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1 SHAWN ANDERSON CDCR # F-81868  
2 Sierra Conservation Center  
3 5150 O'Byrnes Ferry Road  
4 Jamestown, CA 95327  
5 Plaintiff FN pro SE

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

9 SHAWN ANDERSON,  
10  
11 vs. plaintiff  
12 CHRIS KRPAN, licensed medical  
13 Doctor; MICHAEL FORESTER,  
14 licensed medical Doctor,  
15 individually and in their  
16 official capacities,  
17 Defendants

CASE NO. 1:14-CV-01380-AWI-MJS

AMENDED Complaint for Damages  
Declaratory Relief, and AN  
Injunction  
(42 U.S.C. § 1983)

Demand for Jury Trial

18 Through this verified amended complaint, plaintiff Shawn  
19 Anderson alleges:

23 Introduction

24 This action is Brought under 42 U.S.C. §1983 to seek redress for  
25 violation of plaintiffs Eighth Amendment right to adequate medical  
26 treatment. over (3) years ago, plaintiff suffered a severe injury  
27 to his ankle while playing Basketball. This injury required  
28 reconstructive surgery. After the surgery, and up to this day,  
plaintiff continues to suffer pain and swelling at the site  
of his injury. for months plaintiff's complaints  
went largely ignored by prison medical staff until  
an

1 X-RAY revealed that fragments of fractured bone are floating in  
 2 the area of the injury and surgery, likely causing the constant  
 3 swelling and severe pain. The X-RAY also revealed a possible  
 4 dislocation of ankle bone.

5 Nowwithstanding this evidence, the defendant who are  
 6 employed as prison doctors, have entirely failed to prescribe the  
 7 treatment necessary to alleviate the source of plaintiff's pain.  
 8 Specifically, both defendant have been made aware  
 9 of plaintiff's injury and has refused to make any type  
 10 of adjustment for plaintiff's pain or to possibly remove  
 11 source of pain and or broken bone located  
 12 during X-ray this clearly shows a possible  
 13 violation of plaintiff's eight Amendment right for  
 14 ~~the~~ cruel & unusual punishment since each defendant's  
 15 is aware of the problem to plaintiff continuing injury  
 16 on has not shown any specific action to change plaintiff's  
 17 conditions after it's been noted during new X-RAYS  
 18 an MRI's as a result of defendant's inexcusable conduct  
 19 plaintiff has to walk with a cane and is unable to  
 20 bear full weight on his ankle. Plaintiff continues  
 21 to suffer severe ankle pain and swelling. Plaintiff seeks  
 22 a declaration the defendant's actions are unconstitutional an order  
 23 compelling proper medical treatment and damages for pain & suffering

24 I.  
 Jurisdiction and Venue

25 1. This events giving rise to action occurred  
 26 at Sierra Conservation Center (SCC) in the city of Jamestown, IN  
 27 Tolome County California. Accordingly, The United States, Fresno  
 28 Division is the appropriate venue for this action under  
 2 @ U.S.C § 1391 (b)(2) and Eastern District local Rule ~~120(a)~~  
 120(c)

1           2. This Court has federal question jurisdiction pursuant to  
2 28 U.S.C. § 1331. Plaintiff's claims for declaratory and  
3 injunctive relief are authorized under 28 U.S.C. §§ 2201 and 2202.  
4 Plaintiff's claims for damages are authorized under 28 U.S.C.  
5 § 1343(b)(4).

6   **II.**

7   **PARTIES**

8           3. Plaintiff Shawn Anderson (Plaintiff) is a state  
9 prisoner currently confined at SCC, where he was confined during  
10 the times that are relevant to this action.

11           4. Defendant Chris Krpan is a physician who is licensed to  
12 practice medicine in the State of California by the Medical Board  
13 of California. Krpan is employed by the California Department of  
14 Corrections and Rehabilitation (CDCR) to provide medical treatment  
15 to state prisoners.

16           5. Defendant Michael Forster is a physician who is licensed  
17 by the Medical Board of California to practice medicine in the  
18 State of California. Forster is employed by CDCR to provide  
19 medical treatment to state prisoners.

20           6. At all times mentioned herein, Defendants Krpan and  
21 Forster acted under color of state law and directly participated  
22 in the events giving rise to this action. Each defendant is being  
23 sued individually and in their official capacities.

24   **III.**

25   **STATEMENT OF FACTS**

26           **A. CDCR Medical Policies**

27           7. CDCR has two sets of policies concerning how state  
28 prisoners receive medical treatment. The first is set forth in

1 Title 15, Division 3 of the California Code of Regulations at  
2 sections 3350-3359. The second set of policies are known as the  
3 Inmate Medical Services Policies and Procedures (IMSP&P). The  
4 IMSP&P were developed by CDCR in response to the class action  
5 titled Plata v. Brown, Case No. C01-1351-TEH (N.D. Cal.). These  
6 policies establish the standard of medical treatment for a CDCR  
7 prisoners.

8           8. Cal. Code Regs., tit. 15, § 3350(a) requires CDCR and  
9 its employees to provide medical services for inmates which are  
10 based on medical necessity and supported by outcome data as  
11 effective medical care. In the absence of available outcome data  
12 for a specific case, treatment will be based on the judgment of  
13 the physician that the treatment is considered effective for the  
14 purpose intended and is supported by diagnostic information and  
15 consultations with appropriate specialists.

16           9. Cal. Code Regs., tit. 15, § 3350(b)(1) defines the term  
17 Medically Necessary as health care services that are determined  
18 by the attending physician to be reasonable and necessary to  
19 protect life, prevent significant illness or disability, or  
20 alleviate severe pain, and are supported by health outcome data  
21 as being effective medical care.

22           10. Cal. Code Regs., tit. 15, § 3350(b)(2) defines the  
23 term Outcome Study as the definition, collection and analysis of  
24 comparable data, based on variations in treatment, concerning  
25 patient health assessment for purposes of improving outcomes and  
26 identifying cost-effective alternatives.

27           11. Cal. Code Regs., tit. 15, § 3350(b)(3) defines the  
28 term Outcome Data as statistics such as diagnoses, procedures,

1 discharge status, length of hospital stay, morbidity and mortality  
2 of patients that are collected and evaluated using science-based  
3 methodologies and expert clinical judgment for purposes of  
4 outcome studies.

5 12. Cal. Code Regs., tit. 15, § 3350(b)(4) defines the  
6 term Severe Pain as a degree of discomfort that significantly  
7 disables the patient from reasonable independent function.

8 13. Cal. Code Regs., tit. 15, § 3350(b)(5) defines the  
9 term Significant Illness and Disability as any medical condition  
10 that causes or may cause if left untreated a severe limitation of  
11 function or ability to perform the daily activities of life or  
12 that may cause premature death.

13 14. Volume 4, Chapter 21 of the IMSP&P requires that an  
14 inmate suffering from an urgent medical condition which requires  
15 specialist consultation must be referred for such a consultation  
16 within 15 days. A routine specialist consultation must be  
17 completed within 90 days.

18 15. During the times relevant to this action, the  
19 Defendants were aware of their duties under the policies set  
20 forth at Cal. Code Regs., tit. 15, §§ 3350-3359 and the IMSP&P.

21 **B. Plaintiff's Serious Medical Needs**

22 16. In July of 2011, while Plaintiff was housed at Corcoran  
23 State Prison, he sustained a severe injury to his right ankle  
24 while playing basketball. He'd felt a pop in the ankle followed  
25 by sharp pain and the inability to bear weight on the ankle.  
26 Plaintiff immediately sought medical attention after the injury.

27 ///

28 ///

1           17. Prison doctors ordered an MRI of Plaintiff's ankle and  
2 referred him to an orthopedic specialist. He was subsequently  
3 diagnosed with avulsion fracture of the tip of his lateral  
4 malleolus bone and complete tear of the lateral collateral  
5 ligament. The orthopedic specialist subsequently recommended  
6 surgical reconstruction of the torn ligament.

7           18. Plaintiff underwent surgery to reconstruct the torn  
8 ligament and repair the fracture to his ankle bone on February 22,  
9 2012 at Mercy Hospital in Bakersfield, California.

10           19. Approximately one (1) month after surgery, following  
11 instructions from the specialist, Plaintiff tried bearing weight  
12 on his ankle. As he did so, Plaintiff felt popping and snapping  
13 in his ankle, followed by soreness and excruciating pain in the  
14 joint. He was subsequently seen by the orthopedic specialist who  
15 determined that Plaintiff suffered an infection of the surgery  
16 site. The infection was treated with antibiotics and pain medica-  
17 tion.

18           20. For months after the surgery, Plaintiff continued to  
19 suffer severe pain and swelling in his ankle. Physical therapy  
20 was ineffective and Plaintiff was confined to a wheelchair  
21 because he was not able to bear weight on his ankle.

22           21. After arriving at SCC in late 2012, an x-ray was taken  
23 of Plaintiff's ankle on February 14, 2013. The x-ray revealed  
24 floating bone particles at the site of the injury causing swelling  
25 of the surrounding soft tissue. These bone particles remain in  
26 Plaintiff's ankle to this day, and continue to cause pain and  
27 swelling.

28     ///

1 **C. Deliberate Indifference To Plaintiff's Serious Medical Needs**

2 22. Plaintiff arrived at SCC in late 2012. He was seen by  
3 Defendant Forster on November 6, 2012 for an initial medical  
4 evaluation. At this appointment, Plaintiff explained that he still  
5 suffered severe pain in his ankle despite the previous surgery to  
6 repair his injuries. Forster noted the swelling of Plaintiff's  
7 right ankle. Forster also noted the MRI of Plaintiff's ankle that  
8 was completed on August 13, 2012, which revealed induration  
9 around a couple of tendons, a synovial cyst, and possible  
10 dislocation of the fibula bone. Forster stated that he'd refer  
11 Plaintiff to an orthopedic specialist.

12 23. According to established medical science, a bone  
13 dislocation requires treatment as soon as possible. The displaced  
14 bones must be returned to their proper position by a procedure  
15 called reduction. If the injury remains untreated for more than  
16 half an hour, increased swelling and pain often makes it more  
17 difficult to reduce the dislocation. Furthermore, if left  
18 untreated, a bone dislocation will cause pain and swelling to  
19 such an extent that it will be extremely difficult and painful to  
20 bear weight on the affected area. At the time of his November 6,  
21 2012 appointment with Plaintiff, Defendant Forster was aware of  
22 the urgency of treating bone dislocations.

23 25. Defendant Forster did not actually refer Plaintiff to  
24 an orthopedic specialist until January 10, 2013; approximately  
25 two (2) months after being made aware of Plaintiff's complaints  
26 of severe pain and difficulty bearing weight on his ankle, and  
27 being aware of the August 13, 2012 MRI revealing bone dislocation  
28 in his ankle.

1           26. At the time of his November 6, 2012 appointment with  
2 Plaintiff, Defendant Forster was aware that Plaintiff suffered  
3 an urgent medical condition. He was also aware that CDCR policy  
4 requires all urgent medical conditions to be referred to a  
5 specialist within 15 days.

6           27. On February 14, 2013, Plaintiff saw Defendant Krpan  
7 regarding his ankle issues as described herein. Krpan noted the  
8 August 13, 2012 MRI which revealed possible bone dislocation, and  
9 the February 14, 2013 X-ray that revealed floating bone particles  
10 in Plaintiff's ankle. Krpan also noted the swelling of Plaintiff's  
11 ankle and the fact that previous efforts at physical therapy had  
12 been ineffective. With this knowledge, Krpan did not refer  
13 Plaintiff for removal of the bone particles or act to confirm  
14 whether Plaintiff's ankle bone was dislocated and take action to  
15 correct it.

16           28. At the time of his February 14, 2013 appointment with  
17 Plaintiff, Krpan was aware that: (a) bone dislocations require  
18 urgent treatment; (b) bone particles must be removed through  
19 surgery; (c) the aforementioned conditions were causing Plaintiff  
20 severe pain and swelling in his ankle; and (d) Plaintiff is unable  
21 bear full weight on his ankle as a result of the above.

22           29. At the time of his February 14, 2013 appointment with  
23 Plaintiff, Defendant Krpan was aware of his obligation under CDCR  
24 policy to refer Plaintiff to an orthopedic specialist for treat-  
25 ment of his urgent ankle condition within 15 days.

26       ///

27       ///

28       ///



1           30. Defendant Krpan did not refer Plaintiff for treatment  
2 of his urgent ankle condition by an orthopedic specialist.  
3 Furthermore, neither Krpan or Forster act to treat the underlying  
4 cause of Plaintiff's ankle pain and swelling; namely, the possible  
5 ankle bone dislocation and floating bone particles.

6           31. Plaintiff continues to suffer pain and swelling in his  
7 ankle, which require the use of a walking cane. Plaintiff is not  
8 able to bear full weight on his ankle, and walks with pain and  
9 difficulty. Moreover, the pain has worsened. Neither Krpan or  
10 Forster acted to treat Plaintiff's urgent ankle condition. They  
11 have not ordered a follow-up x-ray or MRI of Plaintiff's ankle.

12           32. Plaintiff continues to make requests for treatment of  
13 his ankle condition. To date, this treatment has not been  
14 forthcoming.

15   IV.

16   CAUSES OF ACTION

17   FIRST CAUSE OF ACTION

18           (Deliberate Indifference To Plaintiff's Serious Medical Needs)

19           33. Plaintiff realleges and incorporates by reference  
20 paragraphs 1-32 of this Complaint.

21           34. In acting as described herein, Defendants Krpan and  
22 Forster acted with deliberate indifference to Plaintiff's serious  
23 medical needs in violation of the Eighth Amendment to the United  
24 States Constitution.

25           35. The Defendants are aware that Plaintiff suffers from  
26 an urgent medical attention which requires immediate medical  
27 treatment from an orthopedic specialist. Yet, the Defendants have  
28 not acted to treat Plaintiff's condition.

