

ORIGINAL

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MJED (Rev.2/07) Prisoner Civil Rights Complaint

Official Use Only

Case Number	Judge	Case: 2:07-cv-14644 Assigned To: Taylor, Anna Diggs Referral Judge: Binder, Charles E Filed: 10-30-2007 At 12:46 PM PRIS COBBS V PRAMSTALLER, ET AL (EW)
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PRISONER CIVIL RIGHTS COMPLAINT

This form is for use by state prisoners filing under 42 U.S.C. § 1983 and federal prisoners filing pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971).

Plaintiff's Information

Name DALLAS COBBS	Prisoner No. 164276		
Place of Confinement RYAN CORRECTIONAL FACILITY			
Street 17600 Ryan Rd	City Detroit, MI	State MI	Zip Code 48212
Are there additional plaintiffs? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
If yes, any additional plaintiffs to this action should be listed on a separate 8 1/2" x 11" sheet of paper and securely attached to the back of this complaint. <u>You must provide names, prisoner numbers and addresses for all plaintiffs.</u>			

Defendant's Information

Name SEE ATTACHED COMPLAINT	Position		
Street/P.O. Box	City	State	Zip Code
Are you suing this defendant in his/her: <input type="checkbox"/> Personal Capacity <input type="checkbox"/> Official Capacity <input checked="" type="checkbox"/> Both Capacities			
Are you suing more than one defendant? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
If yes, any additional defendants to this action should be listed on a separate 8 1/2" x 11" sheet of paper and securely attached to the back of this complaint. <u>You must provide their names, positions, current addresses and the capacity (personal, official or both) in which you are suing them.</u>			
SEE ATTACHED COMPLAINT			

I. PREVIOUS LAWSUITS

Have you filed any other lawsuits in state or federal court relating to your imprisonment?

Yes No

If "Yes," complete the following section. If "No," proceed to Part II.

Please list all prior civil actions or appeals that you have filed in federal court while you have been incarcerated.

Docket or Case Number:
Name of Court:
Parties (Caption or Name of Case):
Disposition:

Docket or Case Number:
Name of Court:
Parties (Caption or Name of Case):
Disposition:

Docket or Case Number:
Name of Court:
Parties (Caption or Name of Case):
Disposition:

Any additional civil actions should be listed on a separate sheet of 8½" x11" paper and securely attached to the back of this complaint.

II. STATEMENT OF FACTS

State here, as briefly as possible, the facts of your case. Describe how each defendant is involved. Include the names of other people, dates and places involved in the incident. Do not give any legal arguments or cite any cases or statutes. If you intend to allege several related claims, number and set forth each claim on a separate 8½" x 11" sheet of paper and securely attach the papers to the back of this complaint.

SEE ATTACHED COMPLAINT

III. RELIEF

State briefly and exactly what you want the Court to do for you.

SEE ATTACHED COMPLAINT

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Executed (signed) on October 24, 2007 (date).

Salleh Coleb
Signature of Plaintiff

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

DALLAS COBBS,
Plaintiff,

-v-

COMPLAINT

GEORGE J. PRAMSTALLER, JOHN DOE #1,
JOHN DOE #2, JOHN DOE #3, et al.
JOHN DOES, Bureau of Health Care
Services, Medical Services Advisory
Committee,
Defendants./

JURY TRIAL DEMANDED

Case: 2:07-cv-14644
Assigned To: Taylor, Anna Diggs
Referral Judge: Binder, Charles E
Filed: 10-30-2007 At 12:46 PM
PRIS COBBS V PRAMSTALLER, ET AL (EW
)

PRELIMINARY STATEMENT

This is a civil rights action filed by Dallas Cobbs, a state prisoner, for damages and injunctive relief under 42 U.S.C. §1983, alleging denial of medical care in violation of the Eighth Amendment to the United States Constitution.

JURISDICTION

1. The court has jurisdiction over the plaintiffs' claims of violation of federal constitutional rights under 42 U.S.C. §§1331(a) and 1343.

PARTIES

2. Plaintiff, Dallas Cobbs, was incarcerated at Ryan Correctional Facility, 17600 Ryan Rd, Detroit, MI 48212 during the events described in this complaint.

3. Defendant George J. Pramstaller is the Chief Medical Officer of the Michigan Department of Corrections' (MDOC) Bureau of Health Care Services (BHCS). He is sued in his individual and official capacity.

4. Defendant John Doe #1 is a member of the Medical Services Advisory Committee (MSAC). He is sued in his individual and official

capacity.

5. Defendant John Doe #2 is a member of the MSAC. He is sued in his individual and official capacity.

6. Defendant John Doe #3 is a member of the MSAC. He is sued in his individual and official capacity.

7. All of the defendants have acted, and continue to act, under color of state law at all times relevant to this complaint.

FACTS

8. On July 27, 2004, plaintiff was taken to Duane L. Waters Hospital for a clinic consultation with Dr. Ghulam Dastgir for pre-approval for scans of the right and left eye as well as cataract extraction with lens implants in both eyes, with the right eye to be done first.

9. Plaintiff was taken to Parkside Eye Clinic and underwent scans for both eyes on August 23, 2004 and signed a consent for cataract extraction with lens implant in both eyes.

10. On August 31, 2004, plaintiff was taken to Duane L. Waters Hospital one day after having cataract extraction with lens implant to his right eye. Dr. Dastgir's treatment plan was to have plaintiff brought back to the Blake Woods Surgery Center for cataract extraction with lens implant in the left eye as scheduled.

11. On October 7, 2004, Ryan physician Dr. Piper made a request to ophthalmology stating that plaintiff was to be returned to have a cataract procedure done on his left eye, citing the dictation of Dr. Dastgir.

12. The request was denied on October 26, 2004 by the MSAC, consisting of John Doe #1, John Doe #2, John Doe #3, et al. John

Does.

13. On November 29, 2004, plaintiff sent a health care request to the facility's Health Services(hereafter H/S), requesting information as to why he hadn't received the cataract surgery for his left eye.

14. A response dated December 1, 2005 was sent stating that "per MSP surgery not approved by CMS".

15. On December 8, 2004 plaintiff filed a grievance against H/S to find out why he hadn't received the surgery.

16. The response dated February 4, 2005 was that although the treatment plan was for cataract extraction with lens implant to the left eye, the MSAC, consisting of John Doe #1, John Doe #2, John Doe #3, et al. John Does, did not approve the surgery.

17. On or about January 17, 2005, plaintiff filed a Step II grievance appealing the Step I.

18. The response dated January 28, 2005 was that surgery was not approved by the MSAC, consisting of John Doe #1, John Doe #2, John Doe #3, et al. John Does.

19. On or about February 7, 2005 plaintiff filed a Step III grievance appealing the Step II.

20. On March 17, 2005 the response was that although a second cataract surgery had been approved, the approval was reviewed and rescinded by the MSAC, consisting of John Doe #1, John Doe #2, John Doe #3, et al. John Does.

21. The denial of cataract surgery by the MSAC, consisting of John Doe #1, John Doe #2, John Doe #3, et al. John Does, constituted deliberate indifference to his serious medical needs in violation of

the Eighth Amendment to the United States Constitution.

22. Plaintiff sent a health care request to H/S on March 17, 2005 to see the optometrist for new glasses because his vision had changed due to the cataract on his left eye.

23. Plaintiff was seen by optometrist, Dr. McGraf on May 10, 2005 but was unable to get new glasses because of the cataract on his left eye. Dr. McGraf made a request for cataract evaluation and possible surgery.

24. On May 31, 2005 that request was denied by the MSAC, consisting of John Doe #1, John Doe #2, John Doe #3, et al. John Does.

25. On June 8, 2005 plaintiff sent a health care request to H/S concerning new glasses and the cataract.

26. On June 24, 2005 plaintiff filed a Step I grievance about new glasses and the cataract surgery.

27. A response dated July 15, 2005 was that the surgery was not approved and that plaintiff was to be evaluated in 6-12 months by the optometrist.

28. Plaintiff sent a health care request to H/S on November 2, 2005 asking when he would see the optometrist.

29. A reply dated November 3, 2005 stated that he was on the appointment list.

30. On or about December 14, 2005 Dr. McGraf made another request for the surgery stating "Cataract surgery needed. No view of retina of left eye possible. Patient has also walked into objects on left side."

31. The MSAC, consisting of John Doe #1, John Doe #2, John Doe #3,

et al. John Does denied the request on December 27, 2005.

32. On January 11, 2006 Dr. McGraf requested a follow-up, citing glaucoma as a risk.

33. On or about February 1, 2006, plaintiff was examined by Dr. McGraf. He wrote a request to approve cataract surgery, citing glaucoma as a risk factor.

34. The request was denied on March 15, 2006 by the MSAC, consisting of John Doe #1, John Doe #2, John Doe #3, et al. John Does.

35. Dr. McGraf made a surgery request to prevent secondary glaucoma.

36. That request was denied by the MSAC, consisting of John Doe #1, John Doe #2, John Doe #3, et al. John Does on April 3, 2006.

37. On April 17, 2006, Dr. McGraf made another surgery request citing a risk of glaucoma.

38. That request was denied on May 9, 2006 by the MSAC, consisting of John Doe #1, John Doe #2, John Doe #3, et al. John Does.

39. On April 25, 2006, the MSAC, consisting of John Doe #1, John Doe #2, John Doe #3, et al. John Does, denied an appeal for cataract surgery.

40. On May 27, 2006 plaintiff sent a health care request to H/S because he could no longer see out of his left eye and requested to be examined by Dr. Piper.

41. An answer dated May 30, 2006 instructed plaintiff to watch the call-out for the eye clinic.

42. On June 21, 2006 plaintiff sent a health care request to H/S to see Dr. Piper.

43. An appointment was made for July 26, 2006.

44. On July 16, 2006 plaintiff sent a health care request to H/S stating he had no vision in his left eye and that he needed immediate attention.

45. A July 27, 2006 appointment was made for the eye clinic and for him to watch the call-out.

46. On July 27, 2006. Dr. Piper requested follow-up to ophthalmology noting the deterioration in plaintiff's vision.

47. On August 8, 2006 Dr. Piper wrote comments on a CMS Decision Form that according to the optometrist, plaintiff's vision in his left eye had significantly deteriorated.

48. On August 25, 2006 Dr. Cook examined plaintiff, requested surgery, and also stated that plaintiff needed to wear a patch on his left eye to function.

49. Plaintiff sent a health care request to H/S on October 26, 2006 because the strain on his right eye was causing him blurred vision, headaches, dizziness, and loss of balance.

50. The response dated November 2, 2006 was stamped "OPTOMETRY LIST".

51. On October 29, 2006 plaintiff filed a Step I grievance explaining that the optometrist keeps making surgery requests for plaintiff's left eye and that CMS, and the MSAC, consisting of John Doe #1, John Doe #2, John Doe #3, et al. John Does, continues to deny the surgery.

52. Plaintiff did not receive a response to Step I.

53. Plaintiff filed a Step II grievance appeal on November 30, 2006 repeating the Step I claim.

54. The response dated April 27, 2007 referred to the non-approval by the MSAC, consisting of John Doe #1, John Doe #2, John Doe #3, et al. John Does.

55. On December 13, 2006, Dr. McGraf requested that plaintiff be evaluated and that cataract surgery be ordered.

56. The request was denied on March 7, 2007 by the MSAC, consisting of John Doe #1, John Doe #2, John Doe #3, et al. John Does.

57. On or about January 15, 2007, plaintiff filed a Step III appeal stating the claims contained in Step I & II.

58. After plaintiff exhausted his state remedies, the failure of the MSAC, consisting of John Doe #1, John Doe #2, John Doe #3, et al. John Does, to approve cataract surgery constituted deliberate indifference to his serious medical needs, in violation of the Eighth Amendment to the United States Constitution.

59. On December 13, 2006, Dr. McGraf requested that plaintiff be evaluated and that cataract surgery be ordered.

60. Plaintiff wrote the Director's Office of the MDCC on February 27, 2007 in an attempt to expedite a response to his Step III grievance.

61. That office sent a letter dated April 3, 2007 stating that the grievance would be returned as soon as it was feasible.

62. Plaintiff sent a health care request to H/5 on April 21, 2007 complaining of double vision in his right eye.

63. An answer dated April 26, 2007 was returned stamped "OPTOMETRY

LIST".

64. Plaintiff wrote a letter dated May 21, 2007 to the MDOC Director's Office explaining that per MDOC policy, the total process from filing a Step I grievance to providing a Step III response was 90 days unless an extension had been granted. No extension was ever granted.

65. On July 29, 2007, plaintiff wrote the MDOC's grievance and appeals section, again citing MDOC policy and requesting an expeditious response.

66. On September 10, 2007, plaintiff received a Step III response affirming the responses given in Step I and II.

67. On September 28, 2007, plaintiff sent a health care request to H/S complaining of severe headaches, dizziness, and blurred vision.

68. He was given a October 5, 2007 appointment to see the nurse.

69. On October 5, 2007, plaintiff saw Ms. Butts, R.N. She told plaintiff that his medical record indicated that a request for an off-sight visit to ophthalmology was made by Dr. McGraf in March but was not authorized. She further said that there was nothing she could do about plaintiff's eye strain and scheduled him to see the doctor on October 29, 2007.

70. The defendants had knowledge that the plaintiff faced a risk of glaucoma without the surgery and failed to provide, or cause others to provide treatment, despite their knowledge of a substantial risk of serious harm. Their failure to do so is the proximate cause of plaintiff's pain and suffering, and has caused him great emotional distress.

71. On information and belief, if the plaintiff is not promptly provided with cataract surgery as directed by Dr. Destgir, he risks

permanent damage to his left eye.

CLAIM FOR RELIEF

1. The failure of defendant George J. Pramstaller to approve and to provide plaintiff with cataract surgery and to follow the prescribed treatment plan of Dr. Dastgir, constitutes deliberate indifference to the plaintiff's serious medical needs in violation of the Eighth Amendment to the United States Constitution.

2. The failure of defendant John Doe #1 to approve and to provide plaintiff with cataract surgery and to follow the prescribed treatment plan of Dr. Dastgir, constitutes deliberate indifference to plaintiff's serious medical needs in violation of the Eighth Amendment to the United States Constitution.

3. The failure of defendant John Doe #2, to approve and to provide plaintiff with cataract surgery constituted deliberate indifference to the plaintiff's serious medical needs in violation of the Eighth Amendment to the United States Constitution.

4. The failure of defendant John Doe #3, to approve and to provide plaintiff with cataract surgery constituted deliberate indifference to the plaintiff's serious medical needs in violation of the Eighth Amendment to the United States Constitution.

5. The failure of all of the defendants, individually, and in concert, to approve and provide the cataract surgery constituted deliberate indifference to plaintiff's serious medical needs and subjected him to the wanton and unnecessary infliction of pain and suffering, in violation of the Eighth Amendment to the United States Constitution.

6. As a direct and proximate result of the denial of cataract surgery, plaintiff suffers from intense headaches, dizziness, blurred vision in his right eye resulting from strain, loss of depth

perception, and loss of peripheral vision on his left side. Plaintiff must now wear an eye patch over his left eye in order to focus the vision in his right eye and is blind on his left side.

7. The failure of all of the defendants to approve and to provide the needed cataract surgery continues to subject plaintiff to pain and suffering, along with humiliation, mental and emotional anguish, and anxiety.

RELIEF REQUESTED

WHEREFORE, plaintiff requests that this Court grant the following relief:

A. Issue a declaratory judgement stating that:

1. The failure of all of the defendants to follow the examination and treatment plan of Dr. Dastgir by denying plaintiff the cataract surgery, constituted deliberate indifference to his serious medical needs in violation of the Eighth Amendment to the United States Constitution.

B. Issue an injunction ordering defendants or their agents to:

1. Immediately arrange for plaintiff to receive cataract surgery with lens implant to the left eye.

2. Immediately arrange for the plaintiff's need for any other follow-up treatment and evaluation by a medical practitioner with expertise in the treatment in restoring his vision.

C. Award compensatory damages to the plaintiff against these defendants for physical and emotional injuries sustained as a result of their violating his constitutional rights.

D. Award punitive damages against the defendants.

E. Grant such other relief that this Honorable Court may deem, or, as it may appear that the plaintiff is entitled.

Respectfully submitted,



Dallas Cobbs #164276

Ryan Corr. Facility

17600 Ryan Rd

Detroit, MI 48212

October 24, 2007

CIVIL COVER SHEET FOR PRISONER CASES

Case No. <u>07-14644</u>		Judge: <u>Anna Diggs Taylor</u>		Magistrate Judge: <u>Charles E. Binder</u>	
Name of 1st Listed Plaintiff/Petitioner: DALLAS COBBS			Name of 1st Listed Defendant/Respondent: GEORGE PRAMSTALLER, ET AL		
Inmate Number: 164276			Additional Information:		
Plaintiff/Petitioner's Attorney and Address Information:					
Correctional Facility: Ryan Correctional Facility 17600 Ryan Road Detroit, MI 48212 WAYNE COUNTY					

BASIS OF JURISDICTION

- 2 U.S. Government Defendant
 3 Federal Question

ORIGIN

- 1 Original Proceeding
 5 Transferred from Another District Court
 Other:

NATURE OF SUIT

- 530 Habeas Corpus
 540 Mandamus
 550 Civil Rights
 555 Prison Conditions

FEE STATUS

- IFP *In Forma Pauperis*
 PD Paid

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

- Yes No

➤ If yes, give the following information:

Court: _____
 Case No: _____
 Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

- Yes No

➤ If yes, give the following information:

Court: _____
 Case No: _____
 Judge: _____