

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

FILED  
U.S. DISTRICT COURT  
DISTRICT OF MARYLAND  
2004 JUN 17 A 11:38

STEVEN HOWARD OKEN,

Plaintiff

v.

FRANK C. SIZER, JR., Commissioner  
Maryland Division of Corrections, et al.,

Defendants

CLEARED FOR FILING  
AT GREENBELT  
BY: \_\_\_\_\_ DEPUTY  
Civil No. PJM 04-1830

~~PERMANENT~~ **TEMPORARY**  
REQUEST FOR DECLARATORY JUDGMENT, ~~PERMANENT~~ INJUNCTION  
AND CITATION OF CORRECT STANDARD OF PROOF

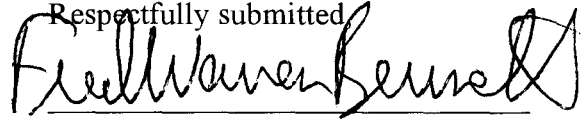
*PLS*

The plaintiff, Steven Howard Oken, through counsel , moves this Court to enter a Declaratory Judgment holding that based on the proof adduced herein, the Maryland Execution Protocol, as applied to Mr. Oken in this case, establishes an Eighth Amendment violation in that an unreasonable risk of a botched execution of the plaintiff exists (a lingering death and/or an unnecessary risk of the infliction of pain). Plaintiff also seeks a speedy and immediate hearing pursuant to Rule 57 of the Federal Rules of Civil Procedure as soon as possible on June 17<sup>th</sup>, 2004.

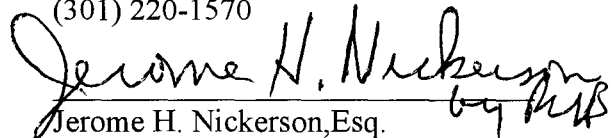
Plaintiff respectfully submits that the correct standard of proof in this lawsuit is proof by a preponderance of the evidence and that at the conclusion of all evidence plaintiff will have successfully met his burden of proof. See, Rosenbloom v. Metromedia, Inc., 403 U.S. 29, 50

(1971); Usher v. United States, 146 F.2d 369, 371 (4<sup>th</sup> Cir. 1944); Wing v. Britton, 748 F.2d 494, 497 (8<sup>th</sup> Cir. 1984).

Respectfully submitted



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#### CERTIFICATE OF SERVICE

This is to certify that on this 17<sup>th</sup> day of June, 2004, a copy of the foregoing Request for Declaratory Judgment and Standard of Proof was sent by E-Mail and FAX or by ordinary mail and/or hand delivered to David Kennedy, Esq., Ann N. Bosse, Esq., Office of the Attorney General, Criminal Appeal Division, 200 Saint Paul Place, Baltimore, Md. 21202 and Scott S. Oakley, Esq., Department of Public Safety and Correctional Services, 6776 Reisterstown Road, Baltimore, Maryland, 21215.



Fred Warren Bennett