

Case 1:17-cv-00263-AWI-MJS Document 12 Filed 05/17/17 Page 1 of 10
 Plaintiff Case Name: Ruben Flowers
 Inmate No. J-95129
 Address Salinas Valley State Prison
P.O. Box 1020(A4-203)
Soledad, CA. 93960-1020

FILED

MAY 17 2017

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

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

(Name of Plaintiff) RUBEN FLOWERS vs. <u>C. CRYER (MEDICAL CEO)</u> <u>M. FRITE (MEDICAL CEO)</u> <u>M. CARRASQUILLO (RN)</u>	(Case Number) 1: 17 CV • 00263 MJS PC AMENDED CIVIL RIGHTS COMPLAINT UNDER: <input checked="" type="checkbox"/> 42 U.S.C. 1983 (State Prisoner) <input type="checkbox"/> <u>Bivens</u> Action [403 U.S. 388 (1971)] (Federal Prisoner)
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RECEIVED

MAY 17 2017

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

(Names of all Defendants)

I. Previous Lawsuits (list all other previous or pending lawsuits on additional page):

- A. Have you brought any other lawsuits while a prisoner? Yes ___ No **X**
- B. If your answer to A is yes, how many? **N/A**

Describe previous or pending lawsuits in the space below. (If more than one, attach additional page to continue outlining all lawsuits in same format.)

1. Parties to this previous lawsuit: **N/A**
 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 (Was the case dismissed? Appealed? Is it still pending?)

II. Exhaustion of Administrative Remedies

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). Prior to filing suit, inmates are required to exhaust the available administrative remedy process, Jones v. Bock, 549 U.S. 199, 211, 127 S.Ct. 910, 918-19 (2007); McKinney v. Carey, 311 F.3d 1198, 1999 (9th Cir. 2002), and neither futility nor the unavailability of money damages will excuse the failure to exhaust, Porter v. Nussle, 534 U.S. 516, 524, 122 S.Ct. 983, 988 (2002). If the court determines that an inmate failed to exhaust prior to filing suit, the unexhausted claims will be dismissed, without prejudice. Jones, 549 U.S. at 223-24, 127 S.Ct. at 925-26.

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

Yes No

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

Yes No

C. Is the process completed?

Yes If your answer is yes, briefly explain what happened at each level.

The appeal was denied at each level. Any partial granting is a means of circumventing the appeal process.

No If your answer is no, explain why not.

N/A

III. Defendants

List each defendant's full name, official position, and place of employment and address in the spaces below. If you need additional space please provide the same information for any additional defendants on separate sheet of paper.

A. Name **C. Cryer** is employed as **Chief Medical Officer**

Current Address/Place of Employment **P.O. Box 1050 Salinas Valley State Prison**

B. Name M Frite is employed as Chief Executive Officer of Medical

Current Address/Place of Employment P.O. Box 1050 Salinas Valley State Prison

C. Name M. Carrasquillo is employed as Registered Nurse

Current Address/Place of Employment P.O. Box 1050 Salinas Valley State Prison

D. Name et al., is employed as _____

Current Address/Place of Employment _____

E. Name _____ is employed as _____

Current Address/Place of Employment _____

IV. Causes of Action (You may attach additional pages alleging other causes of action and the facts supporting them if necessary. Must be in same format outlined below.)

Claim 1: The following civil right has been violated (e.g. right to medical care, access to courts, due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.):

MY ACCESS TO ADEQUATE MEDICAL CARE, DUE PROCESS, AND FREEDOM FROM CRUEL & UNUSUAL PUNISHMENT: HAVE AND CONTINUE TO BE VIOLATED

Supporting Facts (Include all facts you consider important to Claim 1. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, *by name*, did to violate the right alleged in Claim 1.):

" PLEASE SEE ATTACHED"

Claim 2: The following civil right has been violated (e.g. right to medical care, access to courts, due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.):

MY ACCESS TO ADEQUATE MEDICAL CARE, DUE PROCESS, AND FREEDOM FROM CRUEL & UNUSUAL PUNISHMENT: HAVE AND CONTINUE TO BE VIOLATED.

Supporting Facts (Include all facts you consider important to Claim 2. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, *by name*, did to violate the right alleged in Claim 2.):

" PLEASE SEE ATTACHED "

V. Relief

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

" PLEASE SEE ATTACHED "

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

Date: May 13, 2017

Signature of Plaintiff: Reuben Flowers

(Revised 4/4/14)

CLAIM I

1
2 UNDER TITLE 15§ 3350(a): "THE DEPARTMENT SHALL ONLY PROVIDE
3 MEDICAL SERVICES FOR INMATES, WHICH ARE BASED ON MEDICAL NECES-
4 SITY AND SUPPORTED BT "OUTCOME DATA" AS EFFECTIVE MEDICAL CARE.

5 DEFENDANT C. CRYER IS BEING SUED IN HIS INDIVIDUAL FOR THE FOLLOWING REASONS:

6 In response to the CDCR 602 submitted on 3/20/2016 seeking medical care
7 for severe pain in my neck and back, the defendant C. Cryer being well aware
8 of my pain and suffering; as the CHIEF EXECUTIVE OFFICER @ California Substance
9 Abuse Treatment Facility, while being well aware of plaintiff's neck and back
10 pain which was supported by OUTCOME DATA provided by the RN as well as the
11 primary care physician and the inmate appeal submitted by plaintiff did not a
12 thing to execute the necessary medical services to plaintiff, leaving him in
13 severe pain and delaying the medically necessary treatment plaintiff needed.
14 As a direct result of defendants negligence, delay and deliberate indifference
15 to plaintiff's serious medical need plaintiff's neck and back has worsened in
16 a major way. The defendant; through his medical expertise and training KNEW or
17 SHOULD HAVE KNOWN that the delay would cause plaintiff serious harm as it has.
18
19 The defendants deliberate delay and failure to provide Adequate Medical Care
20 "KNOWINGLY" of the harm plaintiff faced, deprived plaintiff of his FIFTH,EIGHTH,
21 and FOURTEENTH AMENDMENT RIGHTS to be afforded due process and EQUAL PROTECTION
22 UNDER LAW.

23 CLAIM II

24 UNDER TITLE 15§ 3350(b)(1);("PERMITS");
25 HEALTH CARE SERVICES THAT ARE DETERMINED BY THE ATTENDING PHYSICIAN
26 TO BE REASONABLE AND NECESSARY TO PROTECT LIFE, PREVENT SIGNIFICI-
27 GANT ILLNESS or ALLEVIATE SEVERE PAIN AND ARE SUPPORTED BY HEALTH
28 OUTCOME DATA AS BEING "EFFECTIVE MEDICAL CARE".

1 DEFENDANT M. FRITE IS BEING SUED IN HIS INDIVIDUAL CAPACITY FOR THE FOLLOWING:

2 From 3/20/2016 to the present, the defendant is and has been well aware
3 in the knowledge that the plaintiff is and has been in severe pain and has been
4 suffering needlessly. In response to plaintiff's inmate appeal(SATF HC 16063512)
5 the defendant as a "MEDICAL PROFESSIONAL" KNEW OR SHOULD HAVE KNOWN, that by the
6 refusing to act upon their training the plaintiff would continue to suffer ir-
7 repairable harm, and have to live in severe pain. Plaintiff continuously sought
8 medical attention only to put off with excuses as to why he could not be medi-
9 cally treated; mostly the reason was because of the budget. As a direct result
10 of his negligence, delay, and deliberate indifference to plaintiff's serious
11 medical need plaintiff has been left to suffer in extreme pain needlessly in vio-
12 lation of plaintiff's Eighth Amendment Right to be free from CRUEL & UNUSUAL PUN-
13 NISHMENT INFLICTIONS. Plaintiff has a Constitutional Right to be afforded the
14 basic human entitlements such as: Fresh Running Water, Clean Living Environment,
15 and ADEQUATE MEDICAL CARE.

16
17 The defendants Deliberate Delay and Failure to provide Adequate Medical Care
18 "KNOWINGLY" of the harm plaintiff faced, deprived plaintiff of his FIFTH, EIGHTH
19 and FOURTEENTH AMENDMENT RIGHTS to be afforded DUE PROCESS and EQUAL PROTECTION
20 UNDER LAW.

21 MY ACCESS TO ADEQUATE MEDICAL CARE, DUE PROCESS, and FREEDOM FROM CRUEL & UN-
22 USUAL PUNNISHMENT: HAVE AND CONTINUE TO BE VIOLATED.

23 CLAIM III

24 CDCR TITLE 15§3354(a)(e): ONLY FACILITY EMPLOYED HEALTH CARE STAFF, CONTRACTORS
25 PAID TO PERFORM HEALTH CARE SERVICES FOR THE FACILITY, OR PERSONS EMPLOYED AS
26 HEALTH CARE CONTRACTORS SHALL be permitted within the "SCOPE OF THEIR LICENSURE"
27 to diagnose illness or prescribe medication and health care treatment. Staff
28 conducting sick call SHALL screen medical problems appearing to require further

1
2 **medical** attention and SHALL evaluate request for appointments with
3 **MEDICAL STAFF.**

4 **DEFENDANT M. CARRASQUILLO IS BEING SUED IN HER INDIVIDUAL CAPACITY FOR THE FOLLOWING:**

5 On two(2) seprate occasions the defendant CLAIMED to have interviewed me
6 (4/22/2016 & 7/27/2016).While having no knowledge of these alleged interviews
7 yet as a Medical Care Professional whos first Oath is TO DO NO HARM ,the defend-
8 ant being well aware of plaintiff's serious medical need; having ALLEGEDY inter-
9 viewed plaintiff and did nothing to treat or assist plaintiff. The defendant
10 KNEW or SHOULD HAVE KNOWN that by not treating plaintiff's Serious
11 Medical Need plaintiff would and continues to suffer needlessly. As a direct
12 result of the defendants negligence, delay, and delibrate indifference to the
13 plaintiff's Serious Medical Need the defendant is in violation of plaintiff's
14 Eighth Amendment Right to be free from CRUEL & UNUSUAL PUNNISHMENT INFLICTIONS.
15 Plaintiff has a Constitutional Right to be afforded the basic human entitle-
16 ments of life such as: Fresh Running Water, Clean Living Environment, and Ade
17 quate Medical Care.

18
19 The Defendants Delibrate Delay and Failure to Provide Adequate Medical Care,
20 "KNOWINGLY" of the Harm plaintiff faced deprived plaintiff of his Fifth, Eighth,
21 and Fourteenth Amendment Rights to be afforded Due Process and Equal Protection
22 Under Law.

23 **RELIEF**

24 As each defendant is being sued in their individual capacity, Plaintiff
25 seeks monetary relief in the amount of Ten-Thousand Dollars(\$10,000.00) per
26 defendant. Plaintiff has had to continuously and continues to live in severe
27 pain for a medical condition that if treated at the onset, would not have bla-
28 tently violated plaintiff's 5th, 8th, and 14th Amendment Rights; but by not

1 constantly trying to cut corners when it comes to the health and well being
2 of the inmates in the custody of THE CALIFORNIA DEPARTMENT OF CORRECTIONS
3 and REHABILITATION would in the long run save the state money as well as not
4 leave plaintiff's such as myself to constantly suffer unnecessarily.

5
6 DECLARATION

7 I, RUBEN FLOWERS; THE UNDERSIGNED SAY:

8 I am the petitioner in this action. I declare under the
9 penalty of perjury under the laws of the STATE OF CALIFORNIA
10 that the foregoing allegations and statements are true and cor-
11 rect, except as to matters that are stated on my information
12 and belief, and as to those matters; I believe them to be true.
13 All Excerts, Documents, and Exhibits are factual and an accurate
14 account of the record. I Certify Verrification. ("I VERRIFY").

15 Executed on this 13th day of May 2017 at Salinas Valley
16 State Prison @ Soledad, California. County of Monterey via Legal
17 Mail.

18 *Ruben Flowers*

19 Dated: May 13, 2017

20 Ruben Flowers

21 //

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RUBEN FLOWERS

Plaintiff or Petitioner

V.

Case Number: **1:17-cv-00263 MJS PC**

C. CRYER et al;

Defendant or Respondent

PROOF OF SERVICE

AMENDED CIVIL RIGHTS COMPLAINT

I hereby certify that on May 13, 2017 I served a copy

of the attached AMENDED CIVIL RIGHTS COMPLAINT 42 U.S.C. 1983(State Prisoner)

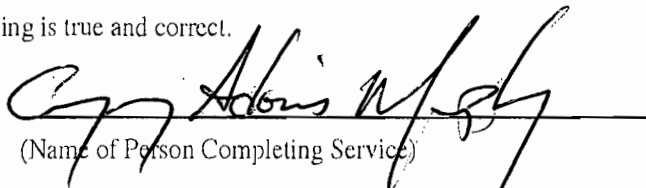
by placing a copy in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said

envelope in the United States Mail at Salins Valley State Prison (LEGAL MAIL)

~~(List Name and Address of Each Defendant or Attorney Served)~~

UNITED STATES COURTS
OFFICE OF THE CLERK, UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO, CALIFORNIA 93721-1318

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


(Name of Person Completing Service)