

10-1752

ORIGINAL

IN THE SUPREME COURT OF OHIO

Albert Pickett
N.C.C.T.F. 2000 S. AVON-BELDEN
GRAFTON, OH 44044-9430
Petitioner-Relator

TRIAL COURT CASE No CR-07-503215
SUPREME COURT CASE No:

-VS-

ORIGINAL ACTION

WARDEN HECTOR SANTIAGO
N.C.C.T.F. 2000 S. AVON-BELDEN
GRAFTON, OH 44044-9430
Defendant-Respondent

RECEIVED
OCT 12 2010
CLERK OF COURT
SUPREME COURT OF OHIO

PETITION FOR WRIT OF HABEAS CORPUS

Now comes the Petitioner, Albert Pickett, pursuant Ohio Revised Code Section 2725 and the Ohio Supreme Court Practice rule 10.2, and moves this Court by petition for a WRIT OF HABEAS CORPUS to release petitioner from unlawful restraint and imprisonment without legal authority from North Coast Correctional Treatment Facility at 2000 S. Avon-Belden Rd. Grafton, Oh 44044-9430.

In this case, the Court *lacked jurisdiction* to convict the Petitioner because the prosecuting authorities conduct was so egregious and the constitutional violations so numerous that Petitioner's conviction "shocks the conscience" and must be considered void. From the very beginning of this case, the investigative and prosecuting authorities engaged in a pervasive pattern of violence and coercion toward the Petitioner that tainted all aspects of the prosecution from the arrest and preliminary proceedings through the Petitioner's plea of guilty.

FILED
OCT 12 2010
CLERK OF COURT
SUPREME COURT OF OHIO

As demonstrated below, and as Petitioner proved in his civil rights action under 42 U.S.C. 1983, the arresting officers severely and viciously beat the petitioner. Then, to make matters worse, the State denied the Petitioner desperately needed medical attention. (See *Pickett v. The City Of East Cleveland et al*, Case No. 08 CV 1235, United States District Court, Northern District of Ohio).

After the arresting officers severely beat the the Petitioner and after refusing to provide the Petitioner with medical attention, the State then coerced the Petitioner into giving an involuntary confession through false promises that they would provide the Petitioner with medical treatment only if he confessed to a crime. The State continued its pattern of intimidation by coercing the Petitioner into waiving his preliminary hearing through continued threats of violence and forcing the Petitioner to plead guilty.

In this case the State's actions were so egregious that it tainted all aspects of the prosecution and resulted in the complete lack of Due Process. The prosecuting authorities conduct in beating the Petitioner, denying him medical treatment and threatening him with continued violence if he didn't waive his constitutional protections, was so outrageous that the Petitioner's conviction undermines confidence in the judicial system as a whole.

FACTS

Defendant was indicted and convicted on charges of Carrying Concealed Weapons, R.C. 2923.12 (A)(2), and having Weapons While Under Disability, R.C. 2923.13(A)(3), with a forfeiture specification, R.C. 2941.1417. The Defendant was sentenced to a prison term of three (3) years. He was sentenced on January 25, 2008 and has served approximately 2.75 years of his three (3) year sentence.

This case began on the Fourth day of September 2007. The Petitioner maintains that he approached the arresting officer in order to turn over weapons he obtained after three (3) fleeing suspects threw the weapons in Petitioner's direction. (See Affidavit of Petitioner, attached hereto as

Exhibit A at paragraph 1). One of the weapons actually struck the Petitioner in the head. (*Id.*) The Petitioner complied with the arresting officer's demand, but, nevertheless, the officer started punching the Petitioner in his side. (*Id.* at paragraph 2). After punching the the Petitioner several times, the arresting officer rammed the Petitioner's head on the hood and front clip of the police cruiser at least six (6) times. (*Id.*). The Petitioner claims that he never argued or resisted arrest. (*Id.*). Despite his acquiescence to the arresting officers' commands, the officers viciously attacked the Petitioner and threw him to the ground on a wooden spike injuring his arm. (*Id.*). The officers also kicked the Petitioner in the ribs then threatened him at gun point that if he moved, he would be shot in the head. (*Id.*).

Once Petitioner arrived at the Police Station, the Petitioner informed the booking officer that he was injured and in serious pain, and, that, as a result of the beating, he had defecated and urinated on himself. (See Exhibit A at paragraph 3). The booking officer did nothing to either accord the Petitioner with medical attention or to allow the Petitioner to clean himself. (*Id.*).

Later that evening, a Detective McCurdy removed the Petitioner from his cell to interrogate him with the purpose of coercing a confession from the Petitioner. (See Exhibit A at paragraph 4). Petitioner told Officer McCurdy that he wanted to speak with a lawyer and that he was in pain and needed medical attention. (*Id.*). Officer McCurdy told Petitioner that he would not be provided with either medical attention or a lawyer unless he made a statement concerning the alleged crime. (*Id.*).

Because he desperately needed medical attention, and because he feared for his safety, the Petitioner made a statement implicating himself in a crime. (See Exhibit A at paragraph 5). Petitioner was never provided with the requested medical attention. (*Id.*). The next day, after coercing and intimidating the Petitioner into an involuntary confession, the Petitioner was formally charged with weapons offenses. (*Id.*).

On September 7th 2007, the Petitioner appeared before an East Cleveland Municipal Court

Judge for an initial hearing. (See Exhibit A at paragraph 6). Petitioner was not afforded counsel despite his repeated request. (*Id.*). After setting bond and scheduling a preliminary hearing, the Judge noticed that the Petitioner was in obvious pain and inquired into his well being. (*Id.*). The Judge told his bailiff to contact the jailer and arrange for medical attention for the Petitioner. (*Id.*). Upon returning to his cell, however, the jailers, an Officer Holcomb and others, told the Petitioner that they “stick together” and that they were not going to get the Petitioner his desperately needed medical attention. (*Id.*).

Although the East Cleveland Judge scheduled the legally mandated preliminary hearing, the Petitioner was never afforded the actual hearing. (See Exhibit A at paragraph 7). The preliminary hearing never occurred because the Petitioner was coerced and intimidated into waiving his preliminary hearing through threats of continued violence. (*Id.*). Thus, Petitioner's waiver was not voluntary. Because of the involuntary nature of Petitioner's waiver of the preliminary hearing, the Petitioner's case was illegally bound over to the Grand Jury and the Petitioner was illegally and unconstitutionally indicted on the weapons offenses.

After days of agonizing pain and suffering, the Petitioner finally posted bond on or about September 11, 2007. (See Exhibit A at paragraph 7). Upon his release, the Petitioner immediately went to Huron Road Hospital. (*Id.*). At the hospital, it was revealed that the Petitioner was suffering from contusions and a concussion, and a sprain knee. (*Id.*). In addition, the doctors were forced to drain the Petitioner's right elbow. (*Id.*). The medical personnel informed the Petitioner that if he had waited any longer for medical treatment, they would have had to amputate his arm. (*Id.*).

CLAIM FOR RELIEF

THE PROSECUTING AUTHORITIES CONDUCT WAS SO EGREGIOUS AND THE CONSTITUTIONAL VIOLATIONS SO NUMEROUS THAT PETITIONER'S CONVICTION MUST BE CONSIDERED VOID AS VIOLATIVE OF DUE PROCESS

In this case, the State violated the Petitioner's Due Process rights as guaranteed by the Fifth and Fourteenth Amendments of the United States Constitution and the Ohio Constitution. The conviction cannot stand in light of the Due Process Clause because the conviction was secured through a pattern of violence and coercion that offends notions of traditional justice and shocks the conscience. The following are specific violations of Petitioner's constitutional rights that when viewed cumulatively can only be seen to undermine confidence in Petitioner's conviction and the criminal justice system as a whole:

Fourth Amendment

In this case, the arresting officers violated the Petitioner's Fourth Amendment rights by using excessive force during the arrest. See *Kava v. Nesbitt*, 156 F.3d 669 (excessive force violated homeowner's constitutional rights)

Fifth Amendment and Fourteenth Amendments

The police officers in this case violated the Petitioner's right against compulsory self incrimination as guaranteed by the Fifth Amendment and Fourteenth Amendments to the Federal and Ohio Constitutions in securing his confession through coercion and intimidation by beating the Petitioner, refusing the Petitioner needed medical attention, by refusing to allow Petitioner to obtain counsel, and by threatening Petitioner with additional violence if he refused to give a statement without the presence of his lawyer. See *Malloy v. Hogan*, 378 U.S. 1

(holding that the Fifth Amendment's exception from compulsory self-incrimination is also protected by the Fourteenth Amendment against abridgment by the States.); *Miranda v. Arizona*, 384 U.S. 436 (1986)(stating that “constitutional rights to assistance of counsel and protection against self-incrimination were secured for ages to come and designed to approach immortality as nearly as human institutions can approach it”).

Fourteenth Amendment

The Petitioner was denied Due Process as guaranteed by the Fourteenth Amendment when he was coerced and intimidated into waiving his preliminary hearing, which hearing is required by Rule 5 of the Ohio Rules of Criminal Procedure. Any “waiver” by the Petitioner of his right to a preliminary hearing was involuntary and thus ineffectual. See *State v. Hoover* 123 Ohio St.3d 418 (2009)(stating that “waiver of right cannot be lightly inferred; hence, it must be voluntary and un-coerced, either physically or psychologically.”)

Sixth Amendment

The Petitioner was denied his Sixth Amendment right to counsel when he was forced to give a statement without the presence of counsel and when he was denied counsel at his bond hearing. See *United States v. Chronic*, 104 S.Ct 2039 (1984)(stating that “[a]n accused's right to be represented by counsel is a fundamental component of our criminal justice system. . . . Of all rights that an accused person has, the right to be represented by counsel is by far the most pervasive for it affects his ability to assert any other rights he may have.”)

Eighth Amendment

The Petitioner's Eighth Amendment right against cruel and unusual punishment were violated when the police viciously beat the Petitioner during his arrest, threatened the Petitioner with continued beatings, denied the Petitioner needed medical attention, and when the police denied the Petitioner a shower when he had defecated and urinated on himself during the police

beating. See *Farmer v. Brennan*, 511 U.S. 825 (1994)(an inmates Eight Amendment' rights violated when officials are deliberately indifferent to the inmates serious medical needs); *State v. Watson*, 126 Ohio App.3d 316 (violation of the Eight Amendment right against cruel and unusual punishment can render the judgment void or voidable under the Ohio and the United States Constitutions).

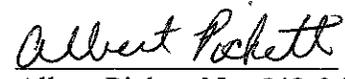
In this case, the prosecuting authorities conduct was so egregious and the constitutional violations so numerous that Petitioner's conviction "shocks the conscience" and must be considered void. See *State v. Yates*, 66 Ohio St.2d 245 (1981)(reversing conviction because method used to obtain evidence so shocked the conscience as to violate due process); *Graham v. Conner*, 490 U.S. 386 (1981)(reversing conviction because method used to obtain evidence so shocks the conscience as to violate due process).

A civilized system of justice simply cannot permit the State to secure a conviction through the tactics employed in this case. If Due Process means anything, it certainly prohibits the State from securing a conviction through violence, threats and extortion as they used against Petitioner Pickett in this case.

REQUESTED RELIEF

Because Petitioner's conviction was based on pervasive and egregious misconduct on the part of the State such that Petitioner was denied due process of law as guaranteed by the Ohio and Federal Constitution, the Petitioner respectfully requests this Court to void his conviction and to issue writ commanding Hector Santiago, Warden of North Coast Correction and Treatment Facility, to release Petitioner from unlawful confinement.

Respectfully Submitted,


Albert Pickett No. 542-345
Petitioner Pro Se
NCCTF
2000 S. Avon-Belden Rd.
Grafton, Ohio 44044

IN THE SUPREME COURT OF OHIO

Albert Pickett
N.C.C.T.F. 2000 S. AVON-BELDEN
GRAFTON, OH 44044-9430
Petitioner-Relator

TRIAL COURT CASE No CR-07-503215
SUPREME COURT CASE No:

-VS-

AFFIDAVIT IN SUPPORT OF WRIT

WARDEN HECTOR SANTIAGO
N.C.C.T.F. 2000 S. AVON-BELDEN
GRAFTON, OH 44044-9430
Defendant-Respondent

I Albert Pickett, being first duly sworn, hereby depose and state as follows:

1. This case began on the Fourth day of September 2007. I approached the arresting officer in order to turn over weapons I obtained after three (3) fleeing suspects threw the weapons in my direction. One of the weapons actually struck Petitioner in the head.
2. I complied with the arresting officer's demand, but, nevertheless, the officer started punching me in my side. After punching me several times, the arresting officer rammed my head on the hood and front clip of the police cruiser at least six (6) times. I never argued or resisted arrest. Despite my acquiescence to the arresting officer's commands, the officers viciously attacked me and threw me to the ground on a wooden spike injuring his arm. The officers also kicked me in the ribs and threatened me at gun point that if I moved, I would be shot in the head.

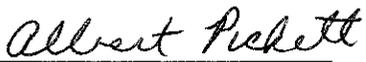
Once I arrived at the Police Station, I informed the booking officer that I was injured and in serious pain, and, that, as a result of the beating, I had defecated and urinated on himself. The booking officer did nothing to either accord me with medical attention or to allow me to clean

myself.

3. Later that evening, a Detective McCurdy removed me from my cell to interrogate me. I told Officer McCurdy that I wanted to speak with a lawyer and that I was in pain and needed medical attention. Officer McCurdy told me that I would not be provided with either medical attention or a lawyer unless I made a statement concerning the alleged crime.
4. Because I desperately needed medical attention and because the I feared for my safety, I made a statement implicating myself in a crime. I was never provided with the requested medical attention. The next day I was formally charged with weapons offenses.
5. On September 7th 2007, I appeared before an East Cleveland Municipal Court Judge for an initial hearing. I was not afforded counsel despite my repeated request. After setting bond and scheduling a preliminary hearing, the Judge noticed that I was in obvious pain and inquired into my well being. The Judge told his bailiff to contact the jailer and arrange for medical attention for me. Upon returning to my cell, however, the jailers, an Officer Holcomb and others, told me that they “stick together” and that they were not going to get me my desperately needed medical attention.
6. Although the East Cleveland Judge scheduled the preliminary hearing, I was never afforded the actual hearing. The preliminary hearing never occurred because I was coerced and intimidated into waiving my preliminary hearing through threats of continued violence.
7. After days of agonizing pain and suffering, I finally posted bond on or about September 11, 2007. Upon my release, I immediately went to Huron Road Hospital. At the hospital, it was revealed that I was suffering from contusions and a concussion, and a sprain knee. In addition,

the doctors were forced to drain my right elbow. The medical personnel informed me that if I had waited any longer for medical treatment, they would have had to amputate my arm.

FURHTER AFFIANT SAYETH NAUGHT


Affiant Albert Pickett

Sworn and subscribed in front of me on this 7th day of October, 2010.


Notary Public

JILL A. GRUNENWALD
NOTARY PUBLIC • STATE OF OHIO
Recorded in Cuyahoga County
My commission expires May 18, 2014

IN THE SUPREME COURT OF OHIO

Albert Pickett
N.C.C.T.F. 2000 S. AVON-BELDEN
GRAFTON, OH 44044-9430
Petitioner-Relator

TRIAL COURT CASE No CR-07-503215
SUPREME COURT CASE No:

-VS-

AFFIDAVIT DESCRIBING CIVIL
ACTIONS

WARDEN HECTOR SANTIAGO
N.C.C.T.F. 2000 S. AVON-BELDEN
GRAFTON, OH 44044-9430
Defendant-Respondent

I Albert Pickett, being first duly sworn, hereby depose and state as follows:

1. I am the Relator in the above captioned action.
2. I am submitting this affidavit describing each civil action I have filed in the past five years.
3. I have been a party to following actions in the last five years: First, there is criminal case no CR -07-503215-A. That is the case that resulted in my current incarceration. I have included a copy of my docket showing all filings in that case. (exhibit A)
4. I appealed my conviction in case no CR -07-503215-A to the Eight District Court Of Appeals, Case No. 91387. My appeal was denied.
5. I also filed a Petition for Post Conviction Relief on the above case no CR -07-503215-A. The Petition, civil in nature, is reflected on the docket entry for March 26, 2008. That Petition was denied. I filed a subsequent Petition for Post Conviction Relief on July 18, 2008. That Petition

6. was also denied.
7. Finally, I filed a civil action under 42 U.S.C. 1983 against the City of East Cleveland, the East Cleveland Police Department and certain of its police officers. This case was filed in Federal District Court for the Northern District of Ohio. The case is styled Pickett v. The City of East Cleveland et al. Northern District of Ohio, Case No. 1:08 CV 1235. I alleged, among other things, that the arresting officers and jailers used unnecessary, excessive force. The case was settled out of Court. (exhibit b).

FURHTER AFFIANT SAYETH NAUGHT

Albert Pickett
Affiant Albert Pickett

Sworn and subscribed in front of me on this 1 day of October, 2010.



JILL A. GRUNENWALD
NOTARY PUBLIC • STATE OF OHIO
Recorded in Cuyahoga County
My commission expires May 18, 2014

Please
return



**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

THE STATE OF OHIO
Plaintiff

ALBERT PICKETT
Defendant

Case No: CR-07-503215-A

Judge: TIMOTHY J MCGINTY

INDICT: 2923.12 CARRYING CONCEALED WEAPONS
/FORS
2923.12 CARRYING CONCEALED WEAPONS
/FORS
2923.13 HAVING WEAPONS WHILE UNDER
DISABILITY /FORS
ADDITIONAL COUNTS...

JOURNAL ENTRY

DEFENDANT IN COURT WITH COUNSEL PUBLIC DEFENDER TONY KELLON. PROSECUTING ATTORNEY MINDY KOWALSKI PRESENT.

COURT REPORTER PRESENT.

DEFENDANT FULLY ADVISED IN OPEN COURT OF HIS/HER CONSTITUTIONAL RIGHTS AND PENALTIES. DEFENDANT RETRACTS FORMER PLEA OF NOT GUILTY AND ENTERS A PLEA OF GUILTY TO HAVING WEAPONS WHILE UNDER DISABILITY 2923.13 A(3) F5 WITH FORFEITURE SPECIFICATION (2941.1417) AS CHARGED IN COUNT(S) 3 OF THE INDICTMENT.

AS PART OF PLEA TO COUNT 3 ALL REMAINING COUNTS ARE NOLLED BY PROSECUTOR. DEFENDANT GIVEN NOTICE OF 3 YEARS POST-RELEASE CONTROL A PART OF PLEA AND SENTENCE.

COUNT(S) 1, 2, 4 IS/ARE NOLLED.

COURT ACCEPTS DEFENDANT'S GUILTY PLEA.

DEFENDANT TO FORFEIT 22/CALIBER A 38 SPECIAL WEAPONS

THE COURT CONSIDERED ALL REQUIRED FACTORS OF THE LAW.

THE COURT FINDS THAT PRISON IS CONSISTENT WITH THE PURPOSE OF R. C. 2929.11.

THE COURT IMPOSES A PRISON SENTENCE AT THE LORAIN CORRECTIONAL INSTITUTION OF 3 YEAR(S).

POST RELEASE CONTROL IS PART OF THIS PRISON SENTENCE FOR 3 YEARS FOR THE ABOVE FELONY(S) UNDER R.C.2967.28.

DEFENDANT TO RECEIVE JAIL TIME CREDIT FOR 11 DAY(S), TO DATE.

BOND FORFEITURE VACATED; CAPIAS RECALLED.

DEFENDANT IS TO PAY COURT COSTS.

01/25/2008

CPHEB 01/28/2008 12:51:06

Judge Signature

01/31/2008

SENT

01/25/2008

RECEIVED FOR FILING

02/01/2008 07:51:10

By: CLSJO

GERALD E. FUERST, CLERK

Shriff Signature

CUYAHOGA COUNTY COURT OF COMMON PLEAS

DATE: 9/16/2010
TIME: 1:04 PM
CASE: CR-07-503215-A

APPEARANCE DOCKET

AFORESAID JUDGMENT IS NOT SATISFIED WITHIN SIXTY (60) DAYS THE CLERK OF COURTS IS INSTRUCTED TO ACCEPT NO FURTHER RECOGNIZANCES FROM THE SAID SURETY.

CR	DCUS		1/25/2008	1/26/2008	DEFENDANT IN CUSTODY	
CS	SHRT		1/25/2008	1/26/2008	DEFENDANT'S BOOKING COST	10.00
JE	JE		1/25/2008	2/01/2008	DEFENDANT IN COURT WITH COUNSEL PUBLIC DEFENDER TONY KELLON. PROSECUTING ATTORNEY MINDY KOWALSKI PRESENT. COURT REPORTER PRESENT. DEFENDANT FULLY ADVISED IN OPEN COURT OF HIS/HER CONSTITUTIONAL RIGHTS AND PENALTIES. DEFENDANT RETRACTS FORMER PLEA OF NOT GUILTY AND ENTERS A PLEA OF GUILTY TO HAVING WEAPONS WHILE UNDER DISABILITY 2923.13 A(3) F5 WITH FORFEITURE SPECIFICATION (2941.1417) AS CHARGED IN COUNT(S) 3 OF THE INDICTMENT. AS PART OF PLEA TO COUNT 3 ALL REMAINING COUNTS ARE NOLLED BY PROSECUTOR. DEFENDANT GIVEN NOTICE OF 3 YEARS POST-RELEASE CONTROL A PART OF PLEA AND SENTENCE. COUNT(S) 1, 2, 4 IS/ARE NOLLED. COURT ACCEPTS DEFENDANT'S GUILTY PLEA. DEFENDANT TO FORFEIT 22/CALIBER A 38 SPECIAL WEAPONS THE COURT CONSIDERED ALL REQUIRED FACTORS OF THE LAW. THE COURT FINDS THAT PRISON IS CONSISTENT WITH THE PURPOSE OF R. C. 2929.11. THE COURT IMPOSES A PRISON SENTENCE AT THE LORAIN CORRECTIONAL INSTITUTION OF 3 YEAR(S). POST RELEASE CONTROL IS PART OF THIS PRISON SENTENCE FOR 3 YEARS FOR THE ABOVE FELONY(S) UNDER R.C.2967.28. DEFENDANT TO RECEIVE JAIL TIME CREDIT FOR 11 DAY(S), TO DATE. BOND FORFEITURE VACATED; CAPIAS RECALLED. DEFENDANT IS TO PAY COURT COSTS.	2.00
					01/25/2008 CPHEB 01/28/2008 12:51:06	
CS	REPT		1/28/2008	1/28/2008	COURT REPORTER FEE	
CS	REP		2/01/2008	2/01/2008	RC 2743.70 REPARATION FEE	45.00
DR	SH	D 1	2/01/2008	2/01/2008	SHERIFF FEES	5.00
DR	REPT	D 1	2/01/2008	2/01/2008	COURT REPORTER FEE	50.00
CS	3151		2/01/2008	2/01/2008	COURT COST ASSESSED ALBERT L PICKETT JR BILL AMOUNT 263.5 PAID AMOUNT 0 AMOUNT DUE 263.5	
CL	LORC	D 1	2/05/2008	2/05/2008	DEFENDANT DELIVERED TO LORCI ON 02/05/2008.	
MO	MMS	D 1	3/26/2008	3/26/2008	MOTION TO VACATE AND CORRECT SENTENCE, FILED. PRO SE 542345 MARION CORR. INST.	
JE	JE		4/07/2008	4/08/2008	IN RESPONSE TO DEFENDANT'S MOTION TO VACATE AND CORRECT SENTENCE, MOTION IS DENIED.	2.00

A CERTIFIED COPY OF THIS JOURNAL ENTRY IS TO BE SENT TO:
ALBERT PICKETT #542345, MARION CORRECTIONAL CAMP, P.O.
BOX 57, MARION, OH 43301-0057.

CUYAHOGA COUNTY COURT OF COMMON PLEAS

DATE: 9/16/2010
TIME: 1:04 PM
CASE: CR-07-503215-A

APPEARANCE DOCKET

04/07/2008
CPJEO 04/07/2008 15:28:15

MO	MVBF	T	4/17/2008	4/17/2008	MOTION TO VACATE BOND FORFEITURE JUDGMENT, FILED. MARK MAREIN, ATTORNEY AMERICAN SURETY INSURANCE COMPANY GLOBAL BAIL BOND COMPANY YOLANDA FAISON, AGENT	
NT	NOA	D 1	5/01/2008	5/01/2008	NOTICE OF APPEAL, AFFIDAVIT OF INDIGENCY, STATEMENT, PRAECIPE AND NOTICE TO COURT REPORTER, JOURNAL ENTRY, FILED PRO SE AND SENT TO THE COURT OF APPEALS WITH A COPY OF THE DOCKET SHEET. THE COURT OF APPEALS NUMBER ASSIGNED IS 91387.	
MO	MPT	D 1	5/01/2008	5/01/2008	MOTION FOR PREPARATION OF COMPLETE TRANSCRIPT OF PROCEEDINGS AT STATE EXPENSE, FILED. PRO-SE 542-345 MARION CORR. INST	
MO	MAC	D 1	5/01/2008	5/01/2008	MOTION FOR APPOINTMENT OF COUNSEL, FILED. PRO-SE 542-345 MARION CORR. INST	
NT	CAD	D 1	5/09/2008	5/09/2008	SUA SPONTE, THE APPEAL IS DISMISSED, BY THE COURT OF APPEALS, PER ENTRY NO. 408496. (91387)	
JE	JE		5/12/2008	5/23/2008	IN RESPONSE TO DEFENDANT'S MOTION FOR APPOINTMENT OF COUNSEL, MOTION IS DENIED.	2.00

A CERTIFIED COPY OF THIS JOURNAL ENTRY IS TO BE SENT TO: ALBERT PICKETT, #542345, PO BOX 57, MARION, OH 43301-0057.

05/12/2008
CPSXK 05/14/2008 16:29:21

JE	JE		5/16/2008	5/16/2008	NO OBJECTION TO VACATION OF BOND JUDGMENT LESS 10% PENALTY AND COSTS. SO ORDERED. THIS ENTRY TAKEN BY JUDGE NANCY A FUERST.	2.00
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05/16/2008
CPEDB 05/16/2008 11:41:05

NT	NOA	D 1	5/20/2008	5/20/2008	MEMORANDUM IN SUPPORT OF MOTION FOR DELAYED APPEAL, POVERTY AFFIDAVIT, DOCKETING STATEMENT (ACCELERATED), PRAECIPE, JOURNAL ENTRY, FILED PRO SE AND SENT TO THE COURT OF APPEALS WITH A COPY OF THE DOCKET SHEET. THE COURT OF APPEALS NUMBER ASSIGNED IS 91463.	
SF	RECT	D 1	5/21/2008	5/21/2008	PAYMENT RECEIVED OF GLOBAL BAIL BONDS	500.00
DR	BFJ	D 1	5/21/2008	5/21/2008	BOND FORFEITURE JUDGMENT RECVD OF GLOBAL BAIL BONDS	500.00
SF	RECT	D 1	5/21/2008	5/21/2008	PAYMENT RECEIVED OF GLOBAL BAIL BONDS	50.00
DR	BJC	D 1	5/21/2008	5/21/2008	BOND JUDGMENT COST	50.00
NT	CAD	D 1	5/30/2008	5/30/2008	SUA SPONTE, THE APPEAL IS DISMISSED BY THE COURT OF APPEALS, PER ENTRY NO. 409210. (91463)	
NT	CAD	D 1	6/02/2008	6/02/2008	APPELLANT'S PRO SE MEMORANDUM IN SUPPORT OF MOTION FOR DELAYED APPEAL, IS TREATED AS A MOTION AND DENIED BY THE COURT OF APPEALS. (91463)	
MO	MJR	D 1	6/20/2008	6/20/2008	MOTION FOR JUDICIAL RELEASE, FILED. PRO-SE 542-345	

CUYAHOGA COUNTY COURT OF COMMON PLEAS

DATE: 9/16/2010
TIME: 1:04 PM
CASE: CR-07-503215-A

APPEARANCE DOCKET

MARION CORR INST (HEARING REQUESTED)						
MO	PVS	D 1	6/30/2008	6/30/2008	MOTION TO VACATE AND CORRECT SENTENCE CRIM R 52 (B) , FILED. PRO-SE MARION CORR. INST	
MO	MAC	D 1	7/18/2008	7/18/2008	MOTION FOR APPOINTMENT OF COUNSEL, FILED. PRO-SE 542-345 MARION CORR. INST	
MO	PVS	P	7/18/2008	7/18/2008	PETITION TO VACATE OR SET ASIDE SENTENCE, FILED. PRO-SE 542-345 MARION CORR. INST	
EVIDENTIARY HEARING						
MO	MEA	D 1	7/18/2008	7/18/2008	MOTION FOR EXPERT ASSISTANCE, FILED. PRO-SE 542-345 MARION CORR. INST	
MO	PVS	D 1	7/28/2008	7/28/2008	BRIEF IN OPPOSITION TO PETITION TO VACATE OR SET ASIDE SENTENCE, FILED.	
JE	JE		7/28/2008	8/02/2008	IN RESPONSE TO DEFENDANT'S MOTION FOR JUDICIAL RELEASE, MOTION IS DENIED. A CERTIFIED COPY OF THIS JOURNAL ENTRY IS TO BE SENT TO: ALBERT PICKETT \$542-345, MARION CORRECTIONAL INSTITUTION, PO BOX 57, MARION, OH 43301.	2.00
07/28/2008 CPSXK 07/30/2008 12:49:18						
MO	CFIL	D 1	8/11/2008	8/11/2008	REPLY FOR RECONSIDERATION, FILED. PRO-SE	
JE	JE		8/14/2008	8/15/2008	IN RESPONSE TO DEFENDANT'S REPLY FOR RECONSIDERATION, REPLY IS DENIED.	2.00
A CERTIFIED COPY OF THIS JOURNAL ENTRY IS TO BE SENT TO: ALBERT PICKET #542-345, MARION CORRECTIONAL INSTITUTION, PO BOX 57, MARION, OH 43301-0057.						
08/14/2008 CPSXK 08/15/2008 12:14:16						
\$\$	POA	D 1	10/22/2008	10/22/2008	PAYMENT ON ACCOUNT MADE ON BEHALF OF PICKETT JR/ALBERT/L IN THE AMOUNT OF \$3.38	3.38
\$\$	POA	D 1	12/03/2008	12/03/2008	PAYMENT ON ACCOUNT MADE ON BEHALF OF PICKETT JR/ALBERT/L IN THE AMOUNT OF \$3.04	3.04
\$\$	POA	D 1	12/24/2008	12/24/2008	PAYMENT ON ACCOUNT MADE ON BEHALF OF PICKETT JR/ALBERT/L IN THE AMOUNT OF \$5.03	5.03
\$\$	POA	D 1	1/23/2009	1/23/2009	PAYMENT ON ACCOUNT MADE ON BEHALF OF PICKETT JR/ALBERT/L IN THE AMOUNT OF \$5.13	5.13
\$\$	POA	D 1	2/24/2009	2/24/2009	PAYMENT ON ACCOUNT MADE ON BEHALF OF PICKETT JR/ALBERT/L IN THE AMOUNT OF \$23.31	23.31
\$\$	POA	D 1	3/20/2009	3/20/2009	PAYMENT ON ACCOUNT MADE ON BEHALF OF PICKETT JR/ALBERT/L IN THE AMOUNT OF \$5.05	5.05
\$\$	POA	D 1	4/17/2009	4/17/2009	PAYMENT ON ACCOUNT MADE ON BEHALF OF PICKETT JR/ALBERT/L IN THE AMOUNT OF \$6.77	6.77
MO	MPT	D 1	4/24/2009	4/24/2009	MOTION FOR PREPARATION OF COMPLETE TRANSCRIPT OF PROCEEDINGS AT STATE EXPENSE, FILED. PRO-SE542-345	
JE	JE		4/28/2009	4/30/2009	NUNC PRO TUNC ENTRY OF 1/25/08: ENTRY IS TO READ DEFENDANT ENTERS A PLEA OF GUILTY TO HAVING WEAPON	2.00

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

FILED

2009 MAY 19 PM 12:06

U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

1:08CV1235

ALBERT PICKETT,
plaintiff,

vs.

COMPLAINT
JUDGE ALDRICH
JURY TRIAL REQUESTED

THE CITY OF EAST CLEVELAND, et al.
EAST CLEVELAND POLICE DEPARTMENT,
THE FIRST, SECOND AND THIRD SHIFT
SUPERVISIORS, all to be sued in
their individual capacities, and
OFFICER HOLCOMB, sued in his individual
capacity, and ARRESTING OFFICERS (A) and
(B), sued in their individual capacities.
defendants.

MAG. JUDGE MCHARGH

Preliminary Statement:

This is a civil rights action filed by Albert Pickett, a state prisoner, for damages and injunctive relief under 42 U.S.C. § 1983, alleging excessive and misuse of force and denial of medical care in violation of the **Eighth (8) Amendment** of the United States Constitution and confinement in the East Cleveland, Ohio Jail in violation of the Due Process Clause of the **Fourteenth (14) Amendment** to the U.S. Constitution. The plaintiff also alleges the torts of assault, battery and negligence.

Jurisdiction:

1.) The United States District Court holds jurisdiction over the plaintiff's claims of violation of federal constitutional rights under 42 U.S.C. §§ 1331(a) and 1343.

2.) The court has supplemental jurisdiction over the plaintiff's state law tort claims under 28 U.S.C. §§ 1367.

3.) The plaintiff, Albert Pickett, also referred to as complainant in this instant complaint, was arrested by East Cleveland, Ohio Police on the 4th day of September, 2007 for violating state gun laws by arresting officer (A), the defendant in this complaint.

4.) The plaintiff states that the arresting officer (A) was accompanied by a partner who is identified in this complaint as the arresting officer (B).

5.) The defendant(s) in this instant complaint are officers employed by the City of East Cleveland, Ohio and East Cleveland, Ohio Police Department. They are to be sued in their individual capacities, and entities.

6.) The plaintiff submits that the arresting officers (A) and (B) are employed by the City of East Cleveland, Ohio and East Cleveland, Ohio Police whose names are presently unknown to plaintiff, but shall reflect or appear on the booking sheet at the East Cleveland, Ohio Jail and Police Department. They are also to be sued in their individual capacities.

7.) The City of East Cleveland and East Cleveland Police Department are entities as a whole shall be sued as defendant(s) in this complaint.

8.) The first, second and third shift supervisors are employed by the City of East Cleveland and the East Cleveland Police whose names are presently unknown to plaintiff shall be sued in their individual capacities as defendants in this complaint.

9.) Defendant Holcomb is a police officer employed by the City of East Cleveland and East Cleveland Police shall be sued in his individual capacity.

10.) All defendant(s) have acted, and continue to act, under color of state law at all times relevant to this complaint.

FACTS OF THIS COMPLAINT

On the 4th day of September, 2007, the plaintiff maintains that he was approached by arresting officer (A) on suspicion. The plaintiff did, indeed, inform officer (A) that he was in possession of a firearm in his left pocket, and that he

also had another gun, which the arresting officer (A) took. Afterwards the officer (A) placed the plaintiff under arrest and handcuffed him. Once again, the plaintiff informed the arresting officer (A) that he had a gun in his left pocket, and then the officer took the second gun from the plaintiff's left pocket.

At that point the plaintiff said to the arresting officer that he would comply to his arrest, but the arresting officer started to punch the plaintiff in his side between his hip bone and lower rib cage. After maliciously punching the plaintiff, the arresting officer(A) then took the plaintiff to the front of the police cruiser and rammed his head on the hood and front clip of the car in a **sadistic manner**. The banging of plaintiff's head on the hood of the car by the arresting officer (A) happened about six (6) times.

The plaintiff maintains that he never argued or resisted arrest, but he was **viciously attacked**, thrown to the ground on a wooden spike injuring his arm, and threatened at gun point that if he move - he would be shot. The plaintiff did so accordingly to prevent a tragedy from happening because of the arresting officer had a temperament that showed his behavior would result in a fatality.

Ten minutes went by with plaintiff laying on the ground before the arresting officer picks the plaintiff up off the ground and puts him in the back seat of the police cruiser. Another car arrives - plaintiff is then transferred to the Police Station. At the police station, the plaintiff informed the booking officer that he was injured and in **serious** pain - the booking officer **did nothing** to accord the plaintiff with medical attention.

Later that evening, Detective McCurdy removes the plaintiff from his cell to interrogate and interview him about the arrest. Once again, the plaintiff complains about his injury to the Detective, who takes a statement from him regarding the attack and his arrest. Detective McCurdy then gives the plaintiff complaint forms and instructed him on how to fill them out. The forms were turned in to the officer or jailor.

The Detective then returned the plaintiff back to his cell, and then told the jailor to call EMS to get the plaintiff treated or medically attended. But the jailor **did not do it, nor did no one else would get medical attention for the plaintiff.** The next day plaintiff was indicted, and the court scheduled a bond hearing on or about the 7th day of September, 2007 before a magistrate Judge.

At the hearing, the Judge notice that the plaintiff was seriously hurting and began to inquire about his well-being after setting bond. The Judge, however, ordered the baliff to tell the jailor to get the plaintiff some medical attention. Upon returning to the cell, the jailor, Officer Holcomb, and all others said to the plaintiff that we stick together around here, and that they were not going to get the plaintiff any medical attention that he seriously needed.

Several days later, the plaintiff after **agonizing pain and sufferings**, made bond on or about the 12th day of September, 2007 and immediately went to Huron Hospital, 13951 Terrace Road, East Cleveland, Ohio - 216.761.3300. It was revealed or diagnose that the plaintiff had a contusion and a mild concussion, and they had to drain his right elbow. The mediacd personnel informed the plaintiff that if had waited any longer - his **arm** would have had to be ampuated.

A week later, the Chief of Police - Ralph Spotts conducted an interview with the plaintiff along with Internal Affairs. Detective Ruth of the Internal Affairs said that an investigation would be put in place to the matters of plaintiff's complaint to see if allegations is valid. The plaintiff have not recieved an answer or conclusion to the Internal Affairs investigation into the matter, which is the reason for this instant 42 U.S.C. §§ 1983.

Claim(s) for Relief

The actions of arresting officer (A) in using physical force against the plaintiff without need or provocation, and arresting of- ficer (B) who failed to intervene to prevent arresting officer (B) misuse of force were done maliciously and sadistically, which there-

fore constituted cruel and unusual punishment in violation of the Eighth (8th) Amendment of the United States Constitution. Also, the actions of arresting officers (A) and (B) in preventing or using physical force against the plaintiff without need or provocation constituted the tort of assault and battery under the state of Ohio law - Ohio Revised Code 2903.11(1) and 28 U.S.C. §§ 1367.

The failure of the Internal Affairs Department at the East Cleveland, Ohio Police Department to take disciplinary or other actions to prevent misuse of force and denying the plaintiff a serious medical need constituted deliberate indifference, and contributed to and proximately caused the above injuries, violates the plaintiff's Eighth (8th) Amendment rights.

The failure of East Cleveland Police to provide the plaintiff with serious medical needs and/or treatment of the injuries described above is a violation of plaintiff's right(s) to be free from cruel and unusual punishment and constitutes the tort of negligence under the law of

Relief Requested

WHEREFORE, plaintiff requests that this court grant the following relief:

A. Issue a declaratory judgment stating that:

- 1.) The physical abuse of the plaintiff by arresting officer(s) A and B violated the plaintiff's rights under the Eighth (8th) Amendment to the United States Constitution and constituted an assault and battery under state law.
- 2.) The Internal Affairs failure to take action to prevent misuse of force violated the plaintiff's rights under the Eighth (8th) Amendment to the United States Constitution constituted an as-

sault and battery under state law.

- 3.) Defendants in this instant complaint failed to
adequate medical care for the plaintiff after it
was known to them that the plaintiff was seriously
injured by the attacked on him by the arresting
officer (A). Violating the plaintiff's rights
under the Eighth Amendment to the United States
Constitution.

B. Award compensatory damages in the following amounts:

- 1.) \$300,000 jointly and severally against defendants -
arresting officers A and B for the physical and
emotional injuries sustained as a result of the
plaintiff's beating.
- 2.) \$300,000 jointly and severally against defendants
for the punishment and emotional injury resulting
from their denial of providing the plaintiff with
serious medical attention.

C. Award punitive damages in the following amounts:

- 1.) \$300,000 each defendants

D. Grant such relief as it may appear that plaintiff is entitled.

April 18, 2008

Respectfully Submitted

P.O. BOX# 57
940 Marion-Williamport Road
Marion, Ohio 43301

DECHIE 01114501

EAST CLEVELAND POLICE DEPARTMENT
INTERNAL AFFAIRS DIVISION

Name Pickett Albert L IAD Comp # 07-029
(Last) (First) (MI)

Age 46 D.O.B 9-30-60 SSN [REDACTED]-1862 Received by _____

Address 1129 Thornhill Dr. City E. Cleveland State OH Zip 44112

Employment Workman's Compensation Home Phone 761-5328 Bus Phone 324-1598
until 10-07

A recent ruling by the 5th. Circuit Court of Appeals, states that the City of East Cleveland can criminally prosecute individuals for filing false complaints against police officers.

Signed Albert L. Pickett Date 9-6-07

Witness/Officer taking complaint Michael J. Hoff

Details: In your own words, explain what happened, where, when, and who was involved. Use reverse side if needed.

On 9-4-07 I was walking towards I believe two police officers when one of them shined the bright light on me. I was waving at first to get their attention when the light blinded me. I shielded the light then the officer told me to stop, turn around and put my hands up. I did exactly what he told me to do and as the officer came from around the car door grab me by the arm and walk me to the car. I informed the officer that I guess I just found and was turning the

I, Albert L. Pickett do hereby swear or affirm that the above facts and statements are true and correct to the best of my knowledge.

Signature Albert L. Pickett Date 9-17-07 Witness _____
Revised (01/08/01)

in and as we approached the car I told the officer that I had the other gun in my pocket. That was my purpose for going to the car to inform the side, between my ribs and hip bone on my right side. When I was slammed on top of the hood of the police car when the officer took my head and began to smash my head over and over against the hood of the car. Smacked between 4 to 5 times. I was almost unconscious as the officers searched me picked me up from off the car and slammed me down on the

ground. I landed on the grass but my knee hit a brick or piece of concrete and I was made to stay there until I was snatched up. Then I was thrown forcefully into the back of the police car and was threatened. Also the officer made a statement to his partner that if a black man was caught with a gun he would be treated as an example. Also I've been denied medical attention since the incident happened.

The officer hit me so hard where I crossed on shower room the officer made humorous comments about me crossing myself.

06 Multiple Trauma

Arrival Time 1015
 TRIAGE DATE 9/13/07 TIME 1029 REG
 Category I II III (IV) V 1032

NAME: PICKETT ALBERT
 D.O.B.: AGE: 46 M / F
 HISTORIAN: patient paramedics family
 ARRIVAL MODE: car/self EMS police other
 ARRIVAL FROM: home md office SNU SNF TX
 PCP: none
 IMMUNIZATIONS: current / referral
 tetanus flu pneumovax

TREATMENT PTA see EMS report IV O₂ c-collar backboard
 last blood glucose
 medication
 aerosol
 splint

VITALS Height 5'10" Weight 165 (lbs) kg
 BP 125/82 P 100 RR 16 temp 37 TM OR Ax
 SaO₂ 98 RA O₂ GCS

PAIN LEVEL current: 9 / 10 max 10 / 10 acceptable / 10
 scale used quality location

CHIEF COMPLAINT ASSAULT?
 occurred just PTA 8 hrs / days ago

loss of consciousness ambulatory at scene
 INJURIES / PAIN R L
 head neck shldr hip shldr hip
 face back arm thigh arm thigh
 nose chest elbow knee elbow knee
 mouth abdomen f-arm leg f-arm leg
 coccyx wrist ankle wrist ankle
 hand foot hand foot
 fingers toes fingers toes

MECHANISM fall GSW / stab wound
 hit by car burn
 motorcycle / bicycle / ATV
 SAFETY none helmet safety glasses

ALLERGIES NKDA
 drug - PCN / ASA / sulfa / latex / codeine / iodine
 food -

MEDS none see med reconciliation list
 OXYCONTIN - 8/31 for BACK pain/leg

MEDICAL HX negative
 HTN / CAD / CHF / angina / CP / asthma / COPD / "WORKERS COMP"
 hypercholesterolemia / chronic renal failure / stroke / seizure / cancer /
 HIV / hepatitis / psych - WORK "CHRONIC PAIN"
 diabetes: type I type II BOAT FEET

SOCIAL HX
 smoker 1/2 ppd (current) past drugs / alcohol
 TB exposure / symptoms
 has been physically hurt or threatened by someone close? Y (N)
 social services contacted? Y N Notified by:
 recent travel? Y N (where)
 LNMP G P Ab pregnant / postmenop / hyst

Triage Signature D. Yanok, EMS-D

©2001-2006 T-System, Inc Circle or check affirmatives, backlash (N) negatives
**Huron Hospital**
 a Cleveland Clinic hospital
EMERGENCY NURSING RECORD

TIME TO ROOM: 1056 ROOM: T-C3
 'INITIAL ASSESSMENT' TIME: 1100

GENERAL APPEARANCE
 no acute distress c-collar / backboard in place
 alert mild / moderate / severe distress
 anxious / decreased LOC

FUNCTIONAL / NUTRITIONAL ASSESSMENT
 independent ADL assisted / total care
 appears well obese / malnourished
 nourished / hydrated recent weight loss / gain
 wnl gait gait abnormality
 no fall risk fall risk Y N
CHEST
 no evidence of trauma laceration / abrasion / swelling
 non-tender tenderness
 breath sounds wnl wheezing / crackles / stridor
 seat belt marks
 deformity

CVS
 regular rate tachycardia / bradycardia
 pulses strong & equal pulse deficit
 skin warm, dry pale / cyanotic
 cool / diaphoretic

NEURO
 oriented x 3 disoriented to person / place / time
 PERRL confused / memory loss
 pupils unequal R L
 weakness / sensory loss
 dizziness / delirium / stupor / light-headed

HEAD / FACE
 no evidence of trauma to head / eye / ear / face
 laceration / abrasion / swelling
 periorbital swelling / hematoma
 ecchymosis
 dental injury / malocclusion

NECK / BACK
 no evidence of trauma
 non-tender
 laceration / abrasion / swelling
 tenderness lower back

ABDOMEN
 no evidence of trauma
 soft, non-tender
 laceration / abrasion / swelling
 tenderness
 rigid / distended

PELVIS / GU
 no evidence of trauma
 pelvis stable
 laceration / abrasion / swelling
 pelvis unstable
 tenderness
 blood at urethral meatus

EXTREMITIES
 no evidence of trauma
 non-tender
 sensation intact
 motor intact
 laceration / abrasion / swelling
 tenderness
 deformity
 sensory / motor deficit

ADDITIONAL FINDINGS
 presence of devices: (ie: tubes IV's Foley)

INITIAL ACTIONS	TIME	INIT / CR
ID band applied	1012/10	
ID band verified		
c-collar		
backboard		
disrobed / gowned		
blanket provided		
ice pack		
elevation / immobilization		
bandage / dermobond applied		
wet to dry dressing		
bed low position		
side rails up x1 x2		
call light in reach		
head of bed elevated		

Nurse Signature [Signature]

PICKETT, ALBERT L
 00337463 NONE, UNKNOWN
 101337 09/30/1960 M
 H07256-00232 46Y 09/13/07


27

Skin Rash / Abscess

Arrival Time 1220

TRIAGE DATE 10-4-07 TIME 1238

Category I II III IV V

NAME: Pickett, Albert
D.O.B: AGE: 47 (M) F
HISTORIAN: patient, paramedics family
ARRIVAL MODE: car / self EMS police other
ARRIVAL FROM: home md office SNU SNF TX
PCP: none
IMMUNIZATIONS: current / referral
tetanus flu pneumovax

TREATMENT PTA see EMS report IV O2
last blood glucose
medication
aerosol
splint

VITALS Height 5'10" Weight 160 lbs / kg
BP 142/81 P 99 RR 16 temp 37.1 TM OR Ax
SaO2 98 RA O2

PAIN LEVEL current: /10 max 10 /10 acceptable /10
scale used quality location

CHIEF COMPLAINT: Abscess - (R) elbow
started 14-21 hrs / days ago
new meds: SWOLLEN, WARM - TOUCH
rash / lesion / abscess tender / swollen area
possible insect bite fever / chills
itchy shortness of breath
recent illness exposure recent camping exposure

ALLERGIES NKDA / Bupropion
drug - PCN / ASA / sulfa / latex / codeine / iodine
food / environmental

MEDS none see med reconciliation list
"SUBSUDON" - PAIN

MEDICAL HX negative
HTN / CAD / CHF / angina / CP / asthma / COPD
hypercholesterolemia / chronic renal failure / stroke / seizure / cancer /
HIV / hepatitis / psych
diabetes: type I type II

SOCIAL HX
smoker occ ppd current past drugs / alcohol
TB exposure / symptoms
has been physically hurt or threatened by someone close? Y N
social services contacted? Y N Notified by:
recent travel? Y N (where)

LNMP G P Ab pregnant / postmenop / hyst

Triage Signature D. Yand...

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Huron Hospital
a Cleveland Clinic hospital
EMERGENCY NURSING RECORD

TIME TO ROOM: 1240 ROOM: 1207

'INITIAL ASSESSMENT' TIME: 1245

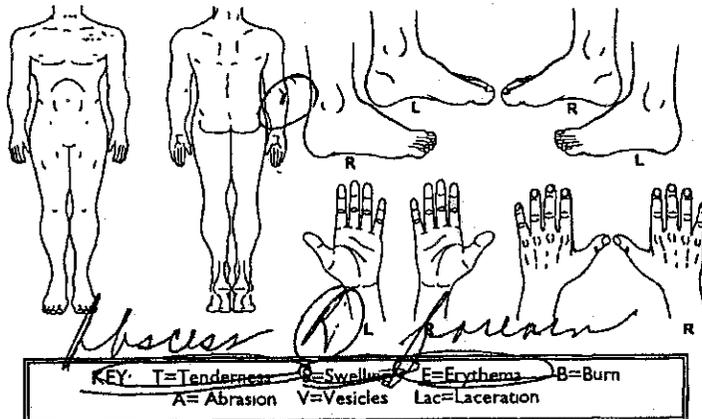
GENERAL APPEARANCE
no acute distress mild / moderate / severe distress
alert anxious / decreased LOC

FUNCTIONAL / NUTRITIONAL ASSESSMENT
independent ADL assisted / total care
appears well obese / malnourished
nourished / hydrated recent weight loss / gain
w/ gait gait abnormality
no fall risk fall risk Y N

RESPIRATORY
no resp distress mild / moderate / severe distress
Cw/ breath snds wheezing / crackles / stridor
decreased breath sounds

CVS
regular rate bradycardia / tachycardia
pulses strong pulse deficit

SKIN
skin warm & dry see diagram
intact rash / erythema / lesion



EXTREMITIES
non-tender see diagram
full ROM joint pain
no edema edema
limited ROM

NEURO
oriented x 3 disoriented to person / place / time
moves all extremities decreased LOC
dizziness / delirium / stupor / light-headed

ADDITIONAL FINDINGS: X3 cracks

presence of devices: (ie: tubes IV's Foley)

INITIAL ACTIONS

Table with columns for TIME, ACTION, and INIT. Includes entries like 'ID band applied', 'ID band verified', 'disrobed / gowned', 'blanket provided', 'bandage / dermabond applied', 'wet to dry dressing', 'bed low position', 'side rails up x1, x2', 'call light in reach', 'head of bed elevated'.

Nurse Signature

PICKETT, ALBERT L EMI
09/30/1960 47Y M 101337
10/04/07 NONE, UNKNOWN
00337463 H07277-00292

RELEASE AND SETTLEMENT AGREEMENT

Know all men by these presents that in consideration for the covenants herein contained and for [REDACTED] DOLLARS [REDACTED] to be paid by The City of East Cleveland to ALBERT PICKETT ("PLAINTIFF"), in full satisfaction from THE CITY OF EAST CLEVELAND and without any other agreement, promise or presentation, written or oral, said PLAINTIFF hereby releases and forever discharges THE CITY OF EAST CLEVELAND, its predecessors, successors, assigns, officials, directors, employees, agents, heirs, and any and all other associations jointly or severally liable from any and all liability for damages, costs, expenses, and attorney fees and compensation of any kind, nature or description now existing, or which is the subject matter of the case captioned Albert Pickett v. The City of East Cleveland, et al., in the United States District Court for the Northern District of Ohio, Eastern District, Case No. 1:08 CV01235 (hereinafter referred to as "the Lawsuit") and any claims which could have been made as part of the said matter. It is the intent of this Release and Settlement Agreement and the parties hereby agree that this Release and Settlement Agreement shall terminate forever all litigation in the action and all claims connected to the events described above.

It is understood and agreed that this Release and Settlement Agreement is the compromise of doubtful and disputed claims and the monetary payment is not to be construed as an admission of liability on the part of THE CITY OF EAST CLEVELAND, ITS AGENTS OR EMPLOYEES and that THE CITY OF EAST CLEVELAND denies liability therefore and intends merely to avoid litigation and buy its peace.

THE CITY OF EAST CLEVELAND further declares and represents that no promise, inducement, or agreement not herein expressed has been made to PLAINTIFF, and that this Release and Settlement Agreement contains the entire Agreement between the parties hereto, and that the terms of this Release and Settlement Agreement are contractual and not a mere recital.

PLAINTIFF expressly acknowledges and agrees that he will pay his costs and attorney fees and, on behalf of his attorney, will not seek any additional sum from THE CITY OF EAST CLEVELAND, its officials, directors, agents, employees, predecessors, successors, and assigns for any claim for attorney fees arising out of or related to this matter; and expressly releases THE CITY OF EAST CLEVELAND and its officials, directors, agents, employees, predecessors, successors, and assigns from any claim for attorney fees arising out of or related to the matter.

PLAINTIFF further acknowledges that THE CITY OF EAST CLEVELAND is not withholding taxes from this Settlement. PLAINTIFF hereby agrees to indemnify and hold THE CITY OF EAST CLEVELAND harmless from any and all claims, including but not limited to taxes, interest and penalties, as may be made by the Internal Revenue Service, State of Ohio, or any other taxing authority, if any such amounts shall be payable on demand.

It is understood and agreed that this is a full and final Release and Settlement Agreement and that THE CITY OF EAST CLEVELAND'S consideration of providing a monetary payment is not an admission of liability by the party released.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of April, A.D. 2010.

Signed in the presence of:

Albert Pickett
ALBERT PICKETT

Albert Pickett
(Print Name)

Date: April 13, 2010

L. E. Smith
(Witness)

L. E. Smith
(Print Name)

Date: 4/13/10

Subscribed to and sworn to before me on this 13th day of April, 2010.

Duane G. Ham
Notary Public

(NOTARY SEAL)

Commission Expires: July 25, 2012

Duane G. Ham
Notary Public, State Of Ohio
My Commission Expires July 25, 2012