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MICHAEL GADDIS, MANSON FISHER, JR.,
aka YUSUF RAHIM, ROBERT WILLIAM
HAMILTON, CEDRIC McLAIN, LOUIS
JENKINS, and JAMES TAYLOR,

individually and on behalf of all others
similarly situated,

Plaintiffs,

vs.

DONAL CAMPBELL, Commissioner of the
Alabama Department of Corrections,

Defendant.

Civil Action: 03-T-390 -1

CLASS ACTION

COMPLAINT

NATURE OF THE ACTION

The plaintiffs are five Alabama prison inmates who suffer from diabetes mellitus, a complex, chronic illness with disabling long-term complications. They bring this suit on behalf of themselves and all other Alabama inmates with diabetes. Alabama prisoners with diabetes are at serious risk of substantial harm and death as a result of the grossly inadequate medical care provided to them by the Alabama Department of Corrections. Because of the defendant's deliberate indifference to the serious medical needs of inmates with diabetes, the plaintiffs and the class they represent are suffering from diabetic retinopathy, blurred vision, amputations of the toes, possible kidney damage, recurrent hypoglycemia (low blood sugar), dizziness, and pain. The plaintiffs are also at risk of further serious harm, including

blindness, amputations of their feet and legs, kidney failure which may require dialysis or transplantation, nerve damage which causes numbness, pain and other nervous system problems, pneumonia, strokes, heart attacks, and death. The defendant's failure to provide adequate medical care to the plaintiffs violates the Eighth and Fourteenth Amendments to the United States Constitution. The plaintiffs seek declaratory and injunctive relief to remedy the defendant's unconstitutional practices.

JURISDICTION

1. This action arises under the Eighth and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983. Jurisdiction is invoked pursuant to 28 U.S.C. §§ 1331, 1343. This Court has jurisdiction over the plaintiffs' request for declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201-2202.

PARTIES

2. The named plaintiffs are all prisoners in the Alabama Department of Corrections (ADOC) who have diabetes. As explained in greater detail in the factual allegations, all of the named plaintiffs have been and continue to be provided grossly inadequate care for their illness. Plaintiffs Michael Gaddis, Manson Fisher, Louis Jenkins, and Cedric McLain are currently incarcerated at Donaldson Correctional Facility ("Donaldson") in Bessemer, Alabama. Plaintiff Robert Hamilton is currently incarcerated at Easterling Correctional Facility ("Easterling") in Clio, Alabama. Plaintiff James Taylor is currently incarcerated at Draper Correctional Facility

("Draper") in Elmore, Alabama. Diabetic inmates are housed at most, if not all, ADOC facilities.

3. Defendant Donal Campbell is the Commissioner of the Alabama Department of Corrections. As Commissioner, he is responsible for the development and oversight of all ADOC policies and practices, including medical and nutritional care in all ADOC facilities and the monitoring and oversight of health care services that have been contracted out to private providers. Defendant Campbell is responsible for ensuring that Alabama prisons operate in a manner that is consistent with the United States Constitution. He is sued in his official capacity.

CLASS ACTION ALLEGATIONS

4. The plaintiffs bring this suit on their own behalf and on behalf of the class of all present and future inmates with diabetes who are or will be incarcerated in an Alabama Department of Corrections facility.

5. The individual plaintiffs sue on their own behalf and as class representatives pursuant to Rule 23 of the Federal Rules of Civil Procedure. The prerequisites of Rule 23(a) and Rule 23(b)(2) are satisfied.

FACTUAL ALLEGATIONS REGARDING THE CLASS

6. Diabetes mellitus is a complex, chronic illness. In persons with Type 1 diabetes, the body does not make insulin, a hormone that facilitates the movement of sugar (glucose) from the blood into the cells throughout the body. Cells in the body use glucose as the principal source of energy that they need to live. Without access to sufficient amounts of glucose, the

cells in the body must use fat as their energy source, which can result in a severe chemical imbalance ("acidosis"). Insulin also helps the body to store extra fuel as fat. People with Type 1 diabetes must take daily injections of insulin. In people with Type 2 diabetes, some insulin is produced, but not enough to meet the body's needs. In addition, the cells in a Type 2 diabetic do not respond to insulin as they should ("insulin resistance") and glucose does not adequately enter the cells from the blood. Some Type 2 diabetics must also take insulin; others can be treated with oral medication, exercise, and a careful diet.

7. Unless persons with diabetes receive adequate care, they face the risk of serious, long-term complications, including blindness, amputations of the lower extremities, kidney failure which may require dialysis or transplantation, nerve damage which causes numbness, pain and other nervous system problems, pneumonia, strokes, heart attacks, and death. Daily management of diabetes requires close attention to medication, dietary intake and activity, with frequent monitoring of blood sugar. Patient education is essential to effective management, particularly regarding dietary requirements and how to meet them. The acute complications that result from too little or too much insulin in relation to activity and food intake must be recognized and treated promptly. In a correctional setting, comprehensive, coordinated care of diabetics requires an organized system of care directed by competent physicians who are well-informed regarding the current standards of care for diabetes.

8. The medical care provided to inmates with diabetes in the ADOC is grossly inadequate in every respect. This inadequate care includes, but is not limited to: failure to promptly diagnose diabetic inmates, failure to adequately monitor class members' blood sugar levels; failure to diagnose and provide adequate, timely care for injuries to and infections of class members' feet; failure to diagnose and provide adequately, timely care for class members' eye problems; failure to provide class members with an appropriate, individualized meal plan; and failure to provide class members with education about their illness, particularly their nutritional needs.

a. **Monitoring and Control of Blood Sugar:** Diabetics must be provided the opportunity to control blood sugar within normal physiologic ranges through daily adjustment of insulin and dietary intake based upon frequent blood sugar monitoring throughout each day. Prisoners with diabetes in the ADOC are only given finger stick blood sugar tests on an infrequent basis; the frequency depends on the prison at which they are incarcerated. At Easterling, inmates treated with insulin are given two finger stick blood sugar tests per month; at Donaldson, the frequency varies widely among inmates but is generally four times per day for two days every three months.

b. **Hemoglobin A1C (HbA1C) Testing:** The HbA1C blood test must be performed every three to six months (depending on the diabetic) to assess adequacy of long-term blood glucose control. The frequency of

HbA1C tests provided by the ADOC varies widely, both among prisons and between inmates, but the test is typically given only once per year.

c. **Testing for Diabetes Complications:** Diabetics must be tested on a regular basis to diagnose and provide timely treatment for serious complications that may result from their diabetes. They must receive an annual a dilated funduscopy eye exam by an appropriately trained eye professional to determine if they have diabetic retinopathy, glaucoma, or cataracts. The plaintiffs are *never* given dilated eye exams. Diabetics' feet must be examined during every medical encounter; the plaintiffs' feet are rarely, if ever, examined. Diabetics must be given an annual urine microalbumine test to identify incipient kidney disease; the plaintiffs are rarely, if ever, given such a test. A fasting blood lipid test must be performed annually to assess diabetics' cholesterol and triglyceride levels; this test is rarely, if ever, performed.

d. **Evaluation by a Physician:** Diabetics should see a doctor at least every three months. The plaintiffs rarely see a doctor; the "chronic care clinic" is generally staffed by LPN's who are incompetent to provide even minimally adequate chronic care evaluations.

e. **Diet:** Diabetics must be provided with an individualized meal plan that enables them to control their carbohydrate intake in relation to their activity and insulin dose. A diabetic's meal plan depends on his age, weight, weight goals, and activity level; additional nutritional goals include control of body weight and control of blood cholesterol and other fats to

prevent diseases of the arteries. Prisoners with diabetes must be given instructions on how to adhere to a meal plan based on the facilities' menus. ADOC inmates are not provided with individualized meal plans, nor are they provided with the information they need to choose appropriate types and quantities of foods to eat that correspond to their individual needs. The "diabetic meals" in the ADOC are almost identical to the regular meals.

f. **Patient Education:** Patient education about diabetes and self-management skills are an essential component of diabetes care. There is no education program for diabetics in the ADOC. To the contrary, inmates in the ADOC are given virtually no information about diabetes or how to manage their illness.

g. **Prevention and Management of Acute Complications:** Prevention and management of low blood sugar and ketoacidosis are necessary components of diabetes care. Prevention, recognition and management of these acute complications of diabetes are grossly inadequate in the ADOC.

h. **Prevention and Management of Chronic Complications:** Prevention and management of chronic complications of eyes, feet, kidneys, nerves and blood vessels is a necessary component of diabetes care. Care of chronic complications of diabetes is grossly inadequate in the ADOC due to failure to provide timely and effective treatment to prevent disabling damage to eyes, feet and kidneys.

i. **Special Primary Care Needs:** Patients with diabetes have special primary care needs that must be provided routinely to maintain health and prevent disease. For example, diabetics are prone to gum disease and need preventative dental care over and above that required by normal, healthy adults. Primary care is deficient in the ADOC due to grossly inadequate clinical evaluation, preventative care, and follow-up. These deficiencies result from the lack of an organized system of care and indifferent or incompetent physicians and nurses.

9. The care and treatment provided to prisoners with diabetes in the ADOC is grossly inadequate in every conceivable way. The defendant knows, but is deliberately indifferent to, the fact that this inadequate care and treatment has resulted in serious and substantial harm to the plaintiffs and continues to create a serious risk of further harm to them.

FACTUAL ALLEGATIONS REGARDING NAMED PLAINTIFFS

10. Plaintiff Michael Gaddis is a Type 1 insulin dependent diabetic inmate currently incarcerated at Donaldson prison. He is 37 years old and has been a prisoner in the ADOC off and on for eleven years; his most recent incarceration began in March 2002. Mr. Gaddis was diagnosed with diabetes twenty years ago at the age of 17. The only finger stick blood sugar tests that Mr. Gaddis has had in the past year have been on the occasions when he went to the health care unit complaining of dizziness and weakness due to severe low blood sugar. He has not had an HbA1C test, a test that must be performed every three months, since re-entering the ADOC over one year

ago. He has never had a urine microalbumin test or a dilated eye exam, tests that must be done annually on diabetics.

11. As a direct result of the grossly inadequate care provided to Mr. Gaddis by the defendant, he has had two toes amputated (the most recent one in 2002) and vascular surgery to improve the blood circulation to his feet. He continues to have numbness in his feet, indicating neuropathy or nerve damage. He has been denied orthopedic shoes and is partially confined to a wheel chair. Mr. Gaddis's poor circulation likely resulted from blood vessel disease caused by uncontrolled diabetes. If the defendant's practices continue, Mr. Gaddis is at risk of further serious harm, including ongoing damage to his eyes, kidneys, nerves and blood vessels due to inadequate blood sugar control; blindness; kidney failure; lower extremity amputation; heart attack; stroke; and consequent further disabilities. Because he is partially confined to a wheelchair, he is also at risk for loss of muscle and joint function.

12. Plaintiff Robert Edward Hamilton, Jr., is a Type 1 insulin dependent diabetic inmate currently incarcerated at Easterling prison. He is 24 years old and has been a prisoner in the ADOC since April 2002. Mr. Hamilton was diagnosed with diabetes when he was 5 years old and has been taking insulin since that time. His last HbA1C was 9.1, indicating poor management and control of his diabetes (the normal level is 7 or less). Plaintiff Hamilton has not seen a medical doctor in five months. He has never received a dilated eye exam to check for glaucoma, cataracts or diabetic retinopathy -- all possible complications of diabetes. Since his incarceration

one year ago, he has submitted multiple requests to see an eye doctor due to loss of peripheral vision, yet his request has gone unfulfilled. Since his incarceration one year ago, he has not had a urine microalbumin test to evaluate for early diabetic kidney damage.

13. Because Mr. Hamilton's blood sugar is not under good control as a result of the defendant's grossly inadequate care, he experiences frequent incidences of low blood sugar (hypoglycemia), resulting in loss of consciousness and seizures. On April 5, 2003, Mr. Hamilton began having seizures due to extremely low blood sugar. Although a correctional officer was immediately summoned, Mr. Hamilton was not transported to the health care unit for 45 minutes because the ADOC was counting inmates. He continued having seizures during the entire 45 minute period. When he was finally transported by stretcher to the health care unit, his blood sugar tested first as "LO" (unregisterable) and then as "10." He was given three tubes of instant glucose, glucagon by injection, orange juice, and three sandwiches. Despite his frequent bouts of low blood sugar, the medical staff at Easterling has never evaluated him regarding his insulin dosage, blood sugar readings, diet, and exercise levels in an effort to remedy this problem.

14. Mr. Hamilton has also experienced very high blood sugar readings (in the upper 300 range; optimal blood sugar range is 90-110). Rather than the generally accepted medical protocol of giving supplemental insulin to bring down blood sugar to an acceptable level, Mr. Hamilton has been instructed by the infirmary nurse to drink water and walk in circles in

the infirmary waiting area. On several occasions, the nurse has given him a form to sign indicating that he had refused medical treatment when he requested supplemental insulin to lower his blood sugar rather than following the nurse's instruction to walk in circles. Mr. Hamilton experiences numbness in his feet, a sign of diabetic nerve damage resulting from poor blood sugar control.

15. When Mr. Hamilton protested the inadequate medical treatment he has been provided, he was ridiculed. He is charged a \$3.00 co-pay when he goes to the infirmary seeking medical treatment for high or low blood sugars, despite the fact that he would not suffer from such problems but for the defendant's grossly inadequate treatment of his diabetes. On one occasion, Mr. Hamilton was late for sick call on a day when the intercom in his dorm was broken and he did not hear the diabetic inmates being called to receive their insulin shots. When he later went to the infirmary to get his shot, the nurse refused to provide it to him. Upon his objection to being denied his medication, an ADOC official threatened Mr. Hamilton with punishment in segregation.

16. After meeting with counsel for the plaintiffs on April 1, 2003, an ADOC lieutenant approached Mr. Hamilton while he was in the infirmary getting his afternoon insulin injection. Apparently referring to the incident described in the above paragraph, the lieutenant accused Mr. Hamilton of being too lazy to get his medication on time. The lieutenant threatened Mr. Hamilton that if he were ever late again in obtaining his medication, he would

place Mr. Hamilton in segregation for "creating a security and health hazard." Mr. Hamilton has never received a single disciplinary citation by the ADOC. He is a dorm leader and works as an assistant to the Chief Program Services Officer.

17. If the defendant's practices continue, Mr. Hamilton is at risk of further serious harm, including ongoing damage to his eyes, kidneys, nerves and blood vessels due to inadequate blood sugar control; blindness; kidney failure; lower extremity amputation; heart attack; stroke; central nervous system damage caused by extreme low blood sugar; and consequent further disabilities.

18. Plaintiff Manson Fisher a/k/a Yusuf Rahim, is a Type 1 insulin dependent diabetic inmate currently incarcerated at Donaldson prison. He is 43 years old and has been a prisoner in the ADOC since 1989. Mr. Fisher was diagnosed with Type I diabetes twenty years ago at the age of 23. In 1998, he was diagnosed with severe proliferative diabetic retinopathy and had several eye surgeries during that year. He continues to experience loss of vision as well as a "starburst" effect (indicative of cataracts), but has not been examined or treated for cataracts. Mr. Fisher also has frequent incidents of hypoglycemia (low blood sugar).

19. Despite Mr. Fisher's history of eye problems resulting from his diabetes, the defendant fails to adequately monitor his blood glucose levels or treat him for high blood sugar. His last HbA1C test was conducted nineteen months ago, and he is given infrequent finger stick blood sugar checks. Like

the other named plaintiffs, he has never had a urine microalbumin test to evaluate for early diabetic kidney damage, which must be done annually on diabetics to evaluate possible kidney damage. If the defendant's practices continue, Mr. Fisher is at risk of further serious harm, including ongoing damage to his eyes, kidneys, nerves and blood vessels due to inadequate blood sugar control; blindness; kidney failure; lower extremity amputation; heart attack; stroke; and consequent further disabilities.

20. Plaintiff Louis Jenkins, Jr. is a 55 year-old Type 2 diabetic inmate treated with insulin who is presently confined at Donaldson prison. Although he was diagnosed with diabetes when he entered Donaldson in March 2002, he was not put on the diabetic chronic care list until one year later. Mr. Jenkins recently went six months between finger stick blood sugar tests. He has never had a urine microalbumin test. As a result of his uncontrolled diabetes, Mr. Jenkins suffers from numbness in his toes and blurred vision. If the defendant's practices continue, Mr. Jenkins is at risk of further serious harm, including ongoing damage to his eyes, kidneys, nerves and blood vessels due to inadequate blood sugar control; blindness; kidney failure; lower extremity amputation; heart attack; stroke; and consequent further disabilities.

21. Plaintiff Cedric McLain is a Type 1 insulin dependent diabetic inmate currently incarcerated at Donaldson. He is 31 years old and has been a prisoner in the ADOC since 1997. Mr. McLain was diagnosed with diabetes fourteen years ago at the age of 17. His last HbA1C was 11.8, which is extremely high (the normal level is 7 or less). Despite this

dangerously high blood glucose level, he is given only infrequent finger stick blood sugar checks.

22. When Mr. McLain arrived at Donaldson, his insulin protocol was switched from a sliding scale, in which the insulin dose is supplemented according to blood sugar measurements, to a 70/30 fixed dose twice daily. Mr. McLain has frequent incidents of severe low blood sugar. On many occasions, he has had to wait up to thirty minutes before receiving treatment for these hypoglycemic incidents. His numerous requests for more frequent HbA1C's, finger stick blood sugar tests, urine testing, and a return to sliding scale insulin dosing have been ignored. If the defendant's practices continue, Mr. McLain is at risk of further serious harm, including ongoing damage to his eyes, kidneys, nerves and blood vessels due to inadequate blood sugar control; blindness; kidney failure; lower extremity amputation; heart attack; stroke; and consequent further disabilities.

23. Plaintiff James Taylor is a Type 2 diabetic inmate treated with oral medications who is currently incarcerated at Draper prison. He is 58 years old and has been a prisoner in the ADOC for thirteen years. Mr. Taylor was diagnosed with diabetes thirteen years ago at the age of 45. On February 26, 2003, the health care unit that serves Draper prison ran out of two of the oral medications that Mr. Taylor takes to control his diabetes -- Metformin and Glipizide. The medications were not provided to him for three weeks. Mr. Taylor suffers from blurred vision, numbness in his fingers and feet, thirst, and frequent urination. An LPN sees him every three months

in “chronic care clinic.” At his last visit to the chronic care clinic, his blood sugar was about 300, which is very high, yet no action was taken to bring his blood sugar under better control. If the defendant’s practices continue, Mr. Taylor is at risk of further serious harm, including ongoing damage to his eyes, kidneys, nerves and blood vessels due to inadequate blood sugar control; blindness; kidney failure; lower extremity amputation; heart attack; stroke; and consequent further disabilities.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

24. The plaintiffs have exhausted their administrative remedies by filing complaint and grievance forms with Naphcare, the for-profit medical provider that the ADOC contracted with to provide medical care to Alabama prisoners, to the extent the grievance process has been available to them. All of the plaintiffs received inadequate responses to their grievances or received no response at all.

a. On March 19, 2003, Plaintiff Gaddis submitted a “Naphcare Medical Complaint Form” to Nurse Shirley, who refused to accept it. On March 26, 2003, Mr. Gaddis submitted a “Naphcare Medical Grievance Form” to the Health Care Unit. He has never received a response to his grievance.

b. Plaintiff Hamilton filed a “Naphcare Medical Complaint Form” on March 20, 2003, and a “Naphcare Medical Grievance Form” on March 26, 2003. The responses he received were wholly inadequate.

c. Plaintiff Fisher filed a "Naphcare Medical Complaint Form" on February 21, 2003, and a "Naphcare Medical Grievance Form" on February 24, 2003. The responses he received were wholly inadequate.

d. Plaintiff Jenkins filed a "Naphcare Medical Complaint Form" on February 24, 2003, and a "Naphcare Medical Grievance Form" on February 26, 2003. The responses he received were wholly inadequate.

e. Plaintiff McLain filed a "Naphcare Medical Complaint Form" on February 20, 2003, and a "Naphcare Medical Grievance Form" on February 23, 2003. The responses he received were wholly inadequate.

f. Plaintiff Taylor filed a "Naphcare Medical Complaint Form" and a "Naphcare Medical Grievance Form," but has never received a response.

CLAIMS FOR RELIEF

25. The defendant's deliberate indifference to the serious medical needs of Alabama inmates with diabetes violates the plaintiffs' rights under the Eighth and Fourteenth Amendments to the United States Constitution, as enforced through 42 U.S.C. § 1983.

PRAYER FOR RELIEF

WHEREFORE, the plaintiffs pray that this Honorable Court grant the following relief:

1. Certify the plaintiff class;

2. Declare that the acts and omissions of the defendant with regard to the class members violate the Eighth and Fourteenth Amendments to the United States Constitution;

3. Enter an injunction requiring the defendant, his agents, employees, and all persons acting in concert with them to cease their unconstitutional and unlawful practices;

4. Award to the plaintiffs reasonable costs and attorneys' fees; and

5. Grant plaintiffs such other relief as the Court deems necessary and just.

Respectfully submitted,



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