

Plaintiff's Name Dana McMaster  
Inmate No. K-92462  
Address Pleasant Valley State Prison  
P.O. Box 8503  
Coalinga, CA 93210

**FILED**

AUG 27 2008

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
BY J. HELINGS  
DEPUTY CLERK

DANA McMASTER  
(Name of Plaintiff)

1:04-cv-06453-AWI-GSA-PC  
(Case Number)

vs.

COMPLAINT AMENDED

DOCTOR THOMAS; DOCTOR SALAZAR  
DOCTOR ORTIZ; DOCTOR NICHOLAS;  
OFFICER SEDWICK; M.T.A. COMBS

Civil Rights Act, 42 U.S.C. § 1983

**RECEIVED**

AUG 27 2008

CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
BY [Signature]  
DEPUTY CLERK

\_\_\_\_\_  
(Names of all Defendants)

I. Previous Lawsuits (list all other previous or pending lawsuits on back of this form):

A. Have you brought any other lawsuits while a prisoner? Yes \_\_\_ No x

B. If your answer to A is yes, how many? \_\_\_\_\_  
Describe previous or pending lawsuits in the space below.

(PC) McMaster v. Yates, et al

(If more than one, use back of paper to continue outlining all lawsuits.)

Doc. 21 Att. 2

1. Parties to this previous lawsuit:

Plaintiff \_\_\_\_\_

Defendants \_\_\_\_\_

2. Court (if Federal Court, give name of District; if State Court, give name of County)  
\_\_\_\_\_

3. Docket Number \_\_\_\_\_ 4. Assigned Judge \_\_\_\_\_

5. Disposition (For example: Was the case dismissed? Was it appealed? Is it still pending?)  
\_\_\_\_\_

6. Filing date (approx.) \_\_\_\_\_ 7. Disposition date (approx.) \_\_\_\_\_

II. Exhaustion of Administrative Remedies

A. Is there an inmate appeal or administrative remedy process available at your institution?

Yes x No    

B. Have you filed an appeal or grievance concerning ALL of the facts contained in this complaint?

Yes x No    

If your answer is no, explain why not \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

C. Is the process completed?

Yes x If your answer is yes, briefly explain what happened at each level.  
See attached inmate 602 appeal decisions.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

No     If your answer is no, explain why not.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**NOTICE:** Pursuant to the Prison Litigation Reform Act of 1995, “[n]o action shall be brought with respect to prison conditions under [42 U.S.C. § 1983], or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.” 42 U.S.C. § 1997e(a). If there is an inmate appeal or administrative remedy process available at your institution, you may not file an action under Section 1983, or any other federal law, until you have first completed (exhausted) the process available at your institution. You are required to complete (exhaust) the inmate appeal or administrative remedy process before filing suit, regardless of the relief offered by the process. Booth v. Churner, 532 U.S. 731, 741 (2001); McKinney v. Carey, 311 F.3d 1198, 1999 (9th Cir. 2002). **Even if you are seeking only money damages and the inmate appeal or administrative remedy process does not provide money, you must exhaust the process before filing suit.** Booth, 532 U.S. at 734.

III. Defendants

(In Item A below, place the full name of the defendant in the first blank, his/her official position in the second blank, and his/her place of employment in the third blank. Use item B for the names, positions and places of employment of any additional defendants.)

A. Defendant Doctor THOMAS is employed as Phyiscian  
M.D. at Pleasant Valley State Prison Coalinga

\_\_\_\_\_  
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**IV. Statement of Claim**

(State here as briefly as possible the facts of your case. Describe how each defendant is involved, including dates and places. Do not give any legal arguments or cite any cases or statutes. Attach extra sheets if necessary.)

For easier understanding and reading of the claims see attached memorandum of points and authorities.

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\_\_\_\_\_

**V. Relief.**

(State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.)

injunctive relief to have ankle surgically repaired; future loss of earnings damages. In excess of \$1,000,000 in damages

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I declare under penalty of perjury that the foregoing is true and correct.

Date 8/24/08

Signature of Plaintiff David J. McMaster

(revised 6/01/04)

Dana McMaster, K92462  
PVSP-C5-138L  
POB 8503  
Coalinga, CA 93210

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
FRESNO DIVISION

DANA McMASTER,

Plaintiff,

v.

MEDICAL TECHNICIANS SEDWICK & COMBS,  
DOCTORS THOMAS, ORTIZ, SALAZAR,  
and NICHOLOS, et al.,

Defendants.

1:04-CV-06453-AWI-GSA (PC)

AMENDED COMPLAINT 42 U.S.C.  
§1983 DELIBERATE INDIFFERENCE  
EIGHTH AMENDMENT COMPLAINT;  
MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
COMPLAINT

GENERAL ALLEGATIONS

1) This is a complaint for injunctive relief and damages for defendants deliberate indifference to the serious medical needs of plaintiff DANA McMASTER during his confinement by the California Department of Corrections (CDC) at Pleasant Valley State Prison (PVSP);

2) This action arises pursuant to 42 U.S.C. §1983, and jurisdiction is based upon 28 U.S.C. §§1331 and 1343;

3) All of the conduct giving rise to the claims alleged herein arose in Fresno County, California. Therefore, venue is proper under 28 U.S.C. §1391(b)(2).

Plaintiff lists below specifically the basis for the lawsuit and in doing so he files this First Amended Complaint in accord with the Federal Rules of Civil Procedure.

Also, plaintiff below, alleges that the defendants subjected him to the deprivation of his constitutional rights under the Fourth and EIGHTH Amendments, within the meaning of section 1983, when those defendants did affirmative acts, and/or participated in another's affirmative acts and/or omitted to perform an act which they were legally required to do that has caused the deprivation of which this complaint is made.

(See Johnson v. Duffy, (9th Cir. 1978) 588 F. 2d 740, 743).

Lastly, plaintiff contends that the defendants created the deliberate indifference by being aware of the facts from which the inference could be drawn that a substantial risk of serious harm exists, and that those named defendants drew the inference. Plaintiff vehemently contends that "THIS IS NOT A CASE WHERE DEFENDANTS SHOULD HAVE BEEN AWARE OF THE RISKS, BUT WAS NOT." This case and the evidence produced in the form of medical records amply shows the defendants failed to act in a responsible and reasonable manner consistent with the dictates of the Eighth Amendment. "THIS IS NOT A CASE OF A DIFFERENCE OF OPINION BETWEEN PLAINTIFF AND THE DEFENDANTS."

BASIS FOR CLAIM/LAWSUIT

Plaintiff claims against the defendants are based on, but not limited to, the following violations of law, statute and/or other actionable wrongful conduct:

- a. Negligence of their agents and employees the course of excuting and enforcing the law;
- b. Violating plaintiff's rights under the Eighth Amendment of the United States Constitution through their deliberate indifference to his serious medical needs and condition;
- c. Negligent hiring, training and supervision of employees of defendants;
- d. Negligent and intentional destruction of medical evidence records
- e. Negligently and intentionally developing, instituting and implementing policies and procedures that lead to the destruction and alteration of medical records evidence so as to damage plaintiff's access to justice and so as to result in the obstruction of justice;
- f. Violating State law by violating Government Code Section 845.6 by denying plaintiff access to adequate medical care and services;
- g. Violating federal law by violating the Eighth Amendment of the United States Constitution through their deliberate indifference to plaintiff's serious medical condition and medical needs by:
  - (1) Not allowing him to make his medical problems known to the proper medical staff,
  - (2) Denying him reasonably speedy access to medical care,
  - (3) Denying him treatment prescribed by physicians or medical staff,
  - (4) Providing an inadequate system for responding to emergencies,
  - (5) Insufficiently staffing their facilities with medical personnel properly trained and supervised, and,
  - (6) Failing to provide accurate, organized and thorough medical records and have them available for sick call, examinations and treatment.
- h. Violating plaintiff's Fourth and Fourteenth Amendments by ratifying the unconstitutional conduct of their employees.

- i. Violating plaintiff's federal Civil Rights Act (42 U.S.C. section 1983).

**NATURE AND EXTENT OF INJURIES/DAMAGES REQUESTED:**

As a result of the wrongful conduct as alleged above and in the complaint, plaintiff has sustained the following injuries and other damages:

(a) Dana McMaster, the plaintiff injuries include, but are not limited to, compounded injury to his fractured ankle resulting from defendants refusal to provide him a wheelchair and their requirement that he walk, and unnecessary delay in treatment that caused him to suffer unnecessary pain, and their failure to provide adequate medical services. Plaintiff suffered physical, psychological and emotional injuries, and he claims compensatory, punitive, and nominal damages for his injuries, emotional distress, pain, suffering and future medical costs.

**AMOUNT OF DAMAGES:**

j. Plaintiff's claimed damages are within the jurisdiction of the United States District Court, Eastern District of California, Fresno.

(1) Plaintiff claims damages for: present and prospective injuries, emotional distress and pain and suffering, medical expenses incurred to date, future medical expenses, loss of earnings to date, future loss of earnings, loss of earning capacity, emotional distress, general damages, costs of suit, and cost of injunctive relief. The exact amounts of each of these elements of plaintiff's damages are undertermined at this time but total in excess of \$1,000,000.00. Punitive damages as may be permitted by law in an amount undertermined at this time but total in excess of \$1,000,000.00.

PROOF OF LINKAGE OF DEFENDANTS  
TO THE DELIBERATE INDIFFERENCE VIOLATIONS

I.

Defendants COMBS and SEDWICK were deliberately indifferent to plaintiff's serious medical needs when COMBS after taking and reading the x-ray that showed plaintiff had a fractured ankle failed to provide adequate medical care, after seeing that a risk of further harm would result but COMBS disregarded that risk and failed to take reasonable steps to abate it.

Defendant SEDWICK'S deliberate indifference was created by her recognizing plaintiff's serious medical needs but she did not and outright refused to administer the prescribed pain medications leaving plaintiff to suffer in extreme and excessive pain.

DEFENDANT DOCTORS THOMAS, SALAZAR, ORTIZ, and NICHOLOS all, at some point, knew that plaintiff's ankle was fractured based upon plaintiff's medical records and the x-ray reports and despite knowing the serious medical needs of plaintiff they did not provide adequate medical treatment for the fractured ankle. To make plaintiff suffer in pain for over 4 months and for not treating the broken ankle properly created the deliberate indifference of these named defendants.

Below, plaintiff shall effectively link each and every named defendant with specific actions or omissions that has caused the deliberate indifference claims raised in this First Amended Complaint.

II.

Defendant COMBS actions consist of him taking x-rays, and informing plaintiff of a fracture of the ankle and failing to see that plaintiff received medical care.



Even though COMBS was aware of the plaintiff's serious medical needs he himself did nothing to reduce the risk of further risks. Plaintiff was informed and thereon alleges that once plaintiff complained to COMBS that something had to be done to correct the lack of adequate medical care COMBS complained to his superiors about the lack of adequate medical care of the plaintiff and he COMBS, was removed from the medical department at PVSP. The medical records in this case supports plaintiff's contentions that amply bears the signature of COMBS on the x-rays. (See exhibits "I" & "II").

### III.

Defendants SEDWICK was responsible for the distribution of pain medications to the plaintiff at the time of him suffering the broken ankle.

On 1/7/04, SEDWICK was on duty in the "C" yard medical clinic when plaintiff showed up looking for the doctor to get the results of his x-rays and pain medications. Defendant Dr. ORTIZ, said the x-rays were negative but ORTIZ ordered a 5 day lay-in, crutches, Vicodin for pain for 4-days pain management. (See Exhibit "A"). Defendant SEDWICK refused to give plaintiff his prescribed pain medications. On 1/09/04, plaintiff had his then cell-mate assist him to the medical clinic on "C" yard to get something for pain. Nurse LUNN informed plaintiff that defendant ORTIZ had ordered pain meds for 4 days but SEDWICK stated that: " Your x-rays were negative, and you won't be getting any pain meds." Nurse LUNN gave me 2 vicodin anyway because it was ordered by the doctor, even over the objections of SEDWICK because Lunn had looked at my swollen ankle and saw that it was discolored badly and I could not put any weight on it.

On 1/10/04 thru 1/12/04, "C" yard was on lock-down and SEDWICK was required to walk to each building to pass out medications. I asked SEDWICK if she would allow me to see the doctor on an emergency basis due to the

broken ankle becoming more swollen and discolored and due to me being in extreme severe pain unable to eat or sleep. SEDWICK'S response was: "No, you won't be seeing any doctor, I was present when the doctor called over to Central Treatment Center (CTC) and I heard him say your x-ray was negative therefore, there is no need for you to see a doctor."

On 1/12/04, exhibit "B" shows the 602 inmate appeal plaintiff filed on this issue of being denied adequate medical care. Defendant SEDWICK'S negligence and deliberate indifference can not be excused for any reason whatsoever. Her callous disrespect and failures as a Medical Technician Assistant to insure that plaintiff received adequate medical care created the deliberate indifference and violated the Eighth Amendment requiring relief. These acts and/or omissions by SEDWICK specifically link her to the violations complained of and the medical records shows that SEDWICK violated plaintiff's civil rights to receive adequate medical care.

To overcome SEDWICK'S beliefs that plaintiff did not suffer a broken ankle he relies on the radiology report dated 1/06/04 that shows an avulsion fracture of the ankle. From 1/06/04 beyond 3/15/04 to make plaintiff suffer in pain with a broken ankle and without receiving adequate medical care, no pain medications, clearly supports his claims of deliberate indifference in violation of the Eighth Amendment's prohibition to cruel & unusual punishment.

Other facts consist of plaintiff on 1/5/04 and 1/6/04 being sent by the doctor to see defendant COMBS to have x-rays taken of the left ankle. COMBS was the x-ray technician on 1/5/04. On 1/7/04 I went to see defendant Dr. NICHOLAS and he called to CTC in my presence and spoke with COMBS who NICHOLAS said told him that the x-rays were negative. After repeated refusals by all medical staff on "C" yard for medical assistance/care I

filed an inmate 602 grievance appeal on 1/12/04. (Log. #0400549 see attached exhibit "C"). The appeal concerns having x-rays taken of my left leg/ankle. Approximately 2 months later on 3/17/04, defendant SALAZAR reviewed the 602 appeal and he partially granted it. SALAZAR ordered x-rays be done on lower left leg/ankle.

On 3/20/04, I received a CDC 7393 Notification of Diagnostic Test Results (Type of Test X-ray film left ankle) date of test 1/06/04. Defendant NICHOLAS signed this report on 3/15/04. (See exhibits "D" & "E"). Exhibit "F" shows that on 3/23/04, I went to see COMBS again to have an x-ray taken on my lower leg because it too had began to swell and I could feel a bone moving around in it. At that time COMBS told me that I had a fractured fibula and he showed me the results of the x-ray and told me that he put a copy of it in my medical file. I explained to COMBS that the defendant doctors have been denying that any breaks or fractures exists in the x-ray results. COMBS proceeded to show me once again the x-rays he took and he signed them and advised me to request an Olsen review of my medical files to insure that the x-ray results were indeed contained in my medical file. COMBS took another set of x-rays of my lower left leg. (See exhibit "G" <sup>(IRFI)</sup> 2 ~~x-rays~~ dated 3/24/04 & 3/29/04) which shows plaintiff attempted failures to receive the actual authentic test results of the x-rays taken on 1/6/04. Plaintiff contends that the defendants conspired to cover up the results of the original x-rays showing a fractured fibula along with the ankle fractures, therefore, minimizing the appearance of the extent of damage by omitting the fractured fibula from all radiology reports on record or in plaintiff's medical files. Yet, exhibit "H" the radiology report from the Coalinga Regional Medical Center amply shows a bone contusion and/or microtrabecular fractures involving the proximal

portion of the fibula diaphysis. Date of test 1/14/05, more than 1 year after the original injury.

Plaintiff therefore believes and thereon alleges that these actions by the defendants solidify his claims for deliberate indifference. This is also supported by the medical records/exhibits attached hereto.

#### STATEMENT OF FACTS

Pursuant to Federal Rules of Civil Procedure 8(a)(2), plaintiff supplies the Court with "a short and plain statement of the claims showing that the pleader is entitled to relief." Although not required, plaintiff goes above and beyond the requirements of the Rule by giving specific facts of the alleged violations and in doing so he gives the defendants fair notice of what the claims are and the grounds upon which they rests. (See Erickson v. Pardus, (2007) 127 S. Ct. 2197).

Plaintiff has also plead "enough facts to state a claim to relief that is plausible on its face." In the First Amended Complaint, plaintiff alleges that defendants COMBS failed to see that plaintiff received adequate medical care when he COMBS knew plaintiff had a fractured ankle after taking and reading x-rays that showed the fracture, causing plaintiff to suffer in extreme and unnecessary pain resulting in deliberate indifference to plaintiff's serious medical needs.

As amply alleged, all defendants were deliberately indifferent to plaintiff's serious medical needs when they knew that plaintiff faced a substantial risk of serious harm and the defendants disregarded that risk by failing to take reasonable steps to abate it. (See Farmer v. Brennan,

(1994) 511 U.S. 825, 837; Jett v. Penner, (9th Cir. 2006) 439 F.3d 1091).

Thus, plaintiff has specifically alleged wrongful conduct on the part of defendants Doctors THOMAS, ORTIZ, SALAZAR, and NICOLES by their deliberate indifference to plaintiff's fractured ankle and the events occurring after the x-rays were taken on January 6, 2004.

CONCLUSION

With Good Cause Shown, plaintiff should be allowed to proceed with the serving of defendants their complaint and summons of this suit. Plaintiff also requests a jury trial on this matter.

DECLARATION OF DANA McMASTER

I DANA McMASTER, declare under penalty of perjury that the foregoing statements are true and correct to the best of my ability and are made from my own personal knowledge of the events as I have described them herein.

/s/ Dana J. McMaster

Dated: 8/24, 2008

# EXHIBIT

" I "

Exhibit "I"

**CALIFORNIA DEPARTMENT OF CORRECTIONS  
PLEASANT VALLEY STATE PRISON-COALINGA**

**SUPPLEMENTAL PAGE**

**RE:** Appeal Log No. PVSP-C-04-01401  
First Level Response

McMaster, CDC #K-92462

**APPEAL DECISION: GRANTED**

**ISSUE APPEALED: MEDICAL**

**APPEAL RESPONSE:**

In your appeal you state you would like to obtain copies of your medical records and radiology reports. You request copies of all of your medical documentation, including radiology reports from January 1, 2004, to the present, and identification numbers of the x-rays.

Your appeal is granted. Your copies have been forwarded to your facility clinic where the assigned MTA will deliver your copies. The identification number on your x-ray film is your CDC number, plus the date of your x-ray. There is no other identification number on your film.

Considering the above information, your appeal is granted at the first level of review.



R. VILLARREAL  
Health Records Technician II

Date 6/01/04



P. HERNDON  
Chief Dental Officer

Date 6/1/04

# EXHIBIT

"II" (2 pgs)





DEPARTMENT OF CALIFORNIA  
DEPARTMENT OF CORRECTIONS  
INMATE APPEALS BRANCH  
P. O. BOX 942883  
SACRAMENTO, CA 94283-0001

**DIRECTOR'S LEVEL APPEAL DECISION**

Date: **OCT 29 2004**

In re: McMaster, K-92462  
Pleasant Valley State Prison  
P.O. Box 8500  
Coalinga, CA 93210-1135

IAB Case No.: 0402646                      Local Log No.: PVSP 04-01522

This matter was reviewed on behalf of the Director of the California Department of Corrections (CDC) by Appeals Examiner M. Hodges-Wilkins, Facility Captain. All submitted documentation and supporting arguments of the parties have been considered.

**I APPELLANT'S ARGUMENT:** It is the appellant's position that on April 7, 2004, he had a partial soft cast put on his leg and ankle due to a fracture that occurred on January 2, 2004. The appellant states that his medical needs in regard to the treatment of his leg are being denied between the time he injured his leg and the time the cast was put on. The appellant requests that he be provided with the names of the staff present in the emergency room when his cast was applied, a written statement from the x-ray technician regarding the appellant's March 23, 2004 visit, identification numbers and dates to all of the x-rays taken of his lower leg and ankle, copies of the x-ray results taken on January 6, 2004, and March 23, 2004, to see an orthopedist, and that he be given a copy of the "lay-in" issued to him.

**II SECOND LEVEL'S DECISION:** The reviewer found that it was explained to the appellant that the names of individuals present in the emergency room when he was treated for his leg is unknown, except for reports written by treating staff. These reports are available in the appellant's Unit Health Record (UHR). A request has been submitted on the appellant's behalf for an Olsen Review of his UHR. He may then choose which documents he wants copied. No written statement will be provided by the x-ray technician as he is absent indefinitely as an employee of the Department of Corrections. The appellant is on the list to be seen by an orthopedist via telemedicine. This issue has also been addressed in CDC Form 602, Inmate/Parolee Appeal Form Log #C-04-01677 and Log #C-04-01764.

**III DIRECTOR'S LEVEL DECISION:** Appeal is denied.

**A. FINDINGS:** Documentation and arguments presented are persuasive that the appellant has failed to support his appeal issue with sufficient evidence or facts to warrant modification of the Second Level of Review. The California Code of Regulations, Title 15, Section (CCR) 3354 establishes that only qualified medical staff shall be permitted to diagnose illness and prescribe medication and medical treatment for inmates. According to medical staff familiar with the appellant's health care and history, he has received medical care in accordance with department regulations.

The appellant claims that his medical needs in regard to treatment for his leg were ignored between the time he injured his leg and the time he received the cast. Pleasant Valley State Prison (PVSP) medical staff were contacted at the Director's Level of Review. The appellant's medical file was reviewed by B. Morris, Medical Appeals Analyst. According to the appellant's medical file, he received x-rays on January 6, 2004, (within normal limits), March 24, 2004, (due to continued complaints of pain), and May 3, 2004. In addition, the appellant was also seen in relation to his leg and ankle treatment on January 4 and 7, 2004; March 5 and 30, 2004; April 1, 5, 7 and 27, 2004; and May 19 and 27, 2004. He was seen by an orthopedist via telemedicine on August 27, 2004. In this particular matter, the appellant's contention that he has not received adequate medical care is refuted by the Second Level Reviewer and professional staff familiar with his medical history.

The appellant filed the appeal as an Americans with Disabilities Act issue. Following careful examination, there is no evidence to support that the issue and its resolution fall within the Armstrong v. Davis Court Ordered Remedial Plan or CCR 3085. As such, it has been processed in accordance with CCR 3084 et sequitur.

It is noted that the appellant added new issues to his appeal after the Second Level Response was issued. Those new issues are not addressed herein. The appellant must submit a separate appeal on the new issues to permit the institution an opportunity to resolve or otherwise respond to them.

**B. BASIS FOR THE DECISION:**

CCR: 3350, 3354

**C. ORDER:** No changes or modifications are required by the institution.

This decision exhausts the administrative remedy available to the appellant within CDC.



N. GRANNIS, Chief  
Inmate Appeals Branch

- cc: Warden, PVSP
- Health Care Manager, PVSP
- Appeals Coordinator, PVSP
- Medical Appeals Analyst, PVSP

# EXHIBIT

A

Exhibit A

NOTE: SEND COPY OF PHYSICIAN'S ORDER FOR MEDICATION TO PHARMACY AFTER EACH ORDER IS SIGNED.

Order Date	Time	Problem #	Physician's Order and Medication (Orders must be dated, timed, and signed.)
11/7/04	12:10		lay in x 5 days. Cont' crutches & ace wrap. Vicodin tab, q PO, BID, RDA acute pain x 4 days. Elevate left leg most of the time 6" ace wrap to left leg x 5 days. Doctor line x 2 days

Noted 1-7-04 R. O. ...  
 1-7-04 172# 138/72 89  
 1-25 S: He hurt his left ankle & leg playing running 4 days ago. X-ray taken 2 days ago was negative for fracture? He is now on a lot of pain.  
 O: Left ankle is mod. swollen & painful with black & blue at the bottom of left heel. ROM slight limited, circ. is OK, in warm. Left leg is swollen, 2 cm. bigger compared with the right. Lat. compartment in warm and feels tense.  
 A: Sprain of left ankle, contusion of left leg, R/O compartment syndrome (old)  
 P: see orders please.

see w & 1 Code, Sections 4514 and 5328

D.S. ORTIZ  
 M.D.  
 me master

K 92462

PHYSICIAN'S ORDERS

# EXHIBIT

B

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

**INMATE/PAROLEE  
APPEAL FORM**

CDC 802 (12/97)

Location: Institution/Parole Region

Log No.

Category

1. PVSP-C

1. 04-00549

8

2. \_\_\_\_\_

2. \_\_\_\_\_

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
<u>DAWA J. Mc Master</u>	<u>K-92462</u>	<u>C-4 Porter</u>	<u>C-4-246</u>

A. Describe Problem: On 1/5/04, I hurt my ankle and leg. I went to the M.T.A and asked for an x-ray to get me X-ray. On the 5th they X-rayed my ankle. My friend it was negative. On the 7th pm. I got up to see the doctor. My lower leg was swollen and I could feel a bone protruding around my leg. I asked if I could get an x-ray on my leg? He left the leg, prescribed some medication and told me that I would see the doctor on the 11th. That never happened. On Monday morning I asked the M.T.A Sec. if I could see the doctor to get an x-ray? She basically said, "No. That's how you get into a hot mess and yelled at her." (I had been kept up in pain all weekend) For that, I'm sorry.

If you need more space, attach one additional sheet. Would it be possible to get an x-ray done on my leg?

B. Action Requested: You know, I've been in pain for over a week. Every time I put pressure on it, I feel a bone moving and it causes me alot of pain. I'm just asking for an x-ray. All there is something wrong that I could get it fixed. Can you be the wrong for that. Thank you for your time.

Inmate/Parolee Signature: Dawa J. Mc Master Date Submitted: 1/12/04

C. INFORMAL LEVEL (Date Received: \_\_\_\_\_)

Staff Response: \_\_\_\_\_

**BYPASS**

Staff Signature: \_\_\_\_\_ Date Returned to Inmate: \_\_\_\_\_

**D. FORMAL LEVEL**

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

**BYPASS**

Signature: \_\_\_\_\_ Date Submitted: \_\_\_\_\_

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim

CDC Appeal Number: \_\_\_\_\_



First Level  Granted  P. Granted  Denied  Other

E. REVIEWER'S ACTION (Complete within 15 working days): Date assigned: 3/9/04 Due Date: 4/21/04

Interviewed by: F. Salazar, MD, on 3-17-04.

See attached

Staff Signature: [Signature] Title: MD Date Completed: MAR 30 2004  
 Division Head Approved: [Signature] Title: CRS Returned: 4-7-04  
 Signature: \_\_\_\_\_ Date to Inmate: \_\_\_\_\_

F. If dissatisfied, explain reasons for requesting a Second-Level Review, and submit to Institution or Parole Region Appeals Coordinator within 15 days of receipt of response.

Signature: \_\_\_\_\_ Date Submitted: \_\_\_\_\_

Second Level  Granted  P. Granted  Denied  Other

G. REVIEWER'S ACTION (Complete within 10 working days): Date assigned: \_\_\_\_\_ Due Date: \_\_\_\_\_

See Attached Letter

Signature: [Signature] Date Completed: \_\_\_\_\_  
 Warden/Superintendent Signature: [Signature] Date Returned to Inmate: \_\_\_\_\_

H. If dissatisfied, add data or reasons for requesting a Director's Level Review, and submit by mail to the third level within 15 days of receipt of response.

Signature: \_\_\_\_\_ Date Submitted: \_\_\_\_\_

For the Director's Review, submit all documents to: Director of Corrections  
 P.O. Box 942883  
 Sacramento, CA 94283-0001  
 Attn: Chief, Inmate Appeals

DIRECTOR'S ACTION:  Granted  P. Granted  Denied  Other

See Attached Letter

Date: \_\_\_\_\_

# EXHIBIT C



STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

**INMATE/PAROLEE  
APPEAL FORM**  
CDC 602 (12/07)

Location: Institution/Parole Region

Log No.

Category

1. PVSP-C  
2. \_\_\_\_\_

1. 04-00549  
2. \_\_\_\_\_

8

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
<u>DAWA J. Mc Master</u>	<u>K-92462</u>	<u>C-4 Porter</u>	<u>C-4-246</u>

A. Describe Problem: On 1/5/04, I hurt my ankle and leg. I went to the MTA and asked for an appointment to get an X-ray. On the 5th they X-rayed my ankle. My leg was hurting so bad it was hurting my hip. On the 7th I went to see the doctor. My lower leg was swollen and I could feel a bone (swelling around my leg). I asked if I could get an X-ray on my leg? He felt the leg, prescribed some medication but told me that I would see him on the 14th (that never happened). On Monday morning I asked MTA Sede if I could see the doctor to get an X-ray. She basically said "No" that I had seen the doctor and yelled at her. (I had been legged up in pain all weekend) For that, Sede was sorry.

If you need more space, attach one additional sheet. Would it be possible to get an X-ray done on my leg?

B. Action Requested: You know, I've been in pain for over a week. Every time I put pressure on it, I feel a bone move and it causes me alot of pain. I'm just asking for an X-ray. All there is something wrong there I could get it fixed. Can you in the morning for that. Thank you for your time.

Inmate/Parolee Signature: Dawa J. Mc Master Date Submitted: 1/12/04

C. INFORMAL LEVEL (Date Received: \_\_\_\_\_)  
Staff Response: \_\_\_\_\_

**DYPASS**

Staff Signature: \_\_\_\_\_ Date Returned to Inmate: \_\_\_\_\_

D. FORMAL LEVEL  
If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

**BYPASS**

Signature: \_\_\_\_\_ Date Submitted: \_\_\_\_\_  
CDC Appeal Number: \_\_\_\_\_

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim



First Level  Granted  P. Granted  Denied  Other

E. REVIEWER'S ACTION (Complete within 15 working days): Date assigned: 3/9/04 Due Date: 4/21/04

Interviewed by: F. Salazar, MP, on 3-17-04.

See attached

Staff Signature: [Signature] Title: MP Date Completed: MAR 30 2004  
 Division Head Approved: [Signature] Title: CRS Returned: 4-1-04  
 Signature: [Signature] Title: CRS Date to Inmate: 4-1-04

F. If dissatisfied, explain reasons for requesting a Second-Level Review, and submit to Institution or Parole Region Appeals Coordinator within 15 days of receipt of response.

Signature: \_\_\_\_\_ Date Submitted: \_\_\_\_\_

Second Level  Granted  P. Granted  Denied  Other

G. REVIEWER'S ACTION (Complete within 10 working days): Date assigned: \_\_\_\_\_ Due Date: \_\_\_\_\_

See Attached Letter

Signature: [Signature] Date Completed: \_\_\_\_\_

Warden/Superintendent Signature: [Signature] Date Returned to Inmate: \_\_\_\_\_

H. If dissatisfied, add data or reasons for requesting a Director's Level Review, and submit by mail to the third level within 15 days of receipt of response.

Signature: \_\_\_\_\_ Date Submitted: \_\_\_\_\_

For the Director's Review, submit all documents to: Director of Corrections  
P.O. Box 942883  
Sacramento, CA 94283-0001  
Attn: Chief, Inmate Appeals

DIRECTOR'S ACTION:  Granted  P. Granted  Denied  Other

See Attached Letter Date: \_\_\_\_\_

**EXHIBIT D**

Exhibit D

CALIFORNIA DEPARTMENT OF CORRECTIONS  
PLEASANT VALLEY STATE PRISON-COALINGA  
SUPPLEMENTAL PAGE

RE: Appeal Log No. PVSP-C-04-00549  
First Level Response:

MCMASTER, CDC# K-92462

APPEAL DECISION: PARTIALLY GRANTED

ISSUE APPEALED: MEDICAL

APPEAL RESPONSE:

You were interviewed by F. Salazar, M.D., on March 17, 2004. In your appeal you stated on January 5, 2004, you hurt your ankle and leg. An x-ray was negative on that date. You saw the doctor on January 7, 2004, because you lower leg was swollen, and you could feel a bone moving around. You requested an x-ray.

An x-ray has been ordered.

Considering the above information, your appeal is **partially granted** at the first level of review.

*SALAZAR, MD*

F. SALAZAR, M.D.  
Physician & Surgeon

03-24-04  
Date

*H. D. Sacks*

H. D. SACKS, D.O.  
Chief Physician & Surgeon

MAR 30 2004  
Date

# EXHIBIT

"E"

"E"

Exhibit

STATE OF CALIFORNIA  
CDC 7393 (11/02)

DEPARTMENT OF CORRECTIONS

NOTIFICATION OF DIAGNOSTIC TEST RESULTS

NAME <i>McMaster, Dana</i>	CDC NUMBER <i>K 92462</i>
INSTITUTION <i>FVSP</i>	HOUSING <i>C4</i>
TYPE OF TEST <i>X-ray film Lt. ankle</i>	DATE OF TEST <i>01-06-04</i>

YOUR TEST RESULTS HAVE BEEN EVALUATED BY A PHYSICIAN AND THE FOLLOWING HAS BEEN DETERMINED:

- Your test results are essentially within normal limits or are unchanged and no physician follow up is required.
- You are being scheduled for a follow up medical appointment. You will be receiving a ducat indicating your appointment time.
- A repeat test will be ordered. You will be ducated for this test.
- A chronic care appointment has been scheduled for you. You will be receiving a ducat indicating your appointment time.

*K. Nicholas, MD*  
 \_\_\_\_\_  
 NAME / TITLE  
*[Signature]*  
 \_\_\_\_\_  
 PHYSICIAN SIGNATURE

*03-15-04*  
 \_\_\_\_\_  
 DATE

ORIGINAL - File in UHR

CANARY - Scheduler

PINK - Patient

# EXHIBIT

"F" (2 pgs)

Exhibit "E" (pg 1)

STATE OF CALIFORNIA DEPARTMENT OF CORRECTIONS  
**INMATE PRIORITY PASS** CDC 129-A(7/88)

INMATE'S NAME McMASTER		CDC #: K-92462	PASS FROM: C4-246L
ISSUED BY: A. COMBS, SRT		DATE: 3/22/04	APPROVED BY:
PASS TO: CENTRAL HEALTH		DATE: 3/23/04	TIME: 0800
REASON: X-RAY EXAMINATIONS			
ARRIVAL TIME:		RECORDED BY:	
DEPART TO:		TIME:	RECORDED BY:

STATE OF CALIFORNIA DEPARTMENT OF CORRECTIONS  
**INMATE PRIORITY PASS** CDC 129-A(7/88)

INMATE'S NAME MCMASTER		CDC #: K-92462	PASS FROM: C4-246L
ISSUED BY: S. HOYT, OT(T)		DATE: 4/02/04	APPROVED BY:
PASS TO: FAC "C" MTA CLINIC		DATE: 4/05/04	TIME: 0900
REASON: DOCTOR'S LINE			
ARRIVAL TIME:		RECORDED BY:	
DEPART TO:		TIME:	RECORDED BY:



Reason for Consultation follow up left ankle fracture.

Signature of Referring Doctor

F. SALAZAR, M.D.

Date

Consultant's Report

RADIOLOGY REPORT

CHIEF COMPLAINT: Painful left ankle.

*Was supposed to be a leg X RAY  
Refer to Appeal Log # 04-00549*

TEST PERFORMED: LEFT ANKLE:

AP, lateral and oblique views of the left ankle dated March 23, 2004 reveal a stable avulsion fracture at the tip of the medial malleolus. An avulsion fracture off of the posterior malleolus is evident on the current study. (This was not appreciated on the prior examination of January 5, 2004) The ankle mortise is intact. The joint space is well maintained. There is a decrease in bone density, which is probably secondary to limited use.

ASSESSMENT:

Avulsion fractures at the medial malleolus and the posterior malleolus.

*Note  
False*

Signature of Consultant

*[Signature]*  
W.C. THOMAS, M.D.

Date of Consultation

03/24/04

Name of Patient

MCMASTER, DANA

Number

K-92462

Date of Birth

04/08/63

Hospital

PLEASANT VALLEY STATE PRISON

(bh)

DD: 03/24/04

DT: 04/02/04

CONSULTANT'S RECORD

CDC 7243 (Rev. 9/77)

EXHIBIT "G" (2 pgs)

pa. 4

"Exhibit B" 2 pages "

STATE OF CALIFORNIA  
GA:22 (9/92)

DEPARTMENT OF CORRECTIONS

# INMATE REQUEST FOR INTERVIEW

DATE 3-24-04	TO C.O. Percy, Records	FROM (LAST NAME) MC MASTER, DANA	CDC NUMBER K-92462
HOUSING C4-246	BED NUMBER L	WORK ASSIGNMENT C4-Poster	JOB NUMBER - FROM 8:00 AM TO 3:00 PM
OTHER ASSIGNMENT (SCHOOL, THERAPY, ETC.) N/A			ASSIGNMENT HOURS FROM 8:00 AM TO 3:00 PM

**Clearly state your reason for requesting this interview.**

You will be called in for interview in the near future if the matter cannot be handled by correspondence.

I would like to have an Olson Review of my: MEDICAL RECORD  
 Thank you. Please include all medical records  
 currently at CTC (central health).

*[Handwritten signature: Dana McMaster]*  
 [Circular stamp: RECEIVED, dated 8/29/08]

Do NOT write below this line. If more space is needed, write on back.

INTERVIEWED BY \_\_\_\_\_

DISPOSITION \_\_\_\_\_

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PO: (2)

Exhibit 6

STATE OF CALIFORNIA  
GA-22 (9/92)

### INMATE REQUEST FOR INTERVIEW

DEPARTMENT OF CORRECTIONS

DATE 3/29/04	TO Adam Combs SRT(CTC)	FROM (LAST NAME) McMaster Dana J.	CDC NUMBER K-92462
HOUSING C-4	BED NUMBER 246 <sup>L</sup>	WORK ASSIGNMENT C-4 Porter	JOB NUMBER FROM TO
OTHER ASSIGNMENT (SCHOOL, THERAPY, ETC.)			ASSIGNMENT HOURS FROM 8:00 AM TO 3:00

#### Clearly state your reason for requesting this interview.

You will be called in for interview in the near future if the matter cannot be handled by correspondence.

Mr Combs on 3/23/04 I came to see you abouts the Xray results on my ankle leg taken on 1/6/04. You told me that the Xray revealed that I had a fracture fibula. You also said that they had a copy of the results of the Xray in my file. I looked in my file today. The Xray results that were taken on 1/6/04

Do NOT write below this line. If more space is required, write on back.

INTERVIEWED BY Ric Villareal, HRT II DATE 4/03/04

DISPOSITION  
Mr. McMaster, I have attached a copy of the <sup>dictated</sup> report you requested. The original was forwarded to the Radiologist for signature and will be placed in your health record as soon as it is returned.

TURN OVER →

are not in my file. Could you send me a copy of those results or if not  
me a written statement stating what the result of the X-rays said?  
Thank you for your time.

David M. Webster

EXHIBIT "H" (2 pgs)

(1)

H  
(2 pages)

**COALINGA REGIONAL MEDICAL CENTER**

1191 Phelps Avenue Coalinga, CA 93210 559/935-6435

**RADIOLOGY REPORT** K92462

Patient Name: McMASTER, Dana  
Date of Service: 01/14/05  
Date of Birth: 04/08/63  
X-ray #: 48965  
MR#: 242021

To: Pleasant Valley State Prison  
Attention: Doctor Nichols  
P.O. Box 8500  
Coalinga, CA 93210

Procedure: MRI of the Left Tibia/Fibula


Indication: Pain, fracture.

Protocol: An MRI of the left tibia/fibula is presented in the axial T1 weighted, axial T2 weighted, sagittal intermediate weighted and coronal inversion recovery sequences.

Findings: The proximal portion of the fibular diaphysis demonstrates increased fluid signal, consistent with bone contusion and/or microtrabecular fractures. There is no evidence for dislocation. The imaged portions of the muscle tissue and the subcutaneous adipose tissue are within normal limits.

Impression: Bone contusion and/or microtrabecular fractures, involving the proximal portion of the fibular diaphysis.

Thank you for the opportunity to assist you with the care of your patient.

  
Mario Deguchi, M.D.  
Diplomate of the American Board of Radiology  
MD:jjz

dd: 01/14/05  
dt: 01/14/05

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**COALINGA REGIONAL MEDICAL CENTER**

1191 Phelps Avenue Coalinga, CA 93210 559/935-6435

**RADIOLOGY REPORT** K92462

Patient Name: McMASTER, Dana  
Date of Service: 01/14/05  
Date of Birth: 04/08/63  
X-ray #: 48965  
MR#: 242021

To: Pleasant Valley State Prison  
Attention: Doctor Nichols  
P.O. Box 8500  
Coalinga, CA 93210

Procedure: MRI of the Left Ankle

Indication: Pain, fracture.

Protocol: An MRI of the left ankle is presented in the axial T1 weighted, intermediate weighted, and T2 weighted sequences. Sagittal T1 weighted, sagittal intermediate weighted, coronal T1 weighted and coronal inversion recovery images are also available.

Findings: There is no evidence for acute displaced fracture or dislocation. A small quantity of joint fluid is noted. Artifacts from red marrow are visible. The bone marrow signals are within normal limits without evidence for mass.

Portions of the tibiofibular ligaments and the tibiotalar ligaments are indistinct. However, I believe they are intact. The deltoid ligament is within normal limits.

A small quantity of fluid surrounding the tibialis posterior tendon and the flexor hallucis tendon is appreciated. This is consistent with tenosynovitis. Portions of the peroneus longus and the peroneus brevis tendons lack the normal signal void. This is consistent with tendinopathy. The Achilles, extensor hallucis longus, tibialis anterior, extensor digitorum longus, flexor digitorum longus, and the imaged portions of the peroneus tendons are intact. The imaged portions of the muscles and subcutaneous adipose tissues appear unremarkable. The plantar fascia is within normal limits.

Impression:

1. Tenosynovitis involving the tibialis posterior tendon and the flexor hallucis tendon.
2. The peroneus longus and brevis tendinopathy.

Thank you for the opportunity to assist you with the care of your patient.

*MD*

Mario Deguchi, M.D.  
Diplomate of the American Board of Radiology  
MD/jlz

dd: 01/14/05  
dt: 01/14/05