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ACLU Lawsuit Charges Grossly Inadequate Medical Care At State Prison In Nevada (3/6/2008)

### **Prisoners At Risk Of Pain, Injury And Premature Death**

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ELY, NV – The American Civil Liberties Union filed a class-action lawsuit today against the director of Nevada’s Department of Corrections and other top governmental officials in Nevada for failing to rectify a pervasive pattern of grossly inadequate medical care at the Ely State Prison that creates a substantial risk of serious medical harm for each of the prison’s 1,000 inmates. The lawsuit charges that the prison lacks the most basic elements of an adequate prison health care system and deprives prisoners of the minimal civilized measure of life’s necessities.

“The state just hasn’t shown a sense of urgency in addressing the crisis at Ely,” said Amy Fettig, staff counsel with the ACLU’s National Prison Project. “They assured us that they were going to carry out far-reaching reforms to address the problems we brought to their attention, but that was months ago and they’ve made only half-hearted gestures to fix their broken system. We had hoped to avoid litigation but we can’t in good conscience wait any longer, with the men at Ely still at such risk.”

The filing of today’s lawsuit comes nearly three months after the release of a medical report that documented how gravely ill prisoners at Ely are routinely denied treatment for excruciatingly painful and potentially fatal medical conditions and revealed what Dr. William Noel, the medical expert commissioned by the ACLU to investigate medical conditions inside Ely and author of the report, called “a pattern of gross medical abuse.”

On the heels of the report’s release last December, ACLU attorneys proposed in a consent decree a series of basic reforms that would have dramatically improved prison health care at Ely, including complying with nationally recognized standards for correctional health care. The proposed consent decree was rejected by Nevada’s Board of State Prison Commissioners.

The ACLU’s National Prison Project retained Noel to review the medical records of 35 prisoners at Ely because the ACLU of Nevada had been receiving an extraordinarily large number of complaints about grossly inadequate medical treatment at the prison.

“Prisoners at the Ely State Prison have written to us in desperate need of help, in desperate need of quality medical treatment,” said Lee Rowland, staff attorney with the ACLU of Nevada. “It is unfortunate that this action was necessary to prompt corrections officials to uphold their constitutional obligation of providing a basic level of medical care to the inmates in their care, but quality care is an immediate need that cannot be delayed any longer.”

The lawsuit, filed on behalf of all of Ely’s prisoners – more than 60 of whom are currently sitting on death row – contains six named plaintiffs, including 36-year-old David Riker who, according to the lawsuit, suffers from rheumatoid arthritis and fibromyalgia that cause debilitating chronic pain. The lawsuit alleges that Riker has never received prescribed medications and x-rays ordered by an outside physician and was told by Ely medical staff that treating chronic pain is against the policy of the prison.

In his report, Noel calls Riker’s untreated protopathic nerve pain “a living hell” and says he finds it “simply

unimaginable” that a medical professional would refuse to treat such severe, chronic pain.

The ACLU names as defendants in its lawsuit Nevada Governor James Gibbons, Secretary of State Ross Miller, Attorney General Catherine Cortez Masto, Howard Skolnik, director of the Nevada Department of Corrections (NDOC), Robert Bannister, NDOC’s medical director, and E.K. McDaniel, the warden of Ely State Prison.

“The level of medical care provided at Ely is as horrific as any we have ever seen at any of the prison systems that we track across the country,” said Margaret Winter, Associate Director of the ACLU’s National Prison Project. “We have been stunned at the amount of human suffering that is allowed to go on there. And while we had hoped that working collaboratively with the Department of Corrections and the governor’s office would lead to the resolution of some of the most pressing issues at Ely, it simply has not.”

Other named plaintiffs in the lawsuit include 42-year-old Roger Libby, whose requests for surgery to repair his softball-sized hernia have been denied, 46-year-old Rickey Sechrest, whose chronic intermittent Herpetic Iritis of his right eye has gone untreated and could cause blindness and who has not received treatment for his Hepatitis C, 36-year-old Terrence Brothers who has suffered from untreated open sores on his scalp for more than 10 years, 36-year-old Jeffrey Hosmer whose chronic severe back and neck pain and numbness on his left side have gone untreated despite his living in the prison’s infirmary and whose medication for bi-polar disorder is often interrupted, and 47-year-old Mark Whittington, who has suffered continual problems with arbitrarily discontinued medications and dosages of prescribed medications running out for his serious medical conditions.

Additional information about the ACLU’s efforts to improve medical conditions at the Ely State Prison, including the ACLU’s lawsuit, the proposed consent decree, Dr. William Noel’s medical report, an ACLU letter to Nevada Gov. James Gibbons and an ACLU letter to Nevada Department of Corrections Director Howard Skolnik can be found online at: [www.aclu.org/ely](http://www.aclu.org/ely)

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