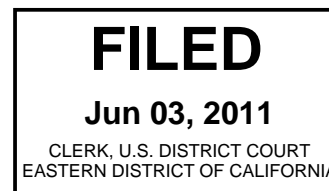


May 24, 2011

To: Judge Gregory Hollows
501 I Street
Sacramento, CA 95814



Re: Mady Chan vs. County of Sacramento

Dear Judge Hollows,

Thank you for the opportunity to provide to you a dental perspective on this case. I am a general dentist and have practiced dentistry for 26 years. Hopefully I will be able to provide the court with an objective discussion of Mr. Chan's dental treatment so that a conclusion can be reached if the dental care that the plaintiff received while in the Sacramento County Jail violated the Eighth Amendment bar on cruel and unusual punishment.

According to the copies of the dental treatment record the Plaintiff was seen by eight different dentists from September 2001 to September 2010. He was seen in the clinic 58 times. He received exams, x rays, prescription medications, extractions, caries excavation, and pulpectomies. All of the chart entries were legible and well documented. The copies of the x-rays were difficult to read. This is not unusual since it is very difficult to get a diagnostic quality reproduction of a film type dental x ray. Most of the entries had a clear diagnosis identified. The treatment rendered seemed appropriate for emergency care. It is obvious from the record that the dental clinic served the Plaintiff's "emergency" needs. The record reads like that of a Dental School emergency clinic or a military Sick Call clinic but not of a comprehensive care private practice nor even a Dental School Operative Clinic nor a military Dental Clinic designed to provide follow through and hygiene recare visits with a complete program of oral rehabilitation. I can speak of all three institutions since I have a private practice, attended dental school and served in the USN as a dental officer aboard the USS Camden and at the Oakland Naval Hospital. I cannot comment on the mission of the jail's dental facility or the directive they are given in providing care. What is known from the record is that all eight dentists tried to relieve pain and infection through initial pulp (nerve) therapy, caries control procedures, extractions and medications. Instructions were given to the Plaintiff that more definitive care would be needed in order to save some of his teeth long term. Over the ten year span of the treatment record 13 teeth received treatment. Every diagnosis involved extensive decay which either made the tooth non-restorable and had to be extracted or the decay was so extensive that it infected the nerve thus necessitating a pulpectomy (a mechanical removal of the nerve or in other words the initial step in root canal therapy). The other procedure performed over the years was called "caries control". This is where decay is so deep that it is deemed close to exposing the nerve or causing the nerve to be inflamed. Caries control is emergency

treatment to arrest the progression of decay until such time allows in the future to provide a more definitive restoration. Sometimes it will give the dentist time to evaluate if the nerve will succumb to the effects of long-standing decay thus needing a root canal. If no symptoms of infection and inflammation occur the tooth can be reentered and restored with a longer lasting filling or crown. Again, the types of procedures provided to the Plaintiff speak to his emergency needs at the time of each visit. The record documents in many instances that a particular tooth would need the root canal or final restoration once the Plaintiff left the jail setting. One of the complaints of the Plaintiff is that he received temporary fillings. It is true that in all of the entries the Plaintiff never received a silver filling, a composite filling or a crown or porcelain restoration. These are the permanent types of fillings and restorations dentistry provides. He received restorations made out of IRM (Intermediate Restorative Material) This is a Zinc Oxide and Eugenol based material designed to seal against bacteria for a short and intermediate time period and also a sedative restoration designed to calm pulp or nerve inflammation with the intent on reentering or replacing the filling in the future. The future could be days, weeks and even months. IRM restorations have even been known to last for a few years. IRM is a material of choice to close the access hole when a pulpectomy is performed. The pulpectomy is the initial step in performing a root canal. Many times a dentist will do the pulpectomy to remove the inflamed and infected nerve to relieve pain and swelling. The canals of the roots are left clean and dry if there is no time to complete the root canal or if it is a procedure that the dentist does not do and needs referral to a specialist or if the canals are too full of pus and blood and moisture control cannot be achieved to finish the rest of the steps of the root canal. The final steps are canal enlargement and back filling the canals from the tip of the root up to the coronal aspect of the tooth. Therefore, if pulpectomies are the only service that the jail dental clinic performs then it stands to reason they will only place IRM filling material since the tooth has to be reentered in the future. Placing a permanent restoration puts the "cart before the horse" so to speak. The dental record entries state in many places that the plaintiff was informed that the tooth that received the IRM filling had to have Root Canal Therapy to fully seal and restore the tooth. The record implies in a few entries that it was expected of the plaintiff to receive this followup treatment outside of the jail's dental care. On other instances the Plaintiff received IRM fillings because of deep decay that presented very close to the nerve and the dentist was performing "Caries Control". Here again IRM is used because time is needed to see how the nerve would respond. The IRM is used to sedate or calm the inflammation. This, however, implies that at a time in the future the tooth would need to be reentered and restored more soundly.

The following is a synopsis of treatment by date and tooth#. It does not contain every visit but rather only those visits where procedures were rendered:

10/01 Tooth #7 Dx (diagnosis)- "out of occlusion/ palatal version"
Rec. (recommended) Extraction of tooth #7
Tx: (treatment) Extracted #7

9/02 #30 Dx: non-restorable decay

Rec: Extraction
Tx: Extracted tooth #30

2/03 #6 Dx: Gross caries into pulp/ necrotic pulp
Rec: Pulpectomy
Tx: Pulpectomy done, placed IRM pt. (patient) advised "tooth will be brittle"

4/03 # 21 Dx: Caries into pulp
Tx: Decay was excavated and pulp was exposed. Pulpectomy performed and IRM placed. Pt. was advised " he will need RCT (root canal therapy)"

5/03 #5 Dx: Non-restorable decay
Rec: Extraction
Tx: Extracted #5

8/03 #1 Dx: Non-restorable decay
Tx: Extracted #1

2/04 #21 Dx: Recurrent decay REVIEWER's NOTE: this tooth was treated with a pulpectomy on 4/03 and he never received the RCT and now he is back again with new decay. Let's suppose that he received the completed RCT. He would still be facing this Dx and having the tooth extracted due to the return of decay.

Rec: Extraction
Tx: Extracted #21

6/04 #14 Dx: Non-restorable decay
Tx: Extracted #14 REVIEWER's NOTE: When a "Rec:" is not shown on this review it is because the chart entry did not show a recommendation but rather went straight to treatment being performed. The inclusion of this in the chart varies between Doctors rendering treatment. In some instances the record infers that a discussion or treatment recommendations were given but may not be written down.

- 10/04 #3 Dx: Pulpitis REVIEWER'S NOTE: This Dx is inferred from the write-up "Deep mesial decay"
Tx: MO sedative filling placed Ca(OH)₂ placed with IRM
REVIEWER'S NOTE: Here is an example of the use of IRM as a sedative filling. Clearly the doctor wanted to control decay and establish nerve viability. IRM would do that. However, no mention is made of a treatment plan for this tooth. The chart entry clearly stated that it was "an Emergency visit" only.
- 1/06 #6 Dx: Recurrent decay around IRM placed in 03.
Tx: Re-irrigated the canal to disinfect. removed decay and placed new IRM
REVIEWER'S NOTE: The entry does advise that this was a temporary measure.
- 3/06 #20 Dx: Large buccal decay w/ irreversible pulpitis
Tx: Options were given to the patient Pulpectomy vs. Extraction the plaintiff choose to have the pulpectomy
A pulpectomy was performed and the patient was told to "get RCT ASAP"
REVIEWER'S NOTE: It is now getting obvious that pulpectomies are used often as emergency treatment, however, there is no plan given to the inmate on how or where to get the definitive root root canal treatment.
- 10/06 #20 Dx: Infection/abscess
Rec: The Plaintiff was offered to have the tooth extracted
The Plaintiff refused treatment this day and said "will wait for RCT at State" REVIEWER'S NOTE: I do not know what the Plaintiff means by this comment that he will get the RCT done at State? The dentist may have told him that even though the tooth is infected it still could be saved by having the root canal treatment. Is the Plaintiff understanding now at this point he can't get RCT tx. done in the jail's dental clinic and he is expecting to get out of jail soon and is expecting a State "Medi-Cal" clinic to perform the RCT?
- 12/06 #20 Dx: Continued infection
Rec: Extraction recommended and offered.
The Plaintiff "refused" saying "he hoped to get out soon"
Tx: The tooth was opened and re-irrigated to attempt to disinfect the canal and buy the patient more time. The Plaintiff was advised to have the tooth extracted if it flared up again.

- 1/07 #3 Dx: Recurrent decay/ irreversible pulpitis
Tx: cleaned out the new decay, still no nerve exposure. Replaced Ca(OH)₂ (calcium hydroxide) and IRM
- 3/07 #20 Dx: Continued abscess
Rec: Extraction Pt. agreed
Tx: Extracted #20
- 4/07 #3 Dx: Severe Periodontal disease/ Abscess
Tx: Extracted #3
- 1/08 # 6 Dx: Reevaluation of #6 non-symptomatic
#2 was noted to have large decay present
Rec: Extraction or pulpectomy of #2
Tx. refused by pt. "Pt does not want any Tx at this time"
- 3/08 #6 Dx: Broken to gum-line now non-restorable
Rec: Extraction was offered to the Plaintiff but he declined tx.
#2 "Pt does not want work on it now , it does not hurt today"
#15 Dx: Decay into pulp
Rec: Extraction
"Pt refused extraction for now"
- 3/08 #15 Dx: Irreversible pulpitis
Tx: Pulpotomy (this is where only the top part of nerve is removed)
Pt was informed that he would need a complete Pulpectomy if symptoms continued"
- 5/08 #2 Dx: Extensive Decay
Rec: Extraction
"Pt wants to keep teeth as long as possible" pt refused extraction and elected to have the RCT initialed with a pulpectomy
Tx: Pulpectomy
- 8/08 #15 Dx: "intermittent pain"
Tx; reopened tooth and performed the completed pulpectomy.

The patient was told to receive a "RCT #15 when released"

- 4/09 #2 Dx: Non-restorable decay
Rec: Extraction
Tx: Decay was removed and IRM was placed as a palliative measure.
The record states " Patient does not want tooth removed at this time"
- 7/09 #15 Dx: IRM came out
Tx: The canals were re-instrumented and disinfected
IRM was replaced
The patient was again told " RCT needed when released"
- 12/09 #11 Dx: Deep caries into pulp
Tx: Pulpectomy- IRM was placed
Pt was again told "RCT #11 when released"
- 5/10 #11 Tx: Patched with temp filling IRM
- 7/10 #15 Dx: Recent pain episode. Now non- symptomatic
Rec: If symptoms return redo pulpectomy or antibiotic tx.
- 9/10 #2 Exam- non symptomatic
#11 Tx: Re-patched with IRM

One can see from this treatment record that the jail dental clinic was acting as an emergency only treatment center. They seem to have accurately diagnosed and presented treatment and performed treatment for that day with the goal of removing acute pathology only. The record indicates that they delivered treatment for the sole purpose of relieving pain and infection. The record does not contain evidence that a comprehensive treatment plan was ever developed or followed through. This individual is obviously a high caries risk individual and all of his treatment stemmed from decay or recurrent decay. The dental team was merely trying to "put out fires" until such time that the Plaintiff could secure longterm therapy, decay management and oral rehabilitation elsewhere. There certainly was no violation of the Eighth Amendment on cruel and unusual punishment. I saw no acts of deliberate indifference to serious medical needs. There was no evidence of a failure to deliver treatment when acutely needed. In fact there are entries showing that the Plaintiff "refused" to have the recommended treatment performed. Though one can debate the mission of the jail's dental clinic in regards to comprehensive dental care, it undoubtedly delivered care and response to acute needs in a professional and timely manner.

I hope that this review of the record was helpful. If you have any questions please don't hesitate to contact me.

Sincerely,

William B. Couch, DMD