 F.3d 742, 747 (3<sup>rd</sup> Cir. 1997) (Possible deliberate indifference) under Farmer because prisoner had history of violent acts against him, was subsequently labeled a "snitch" and prison officials failed to take additional protective steps beyond the recommendation of protective custody);

43) Plaintiff has a right to medical care;

See Gamble, 429 U.S. at 105-06 (Holding that only "deliberate indifference" and not accidents or inadvertent failure to provide medical care violates the 8<sup>th</sup> Amendment)

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For the District of Arizona

Respectfully submitted this Day 21, November 2007

Forrest Alan Craddock

Plaintiff