

Harry D. Gilbert, Plaintiff (PR)

Prisoner Number 40083

P.O. Box 7000

Carson City, Nevada 89702

United States District Court
District of Nevada

Harry D. Gilbert,
Plaintiff,

Case No.

v

Dr. Karen Gedney et al.,
Defendants.

Complaint For Declaratory
and Injunctive Relief

Under the Civil Rights Act,

42 U.S.C. §1983 and Damages

Administrative remedies have been fully and properly
exhausted as to each claim raised in this complaint

Complaint For Declaratory and Injunctive Relief Under the Civil Rights Act,
42 U.S.C. 1983 and Damages

~~CONFIDENTIAL~~

1
2 INTRODUCTION
3
4

5 Plaintiff, Harry D. Gilbert ("Plaintiff"), a prisoner
6 of the Nevada Department of Correction ("NDOC"),
7 who is currently incarcerated at the Northern Nevada
8 Correctional Center in Carson City, Nevada ("NNCC"),
9 brings this action challenging Defendant Doctor Karen
10 Gedney's ("Defendant") deliberate indifference
11 to his serious medical needs, in violation of the
12 Eighth Amendment to the United States Constitution.
13

14 Specifically, Defendant has refused to provide
15 Plaintiff with any type of medical treatment
16 for Plaintiff's hepatitis C ("hep-C"), even though
17 Plaintiff's liver is in danger of failing; if Plaintiff's
18 liver fails he will die. According to Defendant, the
19 treatment that would cure Plaintiff's disease - Harvoni -
20 is not being given to him because the treatment is
21 "too expensive".
22

23 Defendant's actions and inactions thus violate
24 Plaintiff's rights under the Eighth Amendment. ~~to~~
25

26 -1-

27 Complaint for ~~Declaratory~~ Declaratory and Injunctive Relief Pursuant to the Civil
28 Rights Act, 42 U.S.C. 1983, and Damages

1 Plaintiff brings this action, pursuant to 42 USC.
2 1983, seeking declaratory and injunctive relief, and
3 damages to be proven at trial.
4
5

6 Jurisdiction and Venue

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8

9 1. This action arises under the Eighth Amendment to the
10 United States Constitution, and is brought pursuant to 42 U.S.C.
11 1983. This Court has subject matter jurisdiction over this action
12 under 28 USC 1331, and 1332.
13

14 2. Venue is proper in the District of Nevada under 28 USC
15 1391(b)(2) because all acts and omissions giving rise to
16 the claim occurred in this District, and because Defendant
17 resides in this District.
18

19 ~~3~~

20 Parties

21

22 3. Plaintiff, Harry D. Gilbert, is a prisoner of the NDOC
23 who is currently incarcerated at the WNICC in Carson City.
24
25

26 - 2 -

27 Complaint For Injunctive and Declaratory Relief Under the Civil Rights
28 Act 42 USC 1983, and Damages

1 4. Defendant, Doctor Karen Gedney is a doctor at
 2 the NNCC in Carson City. Defendant Gedney is
 3 employed by and is an agent of the NOOC and NNCC.
 4 Defendant Gedney sits on the Hepatitis C committee.
 5 She is sued in her official and individual capacity.
 6

7 5. Each and every act and omission alleged herein
 8 of Defendant was done and are continuing to be
 9 done under the color of state law, and within the ~~scope~~
 10 scope of her official duties as an employee and agent
 11 of the NOOC and NNCC.
 12
 13

14 FACTS

15
 16 6. Plaintiff suffers from the hepatitis C virus;
 17 He has been infected for at least 21 years. Plaintiff,
 18 was originally diagnosed in 1994 with Hep C.
 19

20 7. Plaintiff has been incarcerated at NNCC since
 21 May 2012.
 22

23 8. From 2012 to 2015 Plaintiff has put Defendant
 24
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27 ~~27~~ - 3 -

28 Complaint for Declaratory and Injunctive Relief under the Civil Rights Act
 42 USC 1983 and Damages

1 on notice that he suffers from Hep C. Plaintiff has
2 given Defendant notice of his condition using formal
3 and informal, official and unofficial methods of communication.
4

5 9. Blood work was performed on the Plaintiff on
6 several occasions; the results of the bloodwork
7 indicate Plaintiff's liver is suffering irreparable damage,
8 and that his liver is failing, due to hep C. Plaintiff
9 requested treatment for hep C numerous times, but was refused, however.
10

11 10. Having knowledge of the facts set forth in
12 paragraphs 6-9 of this complaint, Defendant has,
13 nevertheless, refused to provide Plaintiff with any
14 treatment for his hep C.
15

16 11. Defendant is aware that Plaintiff requires
17 immediate treatment for his hep C to save his
18 life.
19

20 12. If Plaintiff's liver fails, he will die.
21

22 13. Defendant has stated to the Plaintiff that
23 the cost of treating his hep C is "too expensive",
24
25

1 and when Plaintiff indicated he may sue the prison
2 in order to receive treatment, Defendant responded,
3 saying "the courts look to us [Doctors] for medical
4 opinions; So whether you need treatment or not, if
5 we say you don't, the court will side with us."
6

7 14. Defendant refuses to treat Plaintiff's hep C because
8 of the cost of treating the condition.
9

10 15. Plaintiff is suffering, and will continue to suffer, irreparable
11 harm, because of Defendant's refusal to treat his hep C.
12

13 16. Plaintiff has suffered great and irreparable injuries.
14

15 17. Defendant's actions, and inactions, have violated, continue to violate,
16 and are reasonably expected in the future to violate Plaintiff's
17 constitutional rights.
18

19 18. Plaintiff has suffered great mental and emotional injuries, because
20 of Defendant's deliberate indifference to his medical needs.
21

22 19. Defendant's actions, and inactions, were and are motivated by ill
23 motive and intent, ~~and were and are motivated by ill motive and~~
24 ~~intent~~, and were and are all committed under color of state law with
25 reckless indifference to Plaintiff's rights.
26

1 20. Defendant's unconstitutional actions and
2 inactions are ongoing and continue to violate
3 Plaintiff's rights. As such, Plaintiff has no
4 adequate remedy at law.
5

6 21. Plaintiff is entitled to damages, injunctive
7 and declaratory relief.
8
9

10 Claims For Relief

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12 First Claim For Relief

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14 (Against Defendant Gedney - For Violations of the
15 Eighth Amendment Under Color of State Law -
16 Cruel and Unusual Punishment; Section 1983)
17

18 22. Plaintiff realleges and incorporates
19 by reference the preceding paragraphs.
20

21 23. The acts described above constitute
22 violations of Plaintiff's rights under the
23 Eighth Amendment to the United States
24 Constitution through 42 USC 1983, and have caused and
25

1 will continue to cause damages to Plaintiff.

2

3

~~20A~~

4 24. Plaintiff seeks declaratory and injunctive
5 relief, as well as nominal and compensatory
6 damages, against Defendant Gedney.

7

8 25. Defendant, by engaging in the conduct
9 alleged herein, acted with the intent to
10 injure, vex, annoy plaintiff, and subjected him
11 to cruel and unjust hardship in conscious
12 disregard for Plaintiff's rights with the
13 knowledge that her failure to act would cause
14 Plaintiff injury and deprivation of his
15 Constitutional rights.

16

17 26. As a result of the foregoing, Plaintiff
18 seeks exemplary and punitive damages against
19 Defendant Gedney.

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21

22 PRAYER FOR RELIEF

23

24 The conduct previously alleged, unless and

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1 until enjoined by order of this Court, will cause great
2 and irreparable injury to Plaintiff. Further, a
3 judicial declaration is necessary and appropriate
4 at this time so that all parties may know their
5 respective rights and act accordingly.

6
7 WHEREFORE, Plaintiff request relief as follows:

8
9 1. A declaration that Defendant's acts and
10 omissions violate the Eighth Amendment.

11
12 2. An order requiring Defendant to provide
13 Plaintiff with treatment for his leg C.

14
15 3. Nominal damages for each violation by the
16 Defendant against the Plaintiff's rights.

17
18 4. Compensatory damages in an amount to be
19 proven at trial

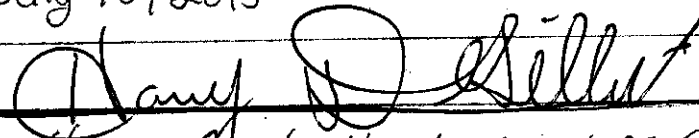
20
21 5. Punitive damages in an amount to be proven
22 at trial.

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24 6. Such other relief as the Court deems just.

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I understand that a false statement or answer to any questions in this complaint ~~that~~ will subject me to penalties of perjury. I declare under penalty of perjury, pursuant to 28 U.S.C. 1746 and 18 U.S.C. 1621, that the foregoing is true and correct.

Dated: July 10, 2015


Harry D. Gilbert, Plaintiff (PR)

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