



COMMANDER'S LOG

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Carrying Out the Doctor's Orders

QUESTION: Can a failure to carry out a doctor's orders expose corrections and medical staff to constitutional liability?

ANSWER: Yes. The failure to carry out the orders that a doctor has prescribed, including orders for specialized testing and treatment, can expose staff to constitutional liability.

CASE: *Samuel Junior Jackson v. Dr. Joseph Lightsey; Dr. Sher Guleria*
United States Court of Appeals for the Fourth Circuit
Decided October 28, 2014

The Facts: Samuel Junior Jackson has been an inmate in North Carolina's state prison system since 2008. In 2003, before he was incarcerated, Jackson was diagnosed with congestive heart failure by Doctor Lindsey White, a cardiologist. Dr. White prescribed Jackson a set of six medications that proved effective in managing Jackson's heart condition. Upon his incarceration at Central Prison in Raleigh in 2008, Jackson met with Doctor Joseph Lightsey for a screening appointment. Dr. Lightsey is a prison doctor but is not a cardiologist. During this session, Jackson informed Dr. Lightsey of his diagnosis of congestive heart failure and his prescriptions. Despite this information, Dr. Lightsey diagnosed Jackson with a heart arrhythmia, a comparatively less serious condition, and altered Jackson's medication regimen. Shortly thereafter, Jackson's health went into a tailspin and he began to experience alarming symptoms, including chest pains and burning sensations in several parts of his body. Jackson feared that his worsening health was the result of the change in his medications. He made multiple requests to medical staff to be seen by a cardiologist, all of which were denied. Jackson's worsening health resulted in a heart attack, for which he received treatment at Rex Hospital in Raleigh.

Jackson was later transferred to Nash Correctional Institution in Nashville, North Carolina. There, he saw Doctor Sher Guleria, who told Jackson that he would order additional tests and treatments, including an electrocardiogram, heart rate monitoring, and a special diet. Several months after this visit, having never received any of the tests or treatments and having made numerous sick call requests, Jackson was informed by members of the medical staff that they had no record of Dr. Guleria entering any orders.

The Lawsuit: Jackson filed suit against the doctors alleging that, as a result of the substandard medical care, he suffered from chronic and extreme pain and was unable even to walk to the prison dining hall to eat. In short, he alleged that the doctors had been deliberately indifferent to his serious medical needs in violation of the Eighth Amendment. The federal district court ultimately dismissed all claims and Jackson appealed.

The Decision on Appeal: The United States Court of Appeals for the Fourth Circuit affirmed the dismissal of the lawsuit against Dr. Lightsey. It did so on grounds that although the allegations might

have supported a medical malpractice claim, they did not support a claim of deliberate indifference to serious medical needs. While a non-cardiologist's erroneous diagnosis of a serious heart condition may well represent a deviation from the accepted standard of care, standing alone it is insufficient to clear the "high bar" of a constitutional claim. The result was different, however, as to Dr. Guleria. What Jackson wanted from Dr. Guleria was exactly the testing and treatment the doctor had ordered. Jackson's objection was that Dr. Guleria had failed to enter the orders necessary to provide the promised medical care, which resulted in Jackson going months without the testing and treatment for his serious heart condition that Dr. Guleria thought appropriate. The Court easily concluded that a failure to provide the level of care that a treating physician himself/herself believes is necessary may constitute deliberate indifference and, thus, a constitutional violation.

NOTE: Correctional administrators must ensure the clear channel of communication between medical staff and corrections staff. If special orders are entered concerning an inmate's medical care, they must be executed as prescribed by the physician. This includes orders for referrals and/or transfer to other facilities for specialized care, testing or other treatment. Failure to carry out medical orders can lead to lawsuits and liability.

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