

David Pride

(Name)

Calipatria State Prison

(Address)

P.O. Box 5005 / 92233

(City, State, Zip)

H61218

(CDC Inmate No.)

FILED

JUL 27 2007

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY LT DEPUTY

2004	1983	<input checked="" type="checkbox"/>
FILING FEE PAID		
Yes	No	<input checked="" type="checkbox"/>
HFP MOTION FILED		
Yes	No	<input checked="" type="checkbox"/>
COPIES SENT TO		
Court	ProSe	<input checked="" type="checkbox"/>

United States District Court

Southern District of California

David Codell Pride Jr.

(Enter full name of plaintiff in this action.)

Plaintiff,

v.

Jane/John doeM. CorreaDr. LevinT. OchoaDr. Santiago Santiago

(Enter full name of each defendant in this action.)

Defendant(s).

'07 CV 1382 BEN JMA

Civil Case No. _____

(To be supplied by Court Clerk)

Complaint under the
Civil Rights Act
42 U.S.C. § 1983**A. Jurisdiction**

Jurisdiction is invoked pursuant to 28 U.S.C. § 1343(a)(3) and 42 U.S.C. § 1983. If you wish to assert jurisdiction under different or additional authority, list them below.

B. Parties

1. Plaintiff: This complaint alleges that the civil rights of Plaintiff, David Codell Pride,
(print Plaintiff's name)

Jr. / P.O. Box 5005, who presently resides at Calipatria State Prison / B2-211,
(mailing address or place of confinement)

Low / P.O. Box 5005 / Calipatria Ca. 92233, were violated by the actions

of the below named individuals. The actions were directed against Plaintiff at Calipatria State Prison
(institution/place where violation occurred)

(institution/place where violation occurred)

on (dates) 1-3-06, 1-3-06, and 1-3-06

(Count 1)

(Count 2)

(Count 3)

2. Defendants: (Attach same information on additional pages if you are naming more than 4 defendants.)

Defendant M. Correa resides in N/A
(name) (County of residence)
 and is employed as a Crono Committee/ SRNII. This defendant is sued in
(defendant's position/title (if any))
 his/her ☒ individual ☐ official capacity. (Check one or both.) Explain how this defendant was acting
 under color of law: Defendant is employed at Calipatria state
prison as a member of the medical Crono Committee whom took
part in denying me medical accommodations/treatment.

Defendant Dr. Levin CMO resides in N/A
(name) (County of residence)
 and is employed as a Crono Committee/ CMO. This defendant is sued in,
(defendant's position/title (if any))
 his/her ☒ individual ☐ official capacity. (Check one or both.) Explain how this defendant was acting
 under color of law: Defendant is employed at Calipatria state Prison
as a member of the medical Crono Committee whom took part in
denying me medical accommodations/treatment

Defendant T. Ochoa resides in N/A
(name) (County of residence)
 and is employed as a Warden. This defendant is sued in
(defendant's position/title (if any))
 his/her ☒ individual ☐ official capacity. (Check one or both.) Explain how this defendant was acting
 under color of law: T. Ochoa is employed by the state of Cal-
ifornia warden of Calipatria state Prison, and whom created a
policy or enforced one that denied me medical accommodations/treatment

Defendant John or Jane doe resides in N/A
(name) (County of residence)
 and is employed as a member of the Crono Committee. This defendant is sued in
(defendant's position/title (if any))
 his/her ☒ individual ☐ official capacity. (Check one or both.) Explain how this defendant was acting
 under color of law: John or Jane doe is employed by this states prison
system as a member of the prisons medical Crono Committee,
who took part in the denial of my medical accommodations/treatment.

Pg. 2 Continued

1 Defendant; Dr. Santiago; Dr. Santiago is employed
2 by this state Prison as a medical doctor. Dr. Santiago failed
3 to take all steps necessary and or required to secure my
4 proper medical accommodations and treatment.

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C. Causes of Action (You may attach additional pages alleging other causes of action and the facts supporting them if necessary.)

Count 1: The following civil right has been violated: Freedom From Cruel and
(E.g., right to medical care, access to courts,

Unusual Punishment.

due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.)

Supporting Facts: [Include all facts you consider important to Count 1. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, by name, did to violate the right alleged in Count 1.]

Plaintiff is incarcerated at Calipatria State Prison, and due to plaintiff incarceration and indigent status, plaintiff is unable to obtain proper medical care which now lies on the state / this prison. As stated in all other counts, plaintiff has been denied prescribed medical treatment, and has not received medical treatment, although requested here at Calipatria State Prison. Dr. J.E. Lazore at Pelican Bay State Prison prescribed a double mattress and a knee brace to treat my injuries, which consist of a shattered shoulder blade, and sports injury to my knee, and i requested that i'd be given an additional knee brace here for my other knee due to a sports injury. I also requested that my medical treatment prescribed by Dr. JE. Lazore be continued here, and that my cronos be renewed / updated, this was all denied although Dr. Santiago here at Calipatria State Prison also stated he requested the same treatment continue and the additional knee brace, but was also denied by the crono Committee here at Calipatria State Prison, and the treatment was also denied by acting warden (T. Ochoa) due to this prisons created policy of no double mattress. The crono Committee consist of three prison officials / staff, one John or Jan doe (name can't be read clearly) but i believe its Denie or Dence, M. Correa SEN II, and

Pg. 3 Continued.

1 Dr. Levin CMO. On my medical slips and in my
2 inmate appeals, i have explained that i am in
3 Pain day and night. due to the fact that my sho-
4 ulder blade is shattered and i cannot sleep on my
5 back on these worn down thin Prison mattresses,
6 and that i am forced to try to sleep on my sides or
7 my shoulders or on my stomach, which all are
8 all now sore! I have Pain to my hips, shoulders,
9 and ribs due to the denial of my double mattress/
10 Crono. I also agreed to accept an egg crate mattress
11 which provides the same level of care which is allowed,
12 that too was denied! I am forced to attempt to sleep
13 on my back which is in Pain. I can't get much sleep
14 at all; i'm tired and fatigued all the time, stressed
15 and depressed. I cannot exercise properly due to the
16 circumstances, and i am not alert as one should be
17 in Prison. my Knees are constantly hurting when i
18 stand for ■ short periods Of time and when i try to
19 exercise. I am in Pain daily and nightly, and i am
20 also losing muscle mass that i once had. I need
21 help! Both doctors examined me and made the same recommendation.

22 Portions of my medical records and medical requ-
23 ests, cronos and doctors notes are in (Exhibit A), and my
24 inmate appeals form is in (exhibit B).

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Count 2: The following civil right has been violated: Plaintiffs right to
medical care. (E.g., right to medical care, access to courts,

due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.)

Supporting Facts: [Include all facts you consider important to Count 2. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, by name, did to violate the right alleged in Count 2.]

Plaintiff suffers from a shattered shoulder blade due to a gunshot wound, which could not be mended. Plaintiff was examined at Pelican Bay State Prison by Dr. J.E. Lazore whom prescribed as part of her treatment a "double mattress", and a double mattress Crono was issued with the effective date of 8-9-04 and an expiration date had to be issued in order for the Crono to take effect per policy, which was 8-9-05, despite the fact that plaintiff has a permanent injury. Plaintiff was informed that if officers attempted to take the double mattress plaintiff should show them his Crono or get it renewed. Plaintiff was allowed to keep his double mattress until he was transferred to Calipatria State Prison on or about 11-2-05, and plaintiff requested a double mattress consistent with his previously prescribed medical treatment/care, and it was denied although plaintiff explained the need for the treatment which was pain and sleeplessness, this was due to Calipatrias Prison policy of no double mattress which was enforced by acting warden (T. Ochoa) March 6, 2006 after plaintiff made several failed attempts to get the treatment and Cronos updated. Plaintiff also requested an alternative solution, which was an egg crate mattress, which Calipatria State Prison does allow and also provides a similar level of treatment, this was also denied. No other treatment was provided was given to prevent my pain and sleeplessness.

pg. 4 continued

1 Plaintiff was also issued a Crono for a right
2 Knee brace by the same doctor at Pelican Bay State
3 Prison, issued 6.20.05 with an expiration date of 6.19.06.
4 This treatment was prescribed due to an old sports
5 injury which causes the knee to slide out of joints,
6 Pain and swelling. This treatment was also denied at
7 Calipatria State Prison. I requested a left knee brace
8 here at Calipatria State Prison which also had gotten
9 worse due to the fact when the right knee is in pain I
10 have to place the majority of my weight on the left. This
11 request was also denied.

12 Plaintiff has attempted to get medical treatment
13 and to get the medical Cronos renewed here at Cali-
14 patria State Prison by way of medical request. Plain-
15 tiff was seen and examined by a doctor L. Santiago,
16 M.D. L. Santiago did a similar external examination
17 of my shoulder blade with his hands to feel if the
18 shoulder blade was in fact in pieces, and he also did
19 an examination on both of my knees. After his ex-
20 amination, M.D. L. Santiago stated that he would have
21 to make a request to the Crono Committee to get my
22 Cronos renewed and request an egg crate mattress
23 and Cronos for both knee braces. He explained to me
24 that Calipatria's no double mattress policy was the
25 reason he'd request an egg crate mattress. This took
26 place on or about 1.3.06 on or about 1.5.06, the
27 Crono Committee denied the above requested treat-
28 ment although two doctors requested at least the same



pg. 4 continued

1 level of treatment,

2 Plaintiff has filed and exhausted his administra-
 3 tive remedies. Plaintiff was also interviewed by RN. S.
 4 Garcia on or about 3.2.06. During the interview RN. S.
 5 Garcia again informed me that the Crono Committee
 6 denied the renewal of my Cronos, and that Per Cali-
 7 fornia State Prisons Policy, double mattresses are not
 8 allowed, and that if an ~~egg~~ egg-crate mattress is needed,
 9 then a doctor must request one be issued! I informed
 10 her that Dr. Santiago explained to me that he requested
 11 one, but that request was denied by the Crono Commi-
 12 tee. I also explained to her that Dr. Santiago did ex-
 13 amine me before he made the request and that there
 14 is documentation in my medical file that another doctor
 15 also examined me and prescribed the same treatment
 16 which helped. RN. S. Garcia stated that the Crono Comm-
 17 ittee stated there was no proof of my injuries or an
 18 examination. S. Garcia then called the appeals coordinator
 19 and it was determined that an x-ray was needed to
 20 determine my injury, however, no x-ray was ever given.
 21 Plaintiff explained to S. Garcia that his condition has
 22 gotten worse, however, no other treatment has been given,
 23 despite requests.

24 Since over the time of the denials of treatment,
 25 Cronos and appeals, i am in pain constantly and not
 26 getting enough sleep. I wake up, after i do fall asleep, sore
 27 and in pain. my ribs, hips, and shoulders joints are
 28 in pain due to the fact i have to sleep either on my sides

1 Shoulders and stomach all the time on a thin Prison
2 mattress about 2 1/2 inches thick on a steel slabb. I
3 have no cushioning for blood circulation, i'm losing muscle
4 mass, i'm stressed and tired all the time; I can't
5 exercise because of the pain in all of these areas and
6 due to the lack of rest. I put in another medical slip
7 on or about 3.13.07, and i explained to a male RN of
8 my medical situation and he prescribed me Pain Pills
9 for my muscle and joint pain and stated he'd try to
10 get me seen by a doctor. I explained to him that i've
11 taken so many motrin and Ibutrofen to the point
12 they don't work and are messing up my stomach lining
13 and causing pain. I was seen by this RN. On or a-
14 bout 3.19.07

15 See Exhibit A which contains medical requests,
16 and cronos, and doctors notes.

17 See Exhibit B For inmates appeals form.

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D. Previous Lawsuits and Administrative Relief

1. Have you filed other lawsuits in state or federal courts dealing with the same or similar facts involved in this case? ☒ Yes ☐ No.

If your answer is "Yes", describe each suit in the space below. [If more than one, attach additional pages providing the same information as below.]

(a) Parties to the previous lawsuit:

Plaintiffs: David Fide

Defendants: Vollmer, Hooker, Petry, Burrell, and MulKern and Larsen

(b) Name of the court and docket number: 99 CV 2334 -J (CGA) and DC
DO CV 0277 (LAB) NLS / The number kept changing

(c) Disposition: [For example, was the case dismissed, appealed, or still pending?] Plaintiff had
case separated, Vollmer and Burrell still should be pending

(d) Issues raised: Cruel and unusual punishment / reckless disre-
gard and denial of medical treatment.

(e) Approximate date case was filed: Nov-1-1999 and Feb 8-2000

(f) Approximate date of disposition: ? N/A should be pending

2. Have you previously sought and exhausted all forms of informal or formal relief from the proper administrative officials regarding the acts alleged in Part C above? [E.g., CDC Inmate/Parolee Appeal Form 602, etc.] ? ☒ Yes ☐ No.

If your answer is "Yes", briefly describe how relief was sought and the results. If your answer is "No", briefly explain why administrative relief was not sought.

"Denied at all levels."

E. Request for Relief

Plaintiff requests that this Court grant the following relief:

1. An injunction preventing defendant(s): From denying me medical treatment and accommodations; also preventing defendants any and all retaliations / hardships.

2. Damages in the sum of \$ 1,000,000.00

3. Punitive damages in the sum of \$ 1,000,000.00

4. Other: Any other damages this court deems appropriate.

F. Demand for Jury Trial

Plaintiff demands a trial by ☐ Jury ☒ Court. (Choose one.)

G. Consent to Magistrate Judge Jurisdiction

In order to insure the just, speedy and inexpensive determination of Section 1983 Prisoner cases filed in this district, the Court has adopted a case assignment involving direct assignment of these cases to magistrate judges to conduct all proceedings including jury or bench trial and the entry of final judgment on consent of all the parties under 28 U.S.C. § 636(c), thus waiving the right to proceed before a district judge. The parties are free to withhold consent without adverse substantive consequences.

The Court encourages parties to utilize this efficient and expeditious program for case resolution due to the trial judge quality of the magistrate judges and to maximize access to the court system in a district where the criminal case loads severely limits the availability of the district judges for trial of civil cases. Consent to a magistrate judge will likely result in an earlier trial date. If you request that a district judge be designated to decide dispositive motions and try your case, a magistrate judge will nevertheless hear and decide all non-dispositive motions and will hear and issue a recommendation to the district judge as to all dispositive motions.

You may consent to have a magistrate judge conduct any and all further proceedings in this case, including trial, and the entry of final judgment by indicating your consent below.

Choose only one of the following:

☐ Plaintiff consents to magistrate judge jurisdiction as set forth above.

OR

☒ Plaintiff requests that a district judge be designated to decide dispositive matters and trial in this case.

7.19.07

Date

D. Prude
Signature of Plaintiff

EXHIBIT A

EXHIBIT

A

"6 pages" of medical
records and notes / Cronos.

D:3-15-92

T:03-16-92

#941

8107

3-17

DATE OF SURGERY: 3-15-92

OPERATING SURGEON: RHONA CHEN, M.D.
FIRST ASSISTANT: JORGE RIVERA, M.D.
SECOND ASSISTANT: STEVEN GLORSKY, M.D.
THIRD ASSISTANT: ROBERT BRIDGES, M.D.

PREOPERATIVE DIAGNOSIS: Multiple gunshot wounds to the abdomen, back and extremities.

POSTOPERATIVE DIAGNOSIS:

1. Gunshot wound to the abdomen.
2. Grade IV right liver lobe laceration.
3. Laceration to the right hemidiaphragm.
4. Laceration of the right inferior renal pole.
5. Contusion of the right gonadal vein at the confluence of the inferior vena cava.
6. Right costochondral fractures.
7. Gunshot wound to the left shoulder with open left humerus fracture.
8. Left hemopneumothorax.
9. Gunshot wound to the right thigh.

OPERATION PERFORMED:

1. Exploratory laparotomy for trauma.
2. Left closed tube thoracostomy.
3. Retroperitoneal exploration.
4. Ligation of right gonadal vein with repair of inferior vena cava.
5. Debridement and control of bleeding right liver lobe.
6. Exploration of the right kidney.
7. Repair of right hemidiaphragm.
8. Placement of nasojejunal feeding tube.

ANESTHESIA: General endotracheal.
INCISION: Midline abdominal.

INDICATIONS: - 20-year-old black male sustained multiple gunshot wounds to the abdomen and extremities.

FINDINGS: 1) (SEE POSTOPERATIVE DIAGNOSIS). 2) Stomach, duodenum, small bowel, colon, spleen, left kidney and left hemidiaphragm, *pancreas* *no* gallbladder and bladder were normal. 3) Appendix with fecalith at the tip. *4/1/92*

DESCRIPTION OF OPERATIVE PROCEDURE: After initial resuscitation in the Emergency Room, the patient was taken urgently to the Operating Room. Trauma IVP was performed which showed nonvisualization of the right kidney (the patient had wound in the right upper quadrant of the abdomen near the midline in the back).

Left closed tube thoracostomy was performed by making incision in the



LOMA LINDA UNIVERSITY MEDICAL CENTER
OPERATIVE RECORD

PRIDE, DAVID
26 07 24

HEALTH RECORD
INMATE COPY 856606
DEPARTMENT OF CORRECTIONSSTATE OF CALIFORNIA
CDC 7362 (Rev. 03/04)

HEALTH CARE SERVICES REQUEST FORM

PART I: TO BE COMPLETED BY THE PATIENT

A fee of \$5.00 may be charged to your trust account for each health care visit.

If you believe this is an urgent/emergent health care need, contact the correctional officer on duty.

REQUEST FOR: MEDICAL ☒ MENTAL HEALTH ☐ DENTAL ☐ MEDICATION REFILL ☐NAME: Pride CDC NUMBER: H61218 HOUSING: B2-211-LowPATIENT SIGNATURE: D. Pride DATE: 3-14-07

REASON YOU ARE REQUESTING HEALTH CARE SERVICES. (Describe Your Health Problem And How Long You Have Had The Problem)

I am having problems sleeping due to pain to my ribs & shoulders. I am missing a shoulder blade which is shattered, and it was deched on egg crate and renewal of a double mattress crono from PPSB. I am forced to sleep on my side & stomach all the time. Need to renew crono to.

NOTE: IF THE PATIENT IS UNABLE TO COMPLETE THE FORM, A HEALTH CARE STAFF MEMBER SHALL COMPLETE THE FORM ON BEHALF OF THE PATIENT AND DATE AND SIGN THE FORM

PART III: TO BE COMPLETED AFTER PATIENT'S APPOINTMENT

☐ Visit is not exempt from \$5.00 copayment. (Send pink copy to Inmate Trust Office.)

PART II: TO BE COMPLETED BY THE TRIAGE REGISTERED NURSE

Date / Time Received: 3/15/07 9:00 AM Received by: [Signature]Date / Time Reviewed by RN: 3/15/07 Reviewed by: [Signature]

S: Pain Scale: 1 2 3 4 5 6 7 8 9 10

I've been getting pain to my shoulders and shoulder blade.

O: T: P: [Signature] R: BP: WEIGHT:

A: Numb Mass. Sens. Ab. on my back, di. all over
P: Check Mtn & Tight for dech. It also wants chronic renewal.
☐ See Nursing Encounter Form

E:

APPOINTMENT SCHEDULED AS: EMERGENCY (IMMEDIATELY) ☐ URGENT (WITHIN 24 HOURS) ☐ ROUTINE (WITHIN 14 CALENDAR DAYS) ☒REFERRED TO PCP: Dr. O H DATE OF APPOINTMENT:COMPLETED BY: [Signature] NAME OF INSTITUTION: CalPRINT / STAMP NAME: [Signature] SIGNATURE / TITLE: [Signature] DATE/TIME COMPLETED: 3/16/07 0800

HEALTH RECORD
INMATE COPY

DATE TIME

OPTOMETRY CLINIC

9/25/07 2:50

per I/p TAWO request copy of chart
dated 15-06 and 9-25-06 VSA m/aS: "I've been getting pain in both of shoulders + shoulder
blade"

O: R/L

A: NAB. MAGEW SICK AB ON WIP. Suspected. Also Oes.

D: Order Motry. + Tylenol for discomfort. It also with
chart reviewed, placed for MD in South schedule

INSTITUTION

HOUSING UNIT

CDC NUMBER, NAME (LAST, FIRST, MI) AND DATE OF BIRTH

Prude. David
H. 6/2/8

INTERDISCIPLINARY PROGRESS NOTES

PELICAN BAY STATE PRISON
HEALTH CARE SERVICES UNIT
CHRONO

HEALTH RECORD
INMATE COPY

NAME: Pride, David CDC#: H61218 HOUSE: A 6 205 DATE: 6/20/05

The above-named inmate has a medical condition which requires the below-listed medically-indicated chrono(s).

- ☐ COTTON BLANKETS
☐ EGG CRATE MATTRESS
☐ EXTRA PILLOWS/WEDGE
☐ ORTHOTICS
☐ SUNGLASSES

- ☐ LOW BUNK/LOW TIER
☐ EXTRA MATTRESS
☐ INSOLES
☐ SWEATPANTS

☐ MEDICAL EQUIPMENT: Please check appropriate medical equipment below:

☐ Cane ☐ Walker ☐ Wheelchair ☐ TENS Units ☐ C-PAP/BIPAP ☐ Oxygen ☐ Ice Pack ☐ Ace Wraps

(When appropriate, please name body part affected, e.g., right arm): Rt knee sleeve

EFFECTIVE DATE: 6/20/05

EXPIRATION DATE: 6/19/06

EFFECTIVE DATE AND EXPIRATION DATE MUST BE PROVIDED FOR CHRONO TO TAKE EFFECT

C. Daniel
Please Print Name

[Signature]
Signature/Title

DISTRIBUTION: WHITE-Medical Record

GREEN-Housing Unit

YELLOW-CCII

PINK-C-File

GOLDENROD-inmate

HEALTH RECORDS STAFF SHALL LIST OTHER APPROPRIATE COPIES BELOW AND SHALL DISTRIBUTE ACCORDINGLY: (e.g., Clothing: SHU/GP/L-I):

DATE: 6/20/05

NAME: Pride, David

CDC#: H61218

PBSP/MEDICAL

HEALTH RECORDS
INMATE COPY

PELICAN BAY STATE PRISON
HEALTH CARE SERVICES UNIT
CHRONO

NAME: Pride, David CDC#: H61218 HOUSE: A6-205^L DATE: 8-9-04

The above-named inmate has a medical condition which requires the below-listed medically-indicated chrono(s).

- | | |
|---|--|
| <input type="checkbox"/> COTTON BLANKETS | <input type="checkbox"/> LOW BUNK/LOW TIER |
| <input type="checkbox"/> EGG CRATE MATTRESS | <input checked="" type="checkbox"/> EXTRA MATTRESS |
| <input type="checkbox"/> EXTRA PILLOWS/WEDGE | <input type="checkbox"/> INSOLES |
| <input type="checkbox"/> ORTHOTICS | <input type="checkbox"/> SWEATPANTS |
| <input type="checkbox"/> SUNGLASSES | |
| <input type="checkbox"/> MEDICAL EQUIPMENT: Please check appropriate medical equipment below: | |

☐ Cane ☐ Walker ☐ Wheelchair ☐ TENS Units ☐ CPAP/BIPAP ☐ Oxygen ☐ Ice Pack ☐ Ace Wraps

(When appropriate, please name body part affected, e.g., right arm): _____

EFFECTIVE DATE: 8-9-04

EXPIRATION DATE: 8-9-05

EFFECTIVE DATE AND EXPIRATION DATE MUST BE PROVIDED FOR CHRONO TO TAKE EFFECT

J E Lazore
Please Print Name

John E Lazore
Signature/Title

DISTRIBUTION: WHITE-Medical Record GREEN-Housing Unit YELLOW-CCII PINK-C-File GOLDENROD-inmate

HEALTH RECORDS STAFF SHALL LIST OTHER APPROPRIATE COPIES BELOW AND SHALL DISTRIBUTE ACCORDINGLY: (e.g., Clothing: SHU/GP/L-I):

DATE: 8-9-04 NAME: Pride, David CDC#: H61218

PBSP/MEDICAL

EXHIBIT B

EXHIBIT

B

"5 pages" Inmate Appeals
form and attachments.

STATE OF CALIFORNIA
DEPARTMENT OF CORRECTIONS AND REHABILITATION
INMATE APPEALS BRANCH
P. O. BOX 942883
SACRAMENTO, CA 94283-0001

DIRECTOR'S LEVEL APPEAL DECISION

Date: **AUG 16 2006**

In re: Pride, H-61218
Calipatria State Prison
P.O. Box 5002
Calipatria, CA 92233

IAB Case No.: 0515132

Local Log No.: CAL 06-0228

This matter was reviewed on behalf of the Director of the California Department of Corrections and Rehabilitation (CDCR) by Appeals Examiner J. Stocker, Facility Captain. All submitted documentation and supporting arguments of the parties have been considered.

I APPELLANT'S ARGUMENT: It is the appellant's position that he has been attempting to have renewed a series of medical chronos, to obtain a knee brace for his left knee, and an extra mattress or eggcrate mattress. The physician's request for the chronos was denied by the Chrono Committee. He has significant medical problems that cause him pain and discomfort and sleeplessness at night. He requests a knee brace and a double mattress or eggcrate mattress, and to receive monetary compensation in the amount of \$5,000.00.

II SECOND LEVEL'S DECISION: The reviewer found that double mattresses are not allowed at the institution. If a physician finds that an eggcrate mattress is a necessary medical device, one can be prescribed if approved. A physician has not prescribed such a device. The Chrono Committee appropriately denied the physician's request to issue medical chronos. The appellant has had two appointments with his primary care physician since the chronos were denied, and he has not conferred with the physician about the denial. The appellant should continue to discuss his medical issues with his primary care physician. There is no avenue in the inmate appeals process to award monetary compensation.

III DIRECTOR'S LEVEL DECISION: Appeal is denied.

A. FINDINGS: It is apparent that the appellant has been examined by licensed physicians for the complaints that he describes. He has been treated in accordance with the professional judgments of the physicians. There is no avenue in the inmate appeals process to award monetary compensation. Additionally, the appellant has not presented compelling justification to substantiate a claim for monetary award.

B. BASIS FOR THE DECISION:
California Code of Regulations, Title 15, Section: 3350, 3350.1, 3350.2, 3358

C. ORDER: No changes or modifications are required by the institution.

This decision exhausts the administrative remedy available to the appellant within CDCR.



N. GRANNIS, Chief
Inmate Appeals Branch

cc: Warden, CAL
Health Care Manager, CAL
Appeals Coordinator, CAL
Medical Appeals Analyst, CAL

**INMATE/PAROLEE
APPEAL FORM**
CDC 602 (12/87)

Location: Institution/Parole Region

Log No.

Category

1. CAL
2. _____

B. 06 0228
2. _____

8

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME <u>Pride, David</u>	NUMBER <u>H61218</u>	ASSIGNMENT <u>None</u>	UNIT/ROOM NUMBER <u>B4.128</u>
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A. Describe Problem: I put in a medical slip a couple months ago to renew a series of cronos, and to get a knee brace for my left knee. I also wanted an extra mattress or egg crate. My egg crate / double mattress chrono was not renewed / updated despite the fact I can't sleep and I am in pain during the night and the pain is even greater in the morning because I do not have a solid shoulder blade due to it being shattered when I was shot. I was denied my knee brace which I need due to injuries I suffered, it slides off of joint and swells. I'm in chronic pain, and have been in pain for over 2 months + now.

If you need more space, attach one additional sheet.

B. Action Requested: To receive compensation for my pain and suffering in the amount of \$5,000.00 dollars, and to receive my knee brace and double mattress / egg crate.

Inmate/Parolee Signature: D. Pride Date Submitted: JUN 16 2006

C. INFORMAL LEVEL (Date Received: RECEIVED 13 JAN 2006)
Staff Response: DENIED - Your chronos & medical devices must be written for by your primary care physician (PCP). Please contact with your yard medical staff for an appointment. Monetary compensation is not part of the appeals process & therefore cannot be addressed in this response.

Staff Signature: F. PASCUA Date Returned to Inmate: 13 JAN 2006
AGPA Medical Appeals

D. FORMAL LEVEL
If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

My primary care giver recommended that I receive these chronos and to get chronos updated, however, the chrono committee denied the above ones with out any examination of me, and the CMO and HCM are the heads of the chrono committee and are responsible.

Signature: D. Pride Date Submitted: Jan 23 06
Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim
CDC Appeal Number: _____

CAL B 06 0228

RECEIVED CAL APPEALS JAN 26 2006

Date: _____

AUG 16 2006

See Attached Letter

DIRECTOR'S ACTION: ☐ Granted ☐ P. Granted ☒ Denied ☐ Other

P.O. Box 942883
Sacramento, CA 94283-0001
Attn: Chief, Inmate Appeals

For the Director's Review, submit all documents to: Director of Corrections

Date Submitted:

Signature:

Signature: David Hinde

Respondents have lied in their response. My medical record reflects my need for a double mattress or egg crate; it also reflects one was given in 2005, as well as two different doctors recommended it; each time I went to see the doctor I spoke to him about this appeal and Ken Garcia came back for this as she's called the appeals coordinator for me during my last visit. My PEP was supposed to check my records as

response.

H. If dissatisfied, add data or reasons for requesting a Director's Level Review, and submit by mail to the third level within 15 days of receipt of

Warden/Superintendent Signature: _____

Signature:

Signature: M. Garcia (Garcia)
M. Garcia, MD, PhD
Date Completed: 1 MAY 2005

☒ See Attached Letter

G. REVIEWER'S ACTION (complete within 10 working days): Date assigned: 1-2-20 Due Date: 01-17-20

Second Level ☐ Granted ☒ P. Granted ☐ Denied ☐ Other

Signature:

Signature: David F. de

It has been well understood that all inmates must ask for money damages in a letter to exhaust that portion of any future suit. Also, there really is no "partial granting" of this appeal where as I am still without the requested chemo and egg crate / knee brace although my doctor recommended it, and I am still in pain and losing sleep due to this negligence.

receipt of response.

If dissatisfied, explain reasons for requesting a Second-Level Review, and submit to Institution or Parole Region Appeals Coordinator within 15 days of

Signature:

Division Head Approved:

Signature _____

Signature: _____ Title: _____

Staff Signature: _____ Title: _____ Date Completed: _____

~~PLEASE SEE ATTACHED MEMO RESPONSE.~~

Interviewed by:

E. REVIEWER'S ACTION (Complete within 15 working days): Date assigned:

First Level

☐ Granted☒ P. Granted

paiden ☐

Other ☐

Due Date:

070-1-E

3-13-06

02 20 90 B GAL

**CALIPATRIA STATE PRISON ,
FIRST LEVEL REVIEW**

NAME: D. PRIDE **CDC# :** H61218
APPEALS LOG No: CAL-B-06-00228
INTERVIEWED: On March 2, 2006, by S. GARCIA, RN
APPEAL DECISION: PARTIALLY GRANTED
APPEAL ISSUE: MEDICAL

APPEAL RESPONSE: In consideration of the appeal, a review of the appeal and its attachments was conducted. The California Code of Regulations (CCR) and all applicable laws and procedures were considered along with a personal interview and the contents of the appellant's Unit Health Record (UHR).

The appellant states that he has submitted a CDC 7362 - Health Care Services Request Form to have his chronos for left knee brace and an extra or Eggcrate Mattress renewed. The appellant states that his chronos were not renewed.

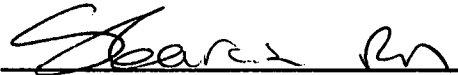
The appellant is requesting that he receive monetary compensation for "...pain and suffering in the amount of \$5,000.00..." He is also requesting renewal of both his knee brace and double/Eggcrate Mattress Chronos.

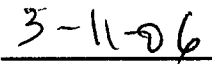
The appellant is advised that monetary compensation is not part of the appeals process, and is beyond the jurisdiction of the Department of Corrections and Rehabilitation. Therefore, that portion of his appeal cannot be addressed.

After interviewing the appellant and after reviewing the UHR, it has been determined that the appellant's chronos were reviewed by a panel of Physicians known as the Chrono Committee. This panel reviews the UHR to determine the medical necessity for all chronos. Their decision is based solely on documented medical necessity. It should be noted that the denial of chronos is not an arbitrary process. It is a well thought out process that is by no means perfect. However, if the appellant does not meet specific criteria for the chrono in question, the request will be denied by the chrono committee.

In addition, per the Acting Warden (T. OCHOA), who was contacted on March 6, 2006, double mattresses are not allowed at Calipatria State Prison. Eggcrate Mattresses are indicated for specific medical conditions which if your yard Primary Care Physician (PCP) feels you have, he may write a chrono for.

Based on the above, the appeal is **Denied** at the First Formal Level because the appellant's request for monetary compensation is not an appealable issue, and he does not qualify for the chronos written by the Primary Care Physician (PCP) per the Chrono Committee.


S. GARCIA, RN
Staff Registered Nurse
Calipatria State Prison


Date

Pg 2 Section F.

At the end of the formal level response, Garcia, RN stated that "i do not meet the criteria / qualify for the Chronos written by the Primary Care Physician (PCP) per the Chrono Committee, however, i find this most troubling, because ive had the chronos issued before, and if two doctors recommend such treatment, in order to relieve me of pain and loss of sleep, doesn't the decision by the chrono committee call for scrutiny, and constitutes cruel and unusual punishment; or at the very least medical neglect. No other measures have been taken to find an alternative to end my pain / loss of sleep either. So, it must be suggested that i continue to suffer. Is that correct? I have a shattered shoulder blade, the bones are sharp and they poke and shift, and pinch my inner flesh when i attempt to sleep or move at night; my knees, due to old injuries (sports) move out of joint, swell, and at some points too painful to bend.

This appeal and actions requested should be granted in full!

The proof as to my need for this treatment is in my medical file all through the 1990's! The last doctor i saw said he'd look at it, but he never did; The appeals Coordinator told me by phone he'd request x-rays to determine my medical needs, however, no x-rays were taken! The last response is "false"!

State of California

Department of Corrections and Rehabilitation



Memorandum

Date : May 31, 2006

To : Inmate D. PRIDE, H61218
B4-128

Subject : **SECOND LEVEL APPEAL RESPONSE**
LOG NO: CAL-B-06-00228

ISSUE: The appellant is submitting this appeal relative to Medical Chronos. It is the appellant's position that he has submitted a Health Care Services Request (CDCR 7362) to have his chronos for left knee brace and Eggcrate Mattress/Extra Mattress renewed.

The appellant requests to receive monetary compensation, and that both his knee and mattress chronos be renewed.

INTERVIEWED BY: S. GARCIA, RN, on March 2, 2006.

REGULATIONS: The rules governing this issue are:

California Code of Regulations, Title 15, Article (CCR) 3350. **Provision of Medical Care and Definitions**

DISCUSSION: In consideration of this appeal, a review of the appeal and its attachments was conducted. The CCR and all applicable laws and procedures were also considered along with the contents of the appellant's Unit Health Record (UHR) and a personal interview.

The appellant was advised in the First Formal Level Response that monetary compensation is not within the jurisdiction of the Department of Corrections and Rehabilitation. Therefore, that portion of his appeal cannot be responded to.

The appellant was advised in the First Formal Level Response that his chronos were reviewed by a panel of Physicians (not including the Chief Medical Officer) known as the Chrono Committee. He was also advised that this panel reviews the UHR to determine the medical necessity for all chronos. Their decision is based solely on documented medical necessity. The Primary Care Provider (PCP) did renew these chronos at the appointment of January 3, 2006. But he failed to do an examination to justify the renewals. It should be noted that the denial of chronos is not an arbitrary process. It is a well thought out process that is by no means perfect. However, if the appellant does not meet specific criteria for the chrono in question, and the PCP does not justify his request via examination, the request will be denied by the chrono committee. It should be noted that the appellant has had two appointments with the Primary Care Provider (PCP) since the chronos were denied, and he has not conferred with the PCP about the chronos.

The appellant has not provided any additional information or evidence that would warrant a modification of the First Formal Level Response. However, if he is experiencing pain or discomfort, he should submit a new Health Care Services Request Form (CDCR 7362), for a re-evaluation from his Primary Care Provider (PCP).

DECISION: The appeal is **Partially Granted** at the Second Formal Level in that the First Formal Level Response has been reviewed. However, the appellant still does not meet the criteria for the chronos being requested according to the PCP's notes.

SECOND LEVEL APPEAL RESPONSE
APPEAL LOG # CAL-B-06-00228
Page 2

The appellant is advised that his issue may be submitted for a Director's Level Review within 15 days of receipt of this response if desired.



M. CORREA, RN
Supervising Registered Nurse II
Calipatria State Prison

Reviewed by:



M. LEVIN, MD
Chief Medical Officer
Calipatria State Prison

" Proof of Service "

I Chandai Pride, declare under the penalty of perjury, that i am over the age of 18 years of age and i placed this civil form in first class prepaid mail on the behalf of David C. Pride Jr. on Date: July 26, 2007.

Date: 7/26/2007

signature: Chandai Pride



JS44

(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by the rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

I (a) PLAINTIFFS

David Codell Pride Jr.

FILED
DEFENDANTS
JUL 27 2007
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY *LF* DEPUTY

M. Correa

2254	1983
FILING FEE PAID	
Yes	No
MOTION FILED	
Yes	No
COPIES SENT TO	
Court	Pro Se

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF **Imperial**
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

ATTORNEYS (IF KNOWN)

David Codell Pride Jr.
PO Box 5005
Calipatria, CA 92233
H-61218

07CV 1382 BEN JMA

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | | | | |
|----------------------------|----------------------------|---|----------------------------|----------------------------|
| PT | DEF | | PT | DEF |
| <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Citizen of This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Citizen of Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Citizen or Subject of a Foreign Country | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |
| | | Incorporated or Principal Place of Business in This State | | |
| | | Incorporated and Principal Place of Business in Another State | | |
| | | Foreign Nation | | |

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

42 U.S.C. 1983

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reappointment
<input type="checkbox"/> Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury-Medical Malpractice	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	PROPERTY RIGHTS	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce/ICC Rates/etc.
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	PERSONAL PROPERTY	<input type="checkbox"/> 640 RR & Truck	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 660 Occupational Safety/Health	SOCIAL SECURITY	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 861 HIA (1395R)	<input type="checkbox"/> 850 Securities/Commodities Exchange
<input type="checkbox"/> 160 Stockholders Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 385 Property Damage Product Liability	LABOR	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 875 Customer Challenge 12 USC
<input type="checkbox"/> Other Contract	<input type="checkbox"/> 360 Other Personal Injury		<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 892 Economic Stabilization Act
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus	<input type="checkbox"/> 740 Railway Labor Act	FEDERAL TAX SUITS	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 530 General	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Electmant	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 791 Empl. Ret. Inc.	<input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 240 Tort to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> Security Act		<input type="checkbox"/> 950 Constitutionality of State
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input checked="" type="checkbox"/> 550 Civil Rights			<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 290 All Other Real Property					

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removal from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23

DEMAND \$

Check YES only if demanded in complaint:

JURY DEMAND: ☐ YES ☐ NO

VIII. RELATED CASE(S) IF ANY (See Instructions):

JUDGE

Docket Number

DATE 7/27/07

SIGNATURE OF ATTORNEY OF RECORD

L. Hammer